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Presidential Documents

Title 3—

The President

Presidential Determination No. 93-1 of October 2, 1992

Determination of FY 1993 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act

Memorandum for the United States Coordinator for Refugee Affairs

In accordance with section 207 of the Immigration and Nationality Act ("the Act") (8 U.S.C. 1157), and after appropriate consultation with the Congress, I hereby make the following determinations and authorize the following actions:

a. The admission of up to 132,000 refugees to the United States during FY 1993 is justified by humanitarian concerns or is otherwise in the national interest; provided, however, that this number shall be understood as including persons admitted to the United States during FY 1993 with Federal refugee resettlement assistance under the Amerasian immigrant admissions program, as provided in paragraph (b) below.

Ten thousand of these admissions numbers shall be set aside for private sector admissions initiatives, and may be used for any region. The admission of refugees using these numbers shall be contingent upon the availability of private sector funding sufficient to cover the reasonable costs of such admissions.

b. The 122,000 funded admissions shall be allocated among refugees of special humanitarian concern to the United States as described in the documentation presented to the Congress during the consultations that preceded this determination and in accordance with the following regional allocations; provided, however, that the number allocated to the East Asia region shall include persons admitted to the United States during FY 1993 with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100-202 (Amerasian immigrants and their family members); provided further that the number allocated to the former Soviet Union shall include persons admitted who were nationals of the former Soviet Union, or in the case of persons having no nationality, who were habitual residents of the former Soviet Union, prior to September 2, 1991:

Africa	7,000
East Asia	52,000
Former Soviet Union	50,000
Eastern Europe	1,500
Near East/South Asia	7,000
Latin America/Caribbean	3,500
Unallocated (funded)	1,000

Utilization of the 122,000 federally funded admissions numbers shall be limited by such public and private funds as shall be available for refugee and Amerasian immigrant admissions in FY 1993. You are hereby authorized and directed to so advise the judiciary committees of the Congress.

The 1,000 unallocated federally funded numbers shall be allocated as needed. Unused admissions numbers allocated to a particular region within the 122,000 federally funded ceiling may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. You are hereby authorized and directed to consult with the judiciary committees of the Congress prior to any such reallocation.

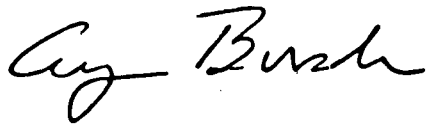
The 10,000 privately funded admissions not designated for any country or region may be used for refugees of special humanitarian concern to the United States in any region of the world at any time during the fiscal year. You are hereby authorized and directed to notify the judiciary committees of the Congress in advance of the intended use of these numbers.

c. An additional 10,000 refugee admissions numbers shall be made available during FY 1993 for the adjustment to permanent resident status under section 209(b) of the Act (8 U.S.C. 1159(b)) of aliens who have been granted asylum in the United States under section 208 of the Act (8 U.S.C. 1158), as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)) and after appropriate consultation with the Congress, I also specify that, for FY 1993, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

a. Persons in Vietnam.
b. Persons in Cuba, El Salvador, Guatemala, and Haiti.
c. Persons in the former Soviet Union.

You are authorized and directed to report this Determination to the Congress immediately and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, October 2, 1992.

cc: The Secretary of State
The Attorney General
The Secretary of Health and Human Services

[FR Doc. 92-25184
Filed 10-13-92; 2:33 pm]
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Rules and Regulations

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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV92-905-1IR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This action relaxes the minimum size requirement for domestic shipments of Florida red seedless grapefruit to size 56 (3 5/16 inches in diameter) through November 7, 1993, Unless relaxed, the minimum size would increase under current requirements to size 48 (3 9/16 inches in diameter) on October 26, 1992. This action will enable handlers to continue to ship size 56 red seedless grapefruit for the entire 1992–93 season. This action is based on this season's current and prospective crop and market conditions, and the maturity and flavor levels of red seedless grapefruit.

DATES: This interim final rule becomes effective October 26, 1992. Comments which are received by November 16, 1992 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456; telephone: (202) 720–5331.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This 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 interim final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive affect. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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 about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida, and about 10,200 producers of these citrus fruits in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers may be classified as small entities.

The Citrus Administrative Committee (committee), which administers the marketing order locally, met September 15, 1992, and unanimously recommended this action. The committee meets prior to and during each season to review the handling regulations effective on a continuous basis for each citrus fruit regulated under the marketing order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information and determines whether modification, suspension, or termination of the handling regulations would tend to effectuate the declared policy of the Act.

Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for Florida citrus. Such requirements for domestic shipments are specified in that section in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). Export requirements are not changed by this rule.

This action relaxes the minimum size requirement for domestic shipments of

Florida red seedless grapefruit to size 56 (3 5/16 inches in diameter) through November 7, 1993. Unless relaxed, the minimum size would increase under current requirements to size 48 (3 9/16 inches in diameter) on October 26, 1992. This action will enable handlers to continue to ship size 56 red seedless grapefruit for the entire 1992–93 season.

The committee reports that it expects 1992–93 season fresh shipments of Florida seedless grapefruit will be considerably greater than average, and that the external quality of the fruit is very good, but fruit sizes are smaller than normal. The committee expects that fresh market demand will be good for size 56 red seedless grapefruit during the entire 1992–93 season.

This action is designed to enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit to the domestic market consistent with current and anticipated demand in those markets during the entire 1992–93 season, and to maximize shipments to fresh market channels. This action is based on the committee's assessment of the maturity, flavor level, and size composition of this season's Florida red seedless grapefruit crop. The Florida seedless grapefruit shipping season normally begins in September and continues until the following July.

Minimum size requirements are designed to provide fresh markets with fruit of acceptable size and maturity, thereby maintaining consumer confidence in fresh Florida grapefruit. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of producers, packers, and consumers, and is expected to increase returns to Florida grapefruit growers.

Under the marketing order for Florida citrus, handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day, and up to 2 standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

This action reflects the committee's and the Department's appraisal of the need to make the size relaxation hereinafter set forth. The Department's view is that this action will have a beneficial impact on producers and handlers since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet consumer needs consistent with this season's crop and market conditions.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the relaxation set forth below will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes the minimum size requirement currently in effect for red seedless grapefruit grown in Florida; (2) Florida grapefruit handlers are aware of this action which was unanimously recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed size requirement; (3) shipment of the 1992–93 season Florida red seedless grapefruit crop is expected to be well underway by October 26, 1992; and (4) the rule provides a 30-day comment period, and any comments received will be considered prior to any finalization of this interim final rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

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

2. Section 905.306 is amended by revising the entries in Table 1 of paragraph (a) for seedless, red grapefruit to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
* * * * * * *			
Grapefruit			
* * * * * * *			
Seedless, red	10/26/92–11/07/93	Improved No. 2 External U.S. No. 1 Internal	3-5/16
	On and after 11/08/93	Improved No. 2 External U.S. No. 1 Internal	3-9/16
* * * * * * *			

Dated: October 9, 1992.

Robert C. Kenney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-25005 Filed 10-14-92; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Farmer Program Account Servicing Policies and Availability of Loan Servicing Programs for Delinquent Farm Borrowers for Section 1816 and Other Related Sections for the 1990 FACT ACT

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects an interim final rule published April 30, 1992, in the **Federal Register** (57 FR 18612–18671) on section 1816 and other related sections of the 1990 FACT ACT. The intent of this action is to correct errors in the interim rule.

EFFECTIVE DATE: October 15, 1992.

FOR FURTHER INFORMATION CONTACT: A. Veldon Hall, Director, Loan Servicing and Property Management Division, Farmer Programs, Farmers Home Administration, USDA, room 5449, South Agriculture Building, 14th & Independence Avenue, SW., Washington, DC 20250, Telephone (202) 720–4572.

SUPPLEMENTARY INFORMATION: Subpart S of part 1951, "Farmer Program Account Servicing Policies," is herein revised to correct typographical errors and omissions in that interim final rule. Specifically, section 1951.911 (a)(5)(i)(A) of subpart S of part 1951 of this chapter is being corrected to refer to the 30-day time limit, instead of a 15-day time limit, which the owner has to request preservation loan servicing on Exhibit K of that subpart, "Notification of Consideration for Preservation Loan Service Programs." This change will make the regulation consistent with Exhibit K provisions.

Exhibit C–1, "Net Recovery Buyout Recapture Agreement," used for applications filed for restructuring on or after November 28, 1990, also is being corrected to properly calculate the amount of gain realized by the borrower on disposition of the security as a cap in determining the amount of recapture due FmHA. Item 6b of the exhibit is being corrected to calculate gain as the appraised fair market value of the parcel at the time of conveyance *minus* the unpaid balance of prior liens at the time *minus* the net recovery value specified in item 4 of the exhibit unless that amount already is covered by the prior lien deduction.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is corrected as follows:

PART 1951—SERVICING AND COLLECTIONS

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

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

Subpart S—Farmer Program Account Servicing Policies

§ 1951.911 [Amended]

2. Section 1951.911(a)(5)(i)(A) is amended in the second sentence by revising the number "15" to "30."

3. Exhibit C–1, "Net Recovery Buyout Recapture Agreement," item 6b is amended by adding to the end of the paragraph the words "minus the net recovery value of the real estate in item 4 if this amount has not been accounted for as a prior lien, or."

Dated: September 30, 1992.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 92-24841 Filed 10-14-92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 287

[INS No: 1383-92]

RIN 1115-AD19

Changing Definition of External Boundary of the United States

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule implements Presidential Proclamation 5928 of December 27, 1988, which extends the territorial sea of the United States to 12 nautical miles from the baselines of the United States. This rule is necessary to bring existing regulations into conformance with Proclamation 5928.

EFFECTIVE DATE: October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Ira L. Frank, Senior Special Agent, Investigations Division, Immigration and Naturalization Service, 425 I Street NW., room 2207, Washington, DC 20536, telephone (202) 514–0747.

SUPPLEMENTARY INFORMATION: On December 27, 1988, President Ronald Reagan signed Proclamation 5928 (54 FR 777, January 9, 1989), which extended the territorial sea of the United States to 12 nautical miles from the baselines of the United States in accordance with international law. The proclamation implemented the 1982 United Nations Convention on the Law of the Sea.

The existing regulation defines the territorial limits of the United States to include the land boundaries and coastline, including the ports, harbors, bays and other enclosed arms of the sea. It also includes a marginal belt of the sea extending from the coastline outward a marine league, or three geographic miles. *Cunard S.S. Co.* v. *Mellon*, 262 U.S. 100, 122 (1923).

This change to the existing regulation amends the definition of "external

boundary" to comport with Proclamation 5928.

The Service's implementation of this rule as a final rule, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d). The reasons and the necessity for immediate implementation of this final rule is as follows: The Service is amending the existing regulation to comply with Proclamation 5928. The boarding of vessels suspected of smuggling aliens requires coordination with the U.S. Coast Guard. Waiting until a ship is within three miles of our coastline permits little time to intercept the ship before the smugglees set foot on U.S. soil. The twelve mile limit will provide additional time to make the interception.

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

List of Subjects in 8 CFR Part 287

Immigration, Law enforcement officers.

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

PART 287—FIELD OFFICERS; POWERS AND DUTIES

1. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

2. In § 287.1, paragraph (a)(1) is revised to read as follows:

§ 287.1 Definitions.

(a)(1) *External boundary.* The term *external boundary,* as used in section 287(a)(3) of the Act, means the land boundaries and the territorial sea of the United States extending 12 nautical miles from the baselines of the United States determined in accordance with international law.

* * * * *

Dated: September 21, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-24995 Filed 10-14-92; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL ELECTION COMMISSION

[Notice 1992-20]

11 CFR Part 102

Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On July 15, 1992 (57 FR 31424), the Commission published the text of revised regulations, prohibiting the use of candidate names in the titles of special fundraising projects and other communications by unauthorized committees. The Commission announces that these rules are effective as of November 4, 1992.

EFFECTIVE DATE: November 4, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219-3690, or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR part 201 were transmitted to Congress on July 10, 1992. Thirty legislative days expired in the Senate on September 23, 1992, and in the House of Representatives on September 28, 1992.

The new rules prohibit unauthorized committees from using a candidate's name in the title or other designation of any communication. They implement 2 U.S.C. 432(e)(4), a provision of the Federal Election Campaign Act of 1971, as amended. 2 U.S.C. 431 et seq. Because the Commission recognizes that many committees have largely planned their campaign communications for the general election scheduled to be held on November 3, 1992, the new rules are effective as of November 4, 1992.

ANNOUNCEMENT OF EFFECTIVE DATE: 11 CFR 102.14(a), as published at 57 FR 31424, is effective as of November 4, 1992.

Dated: October 9, 1992.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 92-25052 Filed 10-14-92; 8:45 am]

BILLING CODE 6715-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Late Premium Payments and Employer Liability Underpayments and Overpayments; Interest Rate for Determining Variable Rate Premium; Amendments to Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This document notifies the public of the interest rate applicable to late premium payments and employer liability underpayments and overpayments for the calendar quarter beginning October 1, 1992. This interest rate is established quarterly by the Internal Revenue Service. This document also sets forth the interest rates for valuing unfunded vested benefits for premium purposes for plan years beginning in August 1992 through October 1992. These interest rates are established pursuant to section 4006 of the Employee Retirement Income Security Act of 1974, as amended. The effect of these amendments is to advise plan sponsors and pension practitioners of these new interest rates.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone (202) 778-8850 ((202) 778-8859 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: As part of title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("PBGC") collects premiums from ongoing plans to support the single-employer and multiemployer insurance programs. Under the single-employer program, the PBGC also collects employer liability from those persons described in ERISA section 4062(a). Under ERISA section 4007 and 29 CFR 2610.7, the interest rate to be charged on unpaid premiums is the rate established under section 6601 of the Internal Revenue Code ("Code"). Similarly, under 29 CFR 2622.7, the interest rate to be credited or charged with respect to overpayments or underpayments of employer liability is the section 6601 rate. These interest rates are published by the PBGC in appendix A to the premium regulation and appendix A to the employer liability regulation.

The Internal Revenue Service has announced that for the quarter beginning October 1, 1992, the interest charged on the underpayment of taxes will be at a rate of 7 percent. Accordingly, the PBGC is amending appendix A to 29 CFR part 2610 and appendix A to 29 CFR part 2622 to set forth this rate for the October 1, 1992, through December 31, 1992, quarter.

Under ERISA section 4006(a)(3)(E)(iii)(II), in determining a single-employer plan's unfunded vested benefits for premium computation purposes, plans must use an interest rate equal to 80% of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid. Under § 2610.23(b)(1) of the premium regulation, this value is determined by reference to 30-year Treasury constant maturities as reported in Federal Reserve Statistical Releases G.13 and H.15. The PBGC publishes these rates in appendix B to the regulation.

The PBGC publishes these monthly interest rates in Appendix B on a quarterly basis to coincide with the publication of the late payment interest rate set forth in appendix A. (The PBGC publishes the appendix A rates every quarter, regardless of whether the rate has changed.) Unlike the appendix A rate, which is determined prospectively, the appendix B rate is not known until a short time after the first of the month for which it applies. Accordingly, the PBGC is hereby amending appendix B to part 2610 to add the vested benefits valuation rates for plan years beginning in August of 1992 through October of 1992.

The appendices to 29 CFR parts 2610 and 2622 do not prescribe the interest rates under these regulations. Under both regulations, the appendix A rates are the rates determined under section 6601(a) of the Code. The interest rates in appendix B to part 2610 are prescribed by ERISA section 4006(a)(3)(E)(iii)(II) and § 2610.23(b)(1) of the regulation. These appendices merely collect and republish the interest rates in a convenient place. Thus, the interest rates in the appendices are informational only. Accordingly, the PBGC finds that notice of and public comment on these amendments would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making these amendments effective immediately.

The PBGC has determined that none of these amendments is a "major rule" within the meaning of Executive Order 12291, because they will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for these amendments, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, Small businesses.

In consideration of the foregoing, appendix A and appendix B to part 2610 and appended A to part 2622 of chapter XXVI of title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307 (1988 and Supp. I 1989), as amended by sec. 12021, Public Law 101-508, 104 Stat. 1388, 1388-573.

2. Appendix A to part 2610 is amended by revising the heading and by adding a new entry for the quarter beginning October 1, 1992, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A to Part 2610—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

From	Through	Interest rate (percent)
* * * * *		
Oct. 1, 1992	Dec. 31, 1992	7

3. Appendix B to part 2610 is amended by adding to the table of interest rates therein new entries for premium payment years beginning in August of 1992 through October of 1992, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2610—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate[1]
* * * * *	
August 1992	6.08
September 1992	5.91
October 1992	5.87

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15 for the calendar month preceding the calendar month in which the premium payment year begins.

PART 2622—EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS

4. The authority citation for part 2622 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1362-1364, 1367-68, as amended by secs. 9312, 9313, Public Law 100-203, 101 Stat. 1330.

5. Appendix A to part 2622 is amended by adding a new entry for the quarter beginning October 1, 1992, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A to Part 2622—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

From	Through	Interest rate (percent)
* * * * *		
Oct. 1, 1992	Dec. 31, 1992	7

Issued in Washington, DC, this 6th day of October 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-25018 Filed 10-14-92; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2644

Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another Federal agency. The effect of this amendment is to add to the appendix of that regulation a new interest rate to be effective from October 1, 1992, to December 31, 1992.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone (202-778-8850) (202-778-8859 or TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under section 4219(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("the PBGC") promulgated a final regulation on Notice and Collection of Withdrawal Liability. That regulation, codified at 29 CFR part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default, or to be credited by plans on overpayments of withdrawal liability. The regulation allows plans to set rates, subject to certain restrictions. Where a plan does not set the interest rate, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Because the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to part 2644. This amendment adds to this appendix the interest rate of 6 percent, which will be effective from October 1, 1992 through December 31, 1992. This rate represents a decrease of ½ percent from the rate in effect for the third quarter of 1992. This rate is based on the prime rate in effect on September 15, 1992.

The appendix to 29 CFR part 2644 does not prescribe interest rates under the regulation; the rates prescribed in the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2644

Employee benefit plans, Pensions.

In consideration of the forgoing, part 2644 of subchapter F of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for part 2644 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3) and 1399(c)(6).

2. Appendix A to Part 2644 is amended by adding to the end of the table therein a new entry as follows:

Appendix A to Part 2644—Table of Interest Rates

* * * * *

From	To	Date of quotation	Rate (percent)
*	*	*	*
10/01/92	12/31/92	09/15/92	6

Issued in Washington, DC, on this 6th day of October 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-25017 Filed 10-14-92; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal—Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rate are changing. This amendment adds to the table the rate series for the month of November 1992.

EFFECTIVE DATE: November 1, 1992.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8820 (202-778-1958 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are

available to the public before the beginning of the period to which they apply. (See 5 U.S.C. 553 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, part 2676 of subchapter H of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

c. *Interest Rates.*

For valuation dates occurring in the month:	The values for i_k are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
*	*			*			*			*			*			
November 1992	.06375	.0625	.06125	.06	.0587	.0575	.0575	.0575	.0575	.0575	.05625	.05625	.05625	.05625	.05625	.055

Issued at Washington, DC, on this 6th day of October 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-25016 Filed 10-14-92; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Baltimore, MD Regulation 92-05-29]

Safety Zone Regulation: Chesapeake Bay, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard Marine Safety Office of Baltimore is establishing two temporary safety zones, for the U.S. Army Corps of Engineers wreck removal operation of two charted wrecks in the Chesapeake Bay. Diving operations will be using explosive charges to clear/remove obstructions northeast of Smith Point, Virginia. The safety zones are needed to control commercial & recreational vessel traffic and to provide for the safety of life and property on navigable waters. Entry into these safety zones is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on October 6, 1992, at 7:30 a.m. and terminates at 6 p.m. November 7, 1992. Hours of operation will be from 7:30 a.m. to 6 p.m. daily.

FOR FURTHER INFORMATION CONTACT: LT. Cynthia L. Stowe, U.S. Coast Guard Marine Safety Office Baltimore, U.S. Custom House, 40 South Gay Street, Baltimore, Maryland 21202-4022, (410) 962-5104.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of Federal Register publication. Specifically, the U.S. Army Corps of Engineers requested Coast Guard assistance on September 29, 1992, leaving insufficient time to publish a NPRM in advance of the event. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent any damage to vessels which would be caused by explosives in the area.

Drafting Information: The drafters of this regulation are LT Cynthia L. Stowe, project officer for the Captain of the Port, Baltimore, Maryland and LCDR K.B. Letourneau, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

On September 29, 1992, the Army Corps of Engineers request Coast Guard assistance in establishing safety zones during the removal of obstructions to navigation, northeast of Smith Point, Virginia, Chesapeake Bay, which obstructions were scheduled to be removed from October 6, to November 7, 1992. The operation will include the removal of two charted wrecks northeast of Smith Point within the Chesapeake Bay main shipping channel. The safety zones will consist of a circle with a 200 yard radius around each wreck. The safety zones will be on the western edge of the outbound channel. The two wreck areas are located as follows: area a. latitude 37-57-49.56 North; longitude 076-11-54.61 West; and area b. latitude 37-55-12.48 North; longitude 076-11-11.74 West. The Army Corps of Engineers survey vessel LINTHICUM will remain on station and monitor channel 13 VHF-FM. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for Title 33 CFR part 165.

Regulatory Evaluation

This regulation is considered non-major under Executive Order 12291 and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the emergency rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposal contains no collection of information requirements

under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T576 is added to read as follows

§ 165.T576 Safety Zone: Chesapeake Bay, MD.

(a) *Location:* The following areas are safety zones: A circle with a 200 yard radius around each of two charted wrecks northeast of Smith Point, VA. The safety zones will be on the western edge of the outbound channel but will not close the shipping channel. The two wreck areas are located as follows: Area a, latitude 37-57-49.56 North, longitude 076-11-54.61 West: area b, latitude 37-55-12.48 North, longitude 076-11-11.74 West.

(b) *Effective dates:* This regulation becomes effective on October 6, 1992, at 7:30 a.m. and terminates at 6 p.m. November 7, 1992, unless sooner terminated by the Captain of the Port, Baltimore, Maryland. Hours of operation will be from 7:30 a.m. to 6 p.m. daily.

(c) *Regulation:* (1) In accordance with the general regulations in § 165.23 of this part, entry into the safety zones in prohibited unless authorized by the Captain of the Port or his designated representative.

(2) The operator of any vessel in the immediate vicinity of these safety zones shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant, of petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his behalf.

(1) The Captain of the Port and the Duty Officer at the Marine Safety Office, Baltimore, Maryland can be contacted at telephone number (410) 962-5105.

(2) The Coast Guard Patrol Commander and each Coast Guard vessel enforcing the safety zones can be contacted on VHF-FM channels 13 and 16.

Dated: October 5, 1992.

R.L. Edmiston,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 92-24977 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900-AF18

Standards for Collection, Compromise, Suspension, or Termination of Collection Efforts

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) has amended 38 CFR 1.912a to implement procedures for involuntary offset from VA compensation or pension benefit payments under authority of 38 U.S.C. 5301(c) in order to recoup debts owed by VA beneficiaries to the military services. VA has also amended current regulations in order to implement legislation which expands the authority delegated by the U.S. General Accounting Office (GAO) and the Department of Justice (DOJ) for VA compromise, suspension, and termination of debt collection activity.

EFFECTIVE DATE: October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, Debt Management Policy Division (047G7), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3405.

SUPPLEMENTARY INFORMATION: On pages 3035 through 3038 of the **Federal Register** of January 27, 1992, VA published proposed regulations to amend current benefit payment offset and debt collection policy. No comments were received.

Public Law 99-576, the "Veterans' Benefits Improvement & Health-Care Authorization Act of 1986", amended 38 U.S.C. 5301 (formerly 3101) to authorize offset from a veteran's VA compensation or pension benefit payments to recoup debts owed to the military services resulting from the veteran's participation in the Survivor Benefit Plan (SBP) or the Retired Serviceman's Family Protection Plan (RSFPP).

VA has amended § 1.912a in order to implement its authority under 38 U.S.C. 5301(c), to recoup, by offset from VA compensation or pension, debts owed to the military services resulting from the veteran's participation in the SBP or the RSFPP. The amended regulation sets forth the procedures for withholding VA compensation or pension benefits of veterans once the military service requests VA to offset the debt amount from the veteran's compensation or pension. The military service owed the debt by the veteran must first determine the amount of the indebtedness and certify to VA that the due process procedures of 31 U.S.C. 3716 have been afforded the veteran. The amended regulation implements the procedures agreed to between the military services and VA in which the military services will afford the veteran the legal rights required by section 5301(c). Consequently, the amended regulation clarifies that VA is not required under section 5301(c) to afford veterans any further legal rights under 38 CFR 1.911 or 1.912a, before offset under the authority of section 5301(c) may occur.

Although 38 U.S.C. 5301(c) authorizes VA to offset the entire amount of monthly compensation or pension benefit payments until the outstanding debt owed to the military service is recouped, the amended regulation sets a maximum offset amount of 15% of the net monthly compensation or pension benefit payment.

The amended regulation also corrects technical errors in the regulation. VA believes that its procedures, as set forth in the amended regulation, will result in the avoidance of unnecessary delay and administrative expense, as well as guarantee the full protection of the indebted veteran's statutory rights.

38 CFR 1.930 currently states that VA may exercise authority to compromise a debt when the debt does not exceed $20,000, exclusive of interest and administrative costs. When the debt exceeds $20,000, exclusive of interest and administrative costs, the authority to accept a compromise offer rests solely with the Department of Justice (DOJ). However, DOJ approval is not required if VA wishes to reject a compromise offer on a debt in excess of $20,000. 38 CFR 1.957(a)(2) authorizes the Committees on Waivers and Compromises to consider compromise offers in accordance with the limitations set forth in § 1.930.

38 CFR 1.940 currently states that if, after deducting the amount of any partial payments or collections, a claim

exceeds $20,000, exclusive of interest and administrative costs, then the authority to suspend or terminate further collection action rests solely with DOJ. Debts of $20,000 or less, after deducting the items discussed above, can be suspended or terminated by VA. Section 1.957(b) authorizes the field station Chief of Fiscal Activity to suspend or terminate collection in accordance with § 1.940.

The VA authority for compromise, suspension, and termination of debt collection, found in 38 CFR 1.930, 1.940, and 1.957, comes directly from 31 U.S.C. 3711(a) and GAO/DOJ regulations, 4 CFR 103.1 and 104.1. Public Law 101-552 (November 15, 1990) amended 31 U.S.C. 3711(a)(2) by raising the dollar limit discussed above from $20,000 to $100,000 or such higher amount as the Attorney General may prescribe. 31 U.S.C. 3711(e), which was not amended by the legislation, states that federal agencies compromise, suspend, and terminate collection action under the authority of their own regulations and also under the authority of the standards set by the Attorney General and the Comptroller General. These standards, known as the Federal Claims Collection Standards (FCCS), are incorporated in the GAO/DOJ regulations (4 CFR chapter II, parts 101-105). Although GAO/DOJ have not revised their regulations to comply with this new legislation, VA General Counsel has determined that our regulations must be changed in order to comply with the legislation. Thus, VA has amended 38 CFR 1.930, 1.940, and 1.957 to comply with the revision of 31 U.S.C. 3711(a)(2) and the mandate of 31 U.S.C. 3711(e).

The Secretary hereby certifies that these final regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these final regulations are therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these final regulations primarily affect only individuals indebted to the U.S. Government as a result of participation in programs administered by the VA or military services.

These final regulations have also been reviewed under E.O. 12291, Federal Regulation, and have been determined to be nonmajor because they will not have a $100 million annual effect on the economy and will not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 1

Claims, Administrative practice and procedures, Veterans.

Approved: June 30, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 1 is amended as set forth below:

PART 1—GENERAL

1. The authority citation for §§ 1.910 to 1.921 continues to read as follows:

Authority: Sections 1.910 to 1.921 issued under 38 U.S.C. 501.

2. In § 1.912a, paragraph (a) is revised, paragraph (d)(2) is removed, paragraph (d)(1) is redesignated as paragraph (d), and paragraph (e) is added to read as follows:

§ 1.912a Collection by offset from VA benefit payments.

(a) *Authority and scope.* VA shall collect debts governed by § 1.911 of this part by offset against any current or future VA benefit payments to the debtor. Unless paragraphs (c) or (d) of this section apply, offset shall commence promptly after notification to the debtor as provided in paragraph (b) of this section. Certain military service debts shall be collected by offset against current or future compensation or pension benefit payments to the debtor under authority of 38 U.S.C. 5301(c), as provided in paragraph (e) of this section.

* * * * *

(e) *Offset of military service debts.* (1) In accordance with 38 U.S.C. 5301(c), VA shall collect by offset from any current or future compensation or pension benefits payable to a veteran under laws administered by VA, the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of 10 U.S.C. chapter 73.

(2) Offsets of a veteran's compensation or pension benefit payments to recoup indebtedness to the military services as described in paragraph (e)(1) of this section shall only be made by VA when the military service owed the debt has:

(i) Determined the amount of the indebtedness of the veteran;

(ii) Certified to VA that due process in accordance with the procedures prescribed in 31 U.S.C. 3716 have been provided to the veteran; and

(iii) Requested collection of the total debt amount due.

(3) Offset from any compensation or pension benefits under the authority of 38 U.S.C. 5301(c) shall not exceed 15% of the net monthly compensation or pension benefit payment. The net monthly compensation or pension benefit payment is defined as the authorized monthly compensation or pension benefit payment less all current deductions.

(Authority: 38 U.S.C. 5301(c) and 5314)

3. Section 1.930 is revised to read as follows:

§ 1.930 Scope and application.

(a) The standards set forth in §§ 1.930 through 1.938 apply to the compromise of claims in accordance with 31 U.S.C. 3711. VA may exercise such compromise authority where the claim owed to VA does not exceed $100,000 exclusive of interest and other late payment charges. This $100,000 limit does not apply to debts which arise out of participation in the loan program under chapter 37 of title 38 of the United States Code. The Comptroller General or his/her designee may exercise compromise authority with respect to claims referred to the General Accounting Office (GAO). Only the Comptroller General or his/her designee may compromise a claim that arises out of an exception made by GAO on account of an accountable officer, including a claim against the payer, prior to its referral by GAO to the Department of Justice for litigation.

(b) When the claim exceeds $100,000, exclusive of interest and other late payment charges, the authority to accept a compromise offer rests solely with the Department of Justice. However, approval by the Department of Justice is not required if VA wishes to reject a compromise offer on a debt in excess of $100,000. If VA believes that the compromise offer on a debt in excess of $100,000 should be accepted, it shall refer the matter to the Department of Justice by using the Claims Collection Litigation Report (section 1.951). The referral should contain a written memorandum by the local Committee on Waivers and Compromises specifying the exact reason why it is believed that the compromise offer should be accepted. Both the Claims Collection Litigation Report and the Committee's memorandum should be sent to VA Central Office, Office of Financial Management, for subsequent referral to the Department of Justice.

(Authority: 31 U.S.C. 3711)

4. Section 1.936 is revised as follows:

§ 1.936 Settlement for a combination of reasons.

VA may compromise specific claims for any combination of reasons authorized by sections 1.930–1.938.

(Authority: 31 U.S.C. 3711)

5. Section 1.940 is revised to read as follows:

§ 1.940 Scope and application.

(a) The standards set forth in §§ 1.940 through 1.943 apply to the suspension and or termination of collection action pursuant to 31 U.S.C. 3711(a)(3) on claims which do not exceed $100,000, exclusive of interest and other late payment charges, after deducting the amount of partial payments or collections, if any. VA may suspend or terminate collection action under §§ 1.940 through 1.943 with respect to claims for money or property arising out of the Department's activities prior to the referral of such claims to GAO or the Department of Justice for litigation. The Comptroller General may authorize such authority with respect to such claims referred to GAO by VA prior to their further referral to the Department of Justice for litigation.

(b) If after deducting the amount of any partial payments or collections, a claim exceeds $100,000, exclusive of interest and other late payment charges, then the authority to suspend or terminate collection action rests solely with the Department of Justice. If VA determines that suspension or termination is appropriate for such a debt, after evaluation in accordance with the standards set forth in §§ 1.941 and 1.942, then the matter shall be referred to the Department of Justice, using the Claims Collection Litigation Report (see § 1.951). The referral shall contain a written recommendation, which specifies the reasons why suspension or termination is advantageous to the government. If VA determines that its claim is plainly erroneous or clearly without legal merit, it may terminate collection regardless of the amount involved, without the concurrence of the Department of Justice. If VA decides not to suspend or terminate collection action on the claim, Justice Department approval is not required.

(Authority: 31 U.S.C. 3711)

6. In § 1.955, paragraphs (a)(1) and (d) are revised and the authority citation for § 1.955 is revised to read as follows:

§ 1.955 Regional Office Committees on Waivers and Compromises.

(a) *Delegation of authority and establishment.* (1) Sections 1.955 et seq. are issued to implement the authority for waiver consideration found in 38 U.S.C. 5302 and 5 U.S.C. 5584 and the compromise authority found 38 U.S.C. 3720(a) and 31 U.S.C. 3711. The duties, delegations of authority, and all actions required of the Committees on Waivers and Compromises are to be accomplished under the direction of, and authority vested in, the Director of the regional office.

* * * * *

(d) *Overall control.* The Assistant Secretary for Finance and Information Resources Management (IRM) is delegated complete management authority, including planning, policy formulation, control, coordination, supervision, and evaluation of Committee operations.

(Authority: 5 U.S.C. 5584, 31 U.S.C. 3711, 38 U.S.C. 3720(a), 5302.)

* * * * *

7. In § 1.957, paragraph (a)(2), the introductory text of paragraph (b), and paragraphs (b)(1) and (2) are revised; the authority citation for § 1.957 is revised to read as follows:

§ 1.957 Committee authority.

(a) * * *

(2) *Compromises*—(i) *Loan program debts* (38 U.S.C. 3720(a)). Accept or reject a compromise offer irrespective of the amount of the debt (loan program matters under 38 U.S.C. chapter 37 are unlimited as to amount).

(ii) Other than loan program debts (31 U.S.C. 3711).

(A) Accept or reject a compromise offer on a debt which exceeds $1,000 but which is not over $100,000 (both amounts exclusive of interest and other late payment charges).

(B) Accept or reject a compromise offer on a debt of a $1,000 or less, exclusive of interest and other late payment charges, which is not disposed of by the Chief, Fiscal activity, pursuant to paragraph (b) of this section.

(C) Reject a compromise offer on a debt which exceeds $100,000, exclusive of interest and other late payment charges.

(D) Recommend approval of a compromise offer on a debt which exceeds $100,000, exclusive of interest and other late payment charges. The authority to accept a compromise offer on such a debt rests solely within the jurisdiction of the Department of Justice. The Committee should evaluate a compromise offer on a debt in excess of $100,000, using the factors set forth in §§ 1.930 through 1.938. If the Committee believes that the compromise offer is advantageous to the government, then the Committee members shall so state this conclusion in a written memorandum of recommendation of approval to the Chairperson. This recommendation, along with a Claims Collection Litigation Report (CCLR) completed in accordance with § 1.951, will be referred to VA Central Office, Office of Financial Management (047G7), for submission to the Department of Justice for final approval.

* * * * *

(b) *Chief of Fiscal activity.* The Chief of the Fiscal activity at both VBA and VHA offices has the authority, as to debts within his/her jurisdiction, to:

(1) On other than loan program debts under 38 U.S.C. chapter 37, accept compromise offers of 50% or more of a total debt not in excess of $1,000, exclusive of interest and other late payment charges, regardless of whether or not there has been a prior denial of waiver.

(2) On other than loan program debts under 38 U.S.C. Chapter 37, reject any offer of compromise of a total debt not in excess of $1,000, exclusive of interest and other late payment charges, regardless of whether or not there has been a prior denial of waiver.

* * * * *

(Authority: 31 U.S.C. 3711 and 38 U.S.C. 3720(a)).

[FR Doc. 92–24927 Filed 10–14–92; 8:45 am]

BILLING CODE 8320–01–M

POSTAL SERVICE

39 CFR Part 111

Preparation of Letter-Size Automation-Rate Mailings

AGENCY: Postal Service.

ACTION: Notification of public meeting.

SUMMARY: The Postal Service is holding a public meeting to explain changes to the presort and documentation requirements for letter-size automation-rate mailings that were published in the **Federal Register** on October 5, 1992.

DATES: The meeting will be held at 8 a.m. on Tuesday October 20, 1992.

ADDRESSES: The meeting will take place at the National Address Information Center, 6060 Primacy Parkway, Memphis, TN.

FOR FURTHER INFORMATION CONTACT: Lynn Martin at (202) 268–5176, or Richard Arvonio at (202) 268–5164.

SUPPLEMENTARY INFORMATION: On October 5, 1992, the Postal Service published a final rule (57 FR 45882–45953) that revised presort and documentation options for letter-size ZIP+4 rate and ZIP+4 Barcoded rate

mailings and consolidated all such requirements in Domestic Mail Manual Chapter 5. These changes were effective October 5, 1992, on an optional basis and will be required on March 21, 1993. They were also published in a special Postal Bulletin on October 8, 1992 (PB21825A). To facilitate the implementation of the new requirements the Postal Service will hold a public meeting to discuss the changes to the presort and documentation requirements set forth in the final rule.

Attendance at this meeting is open to the interested public but limited to the space available. Persons planning to attend should contact the National Address Information Center at (800)-642-2914 to register. The discussion is limited to issues and questions pertaining to the changes in letter-size ZIP+4 rate and ZIP+4 Barcoded rate presort and documentation requirements that were published in the final rule.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 92-25031 Filed 10-14-92; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL-4121-3]

Hazardous Waste Management Program: Codification of Approved State Hazardous Waste Program for Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 Code of Federal Regulations to codify its authorization of State programs and to incorporate by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA section 3008. Thus, EPA intends to codify the Minnesota authorized State program in 40 CFR part 272. The purpose of this action is to incorporate by reference EPA's approval of recent revisions to Minnesota's program.

DATES: Codification of Minnesota's revised authorized hazardous waste program shall be effective December 14, 1992 unless EPA publishes a prior FR action withdrawing this immediate final rule. All comments on Minnesota's codification must be received by the close of business November 16, 1992. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 14, 1992.

ADDRESSES: Written comments should be sent to Ms. Christine Klemme, Minnesota Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 77 West Jackson, HRM-7J, Chicago, Illinois 60604, (312) 886-3715, [FTS 8 (312) 886-3715].

FOR FURTHER INFORMATION CONTACT: Ms. Christine Klemme, Minnesota Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 77 West Jackson, HRM-7J, Chicago, Illinois 60604, (312) 886-3715, [FTS 8 (312) 886-3715].

SUPPLEMENTARY INFORMATION:

Background

On March 16, 1990, EPA published notice in the FR of its decision to incorporate by reference Minnesota's then authorized hazardous waste program (see 55 FR 9881). Effective August 14, 1990, (see 54 FR 24232), August 23, 1991, (56 FR 28710), and May 18, 1992, (57 FR 9502), EPA granted Minnesota additional authorization. In this notice, EPA is incorporating the currently authorized State hazardous waste program in Minnesota.

EPA codifies its approval of State programs in part 272 of title 40, Code of Federal Regulations (CFR), and incorporates by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. This effort will provide clearer notice to the public of the scope of the authorized program in Minnesota.

Revisions to Minnesota's and other State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. The codification of Minnesota's authorized program in subpart Y of part 272 is intended to enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. For a fuller explanation of EPA's codification of Minnesota's authorized hazardous waste program, see 55 FR 9881 (March 16, 1990).

Minnesota was previously authorized on June 23, 1989, for a provision addressing RCRA sections 3004(t) (2) and (3). Those provisions create a Federal cause of action for any person with a claim arising from conduct for which financial assurances are required under RCRA. Since, by its terms, section 3004(t) makes this cause of action always available in Federal court, section 3004(t) has been deemed not delegable to the States. Therefore, EPA is rescinding the March 16, 1990, incorporation by reference for this provision.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Minnesota's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

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

Paperwork Reduction Act

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

List of Subjects in 40 CFR Part 272

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

Dated: October 1, 1992.

David A. Ullrich,

Acting Regional Administrator.

For the reasons set forth in the preamble, subpart Y of 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Section 272.1200 is amended by revising paragraphs (a) and (b) to read as follows:

§ 272.1200 State Authorization.

(a) The State of Minnesota is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6921 *et seq.* subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Public Law 98-616, November 8, 1984), 42 U.S.C. 6926 (c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR part 271. The State's program, as administered by the Minnesota Pollution Control Agency, was approved by EPA pursuant to 42 U.S.C. 6926(b) and 40 CFR part 271. EPA's approval of Minnesota's base program was effective on February 11, 1985. EPA's approvals of the revisions to Minnesota's base program were effective on September 18, 1987, June 23, 1989, August 14, 1990, August 23, 1991, and May 18, 1992.

(b) Minnesota is authorized to implement only those HSWA requirements addressed in 40 CFR 272.1201 and codified herein.

* * * * *

§ 272.1201 [Amended]

3. Section 272.1201 is amended by revising the introductory text; and by revising paragraphs (a)(1)(i), (a)(1)(ii), (a)(2), (a)(3)(i), (a)(3)(ii), (b), (c), and (d) to read as follows:

§ 272.1201 State-administered program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Minnesota has final authorization for the following elements submitted to EPA in Minnesota's base program and revision applications for final authorization as approved by EPA effective on February 11, 1985, September 18, 1987, June 23, 1989, August 14, 1990, August 23, 1991, and May 18, 1992.

(a) * * *

(1) * * *

(i) Minnesota Statutes, chapters 13.03; 13.06; 13.37; 15.17; 15.171; 115A.03; 116.06; 116.07 subdivisions 4, 4a, 4b, 4e, 5, 8, and 9; 116.075; 116.081 subdivisions 1 and 3, and 116.14. (Minnesota Statutes June 7, 1969, as amended July 1, 1976, May 28, 1977, April 15, 1980, March 19, 1982, June 9, 1983, May 26, 1987, and December 31, 1991.) Copies of these statutes are available from the Print Communications Division, Minnesota Bookstore, 117 University Avenue (Ford Building), St. Paul, MN 55155. Copies may be inspected at the U.S. EPA, Headquarters, 401 M Street SW., Washington, DC 20460, or at the Office of the Federal Register, 800 N. Capitol Street NW., suite 700, Washington, DC.

(ii) Minnesota Rules: 7001.0010; 7001.0020(B); 7001.0030–7001.0150(3)(C); 7001.0150(3)(E)–7001.0200; 7001.0500–7001.0730(2); 7001.0730(4); 7045.0020–7045.0143; 7045.0205–7045.0270(6); 7045.0275–7045.0508; 7045.0512–7045.0685; 7045.0692–7045.0695; 7045.1300–1380 (Minnesota Rules dated July 9, 1984, as amended February 10, 1986, June 29, 1987, and March 18, 1991). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Minnesota regulations that are incorporated by reference in this paragraph are available from the Print Communications Division, Minnesota Bookstore, 117 University Avenue (Ford Building), St. Paul, MN 55155. Copies may be inspected at the U.S. EPA, Headquarters, 401 M Street SW., Washington, DC 20460, or at the Office of the Federal Register, 800 N. Capitol Street NW., suite 700, Washington, DC.

(2) The following statutes concerning State enforcement, although not codified herein for enforcement purposes, are part of the authorized State program: Minnesota Statutes 15.07; 116.091; 116.11; 116B.09. (Minnesota Statutes as amended and listed above. Copies are available at the addresses listed above).

(3) * * *

(i) Minnesota Statutes Chapter 115A.25, 115A.90–115A.95 and 115.A291 (Minnesota Statutes as amended and listed above. Copies are available at the address listed above).

(ii) Minnesota Rules 7001.0020(A); 7001.0020(C–K); 7001.0150(3)(D); 7001.0210; 7001.0730(3); 7001.0730(5); 7001.1000–7001.1100; 7001.1200–7001.1470; 7001.3000–7001.3550; 7045.0270(7); 7045.0686; 7045.1000–7045.1030; 7046.0010–7046.0070 (Minnesota Rules as amended and listed above. Copies are available at the addresses listed above).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA—Region V, and the Minnesota Pollution Control Agency, signed by the EPA Regional Administrator on June 4, 1991, is part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statement of Legal Authority.* The Minnesota Attorney General's Statements for final authorization signed by the Attorney General of Minnesota on February 2, 1988, November 17, 1988, November 20, 1989, January 28, 1991, and December 3, 1991, are as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* Program Descriptions dated July 26, 1984, June 30, 1987, July 29, 1988, July 30, 1989, January 18, 1991, and June 28, 1991, and any other materials submitted as part of, or as supplements to, the revision applications are approved as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[FR Doc. 92-24939 Filed 10-14-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7561]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP,

subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
Georgia: Hiawassee, City of Towns County	130447	Sept. 15, 1992	Mar. 18, 1977.
Reinstatements—Regular Program			
Arkansas: Amagon, City of Jackson County	050097	Nov. 7, 1975, Emerg.; Apr. 1, 1981, Reg.; Apr. 1, 1981, Susp.; Sept. 3, 1992, Rein.	Apr. 1, 1981.
Nebraska; Red Willow County, Unincorporated Areas.	310469	June 18, 1984; Emerg.; May 1, 1988, Reg.; May 1, 1988, Susp.; Sept. 17, 1992, Rein.	May 1, 1988.
New York: Jackson, Town of Washington County.	361444	Dec. 16, 1975, Emerg.; Apr. 17, 1985, Reg.; Sept. 16, 1988, Susp.; Sept. 28, 1992, Rein.	Mar. 16, 1992.
Regular Program Conversions—Region I			
Maine: Buckfield, Town of Oxford County	230090	Sept. 3, 1992, Suspension Withdrawn	Sept. 3, 1992.
Region II			
New York: Pittsford, Town of Monroe County	360429	do	Do.
Region IV			
Florida: Sarasota County, Unincorporated Areas.	125144	do	Do.
Tennessee: White Pine, Town of Jefferson County.	470332	do	Do.
Region V			
Wisconsin: Sheboygan County, Unincorporated Areas.	550424	do	Do.
Region III			
Pennsylvania: Butler, Township of Schuylkill County.	421999	Sept. 17, 1992, Suspension Withdrawn	Aug. 3, 1992.
Region IV			
South Carolina: McClellanville, Town of Charleston County.	450039	do	Apr. 17, 1987.
Region VI			
Texas: Corpus Christi, City of Nueces County	485464	do	Sept. 17, 1992.
Louisiana: St. Charles Parish, Unincorporated Areas.	220160	do	June 16, 1992.
Minimal Conversions—Region VII			
Nebraska: Rogers, Village of Colfax County	315497	Sept. 17, 1992, Suspension Withdrawn	Sept. 17, 1992.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Regular Program Conversions—Region I			
Connecticut: Killingworth, Town of Middlesex County.	090174	Sept. 30, 1992	Sept. 30, 1992.
Massachusetts: Gratton, Town of Worcester County.	250306	do	Do.
Vermont: Concord, Town of Essex County	500207	do	Do.
Region II			
New York:			
Greece, Town of Monroe County	360417	do	Do.
Mamakating, Town of Sullivan County	360826	do	Do.
West Senaca, Town of Erie County	360282	do	Do.
Region III			
West Virginia: Charles Town, City of Jefferson County.	540066	do	Do.
Pennsylvania:			
Lower Chichester, Town of Delaware County.	421804	do	Do.
State College, Borough of Centre County.	420270	do	Do.
Region IV			
Tennessee: Jellico, City of Campbell County	475431	do	Do.
Region V			
Michigan: Kalamazoo, City of Kalamazoo County.	260315	do	Do.
Minnesota: Independence, City of Hennepin County.	270167	do	Do.
Illinois: Elwood, Village of Will County	170849	do	Do.
Region VI			
Texas: Pleak, Village of Fort Bend County	481615	do	Do.
Region VIII			
Colorado: Telluride, Town of San Miguel County.	080168	do	Do.
Region VII			
Iowa:			
Clive, City of Polk and Dallas Counties	190488	Oct. 16, 1992, Suspension Withdrawn	Oct. 16, 1992.
Windsor Heights, City of Polk County	190687	do	Do.
Nebraska: Fairbury, City of Jefferson County	310120	do	Do.

Code for reading fourth column: Emerg. Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: October 6, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-24982 Filed 10-14-92; 8:45 am]

BILLING CODE 6718-21-M

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44 CFR Part 64

[Docket No. FEMA-7552]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of

the communities will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and Location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazardous areas
Region III				
Pennsylvania:				
Ashland, borough of Schuylkill County	420765	Aug. 20, 1974, Emerg.; Aug. 1, 1990, Reg.; Nov. 4, 1992. Susp.	Sep. 17, 1992	Nov. 4, 1992.
Montgomery, township of Franklin County	422426	Aug. 1, 1979, Emerg.; Aug 1, 1986, Reg.; Nov. 4, 1992, Susp.	Nov. 4, 1992	Do.
Region IV				
Florida: Clay County, unincorporated areas	120064	Feb. 26, 1975, Emerg.; July 2, 1981, Reg.; Nov. 4, 1992, Susp.	Nov. 4, 1992	Do.
Mississippi: Terry, town of Hinds County	280073	May 27, 1975, Emerg.; Apr. 3, 1978, Reg.; Nov. 4, 1992, Susp.	Nov. 4, 1992	Do.
Region VI				
Oklahoma: Noble County, unincorporated areas	400132	May 14, 1990, Emerg.; Nov. 18, 1992, Reg.; Nov. 18, 1992, Susp.	Nov. 18, 1992	Nov. 18, 1992.
Region VII				
Iowa: Polk County, unincorporated areas	190091	Mar. 16, 1977, Emerg.; Sep. 1, 1986, Reg.; Nov. 18, 1992, Susp.	Nov. 18, 1992	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: October 8, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-24985 Filed 10-14-92; 8:45 am]

BILLING CODE 6718-21-M

DEPARTMENT OF DEFENSE

48 CFR Parts 219 and 252

Defense Federal Acquisition Regulation Supplement; Pilot Mentor-Protege Program

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for public comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) language on the Pilot Mentor-Protege Program to implement section 814 of the FY 1992 Defense Authorization Act and section 8064A of the FY 1992 Defense Appropriations Act. The DFARS revisions permit organizations employing the severely disabled to participate as protege firms and permit subcontracting plan goal credit for developmental assistance costs that are reimbursed through indirect expense pools. The revisions eliminate the prohibition on payment of profit on developmental assistance cost and add a contract clause to provide contractors with information about the DoD pilot program.

The Director of the Office of Small and Disadvantaged Business Utilization has revised the program policy statement entitled "DoD Policy for the Pilot Mentor-Protege Program." The revised policy statement is included in its entirety under the Supplementary Information/Background section of this rulemaking notice.

DATES: *Effective Date:* October 5, 1992.

Comment Date: Comments on the interim rule should be submitted in writing at the address shown below on or before November 16, 1992, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to the Defense Acquisition Regulations System, ATTN: Mrs. Linda W. Neilson, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301-3062. FAX (703) 697-9845. Please cite DAR Case 91-317 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mrs. Linda W. Neilson, (703) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

Section 831 of the FY 1991 Defense Authorization Act established the Pilot Mentor-Protege Program to provide incentives for DoD contractors to assist Small Disadvantaged Businesses. On August 9, 1992, we published a final DFARS rule in the **Federal Register** (56 FR 37963) which was effective October 1, 1991. The DoD is now publishing interim revisions to the final DFARS rule to implement section 814 of Public Law 102-190 and section 8064A of Public Law 102-172.

The DoD policy statement has been revised to read as follows:

DoD Policy for the Pilot Mentor-Protege Program

I. Purpose

A. This policy implements the Pilot Mentor-Protege Program (hereinafter referred to as the "Program") established under section 831 of Public Law 101-510, The National Defense Authorization Act for Fiscal Year 1991 as amended. The purpose of the Program is to:

(1) Provide incentives to major DoD contractors, performing under at least one active approved subcontracting plan negotiated with DoD or other Federal agencies, to assist small disadvantaged businesses (SDBs) in enhancing their capabilities to satisfy DoD and other contract and subcontract requirements;

(2) Increase the overall participation of SDBs as subcontractors and suppliers under DoD contracts, other Federal agency contracts and commercial contracts; and

(3) Foster the establishment of long-term business relationships between SDBs and such contractors.

B. Under the Program, eligible companies approved as mentor firms will enter into mentor-protege agreements with eligible SDBs as protege firms to provide appropriate developmental assistance to enhance the capabilities of SDBs to perform as subcontractors and suppliers. According to the law, the Department of Defense may, provide the mentor firm with either cost reimbursement, credit against SDB subcontracting goals established under contracts with DoD or other Federal agencies, or a combination of credit and reimbursement.

C. DoD will measure the overall success of the Program by the extent to which the Program results in:

(1) An increase in the dollar value of subcontracts awarded to SDBs by mentor firms under DoD contracts;

(2) An increase in the dollar value of contract and subcontract awards to protege firms (under DoD contracts, contracts awarded by other Federal agencies and under commercial contracts) since the date of their entry into the Program;

(3) An increase in the number and dollar value of subcontractors awarded to a protege firm (or former protege firm) by its mentor firm (or former mentor firm);

(4) An improvement in the participation of SDBs in DoD, other Federal agencies, and commercial contracting opportunities that can be attributed to the development of SDBs as protege firms under the Program;

(5) An increase in subcontracting with SDB concerns in industry categories where SDBs have not traditionally participated within the mentor firm's vendor base;

(6) The involvement of emerging SDBs in the Program;

(7) An expanded relationship between mentor firms and protege firms to include non-DoD programs; and

(8) The development of protege firms that are competitive as subcontractors and suppliers to DoD or in other Federal agencies or commercial markets.

D. This policy sets forth the procedures for participation in the Program applicable to companies that are interested in receiving:

(1) A separate contract—company is interested in reimbursement through a separate contract with DoD or, a combination of reimbursement through a separate contract with DoD and credit against SDB subcontract goals for any unreimbursed costs incurred under the Program.

(2) Program Manager funded reimbursement—company has identified a DoD program manager willing to fund the Program and the company is interested in reimbursement through a separately, priced cost reimbursement contract line item added to a DoD contract, with credit against SDB subcontracting goals for any unreimbursed costs.

(3) Indirect reimbursement and credit—company is interested in receiving reimbursement for indirect costs incurred under the Program as well as credit against SDB subcontract goals for these indirect costs.

(4) Credit only—company is interested in receiving credit only against SDB subcontracting goals for costs incurred under the Program.

II. General Procedures

A. At any time between October 1, 1991 and September 30, 1994, companies

interested in becoming mentor firms that want to: (1) Take credit only for costs incurred for providing developmental assistance to one or more protege firms or (2) receive credit and reimbursement of indirect costs incurred under the Program, must apply to the Department of Defense for participation in the Program pursuant to the application process in VI (A) below.

B. At any time between October 1, 1991 and September 30, 1994, companies interested in becoming mentor firms that are able to identify funding from a DoD contract program manager(s) to provide developmental assistance to one or more protege firms must apply to the Department of Defense for participation in the Program, pursuant to the application process in VI (D) below.

C. Once funding is made available by DoD, companies that are interested in becoming mentor firms that want to receive reimbursement only or a combination of reimbursement and credit for providing developmental assistance to one or more protege firms via a separate contract awarded for that purpose, will be solicited for participation in the Program through a program solicitation. The Program solicitation will be issued by DoD and will contain among other things, the statement of work and the evaluation factors upon which award will be based. Companies seeking reimbursement only, or a combination of reimbursement and credit, must respond to the solicitation and will be evaluated on the quality of the proposed developmental assistance program for each protege, in accordance with the evaluation factors contained in the solicitation. Separate contracts will be awarded by DoD to approved mentor firms, to provide the proposed developmental assistance to one or more identified protege firms.

III. Program Duration

Activities under the Program may only occur during the following periods:

(a) From October 1, 1991 until September 30, 1994, companies may apply for participation in the Program as mentor firms pursuant to section II, and once approved, may enter into mentor-protege agreements, pursuant to section VII;

(b) From October 1, 1991 until September 30, 1996, mentor firm's costs of providing developmental assistance to its protege firms may be reimbursed only if:

i. Such costs are incurred after a separate contract is entered into between DoD and the mentor firm or,

ii. The funding for such costs have been identified by a DoD program manager and such costs are incurred pursuant to the execution of a separately priced contract line item added to a DoD contract(s) or,

iii. Such costs are included in indirect expense pools;

(c) From October 1, 1991 until September 30, 1999, mentor firms may receive credit toward the attainment of such firm's goals for subcontract awards to SDBs for unreimbursed costs incurred in providing developmental assistance to its protege firms, only if such costs are incurred pursuant to an approved mentor-protege agreement.

IV. Eligibility Requirements for a Protege Firm

A. An entity may qualify as a protege firm if it is:

(1) A SDB concern as defined by section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(D)(3)(C)) which is: (a) Eligible for the award of Federal contracts and (b) a small business according to the SBA size standard in the Standard Industrial Code (SIC) which represents the contemplated supplies or services to be provided by the protege firm to the mentor firm;

(2) A business entity that meets the criteria in 1 above and is owned and controlled by either an Indian tribe as defined by section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13) or a Native Hawaiian Organization as defined by section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(13));

(3) A qualified organization employing the severely disabled as defined in Public Law 102–172 section 8064A.

B. A protege firm may self-certify to a mentor firm that it meets the eligibility requirements in either A (1), (2), or (3) above. Mentor firms may rely in good faith on a written representation that the entity meets the requirements in either A (1), (2), or (3) above.

C. A protege firm may only have one active mentor-protege agreement.

V. Selection of Protege Firms

A. Mentor firms will be solely responsible for selecting protege firms. Mentor firms are encouraged to identify and select protege firms that are defined as emerging SDB concerns.

B. The selection of protege firms by mentor firms may not be protested, except as in C below.

C. In the event of a protest regarding the size or disadvantaged status of an entity selected to be a protege firm as defined in either A, 1, or 2, above, the mentor firm shall refer the protest to the SBA to resolve in accordance with 13 CFR part 121 (with respect to size) or 13 CFR part 124 (with respect to disadvantaged status).

D. For purposes of the Small Business Act, a protege firm may not be considered an affiliate of a mentor firm solely on the basis that the protege firm is receiving assistance referred to in VII, F from a mentor firm under the program.

E. If at any time the protege firm is determined by the Small Business Administration not to be a small disadvantaged business concern, assistance furnished such business concern by the mentor firm after the date of the determination, may not be considered assistance furnished under the program.

VI. Approval Process for Companies to Participate in the Program as Mentor Firms

A. On or after October 1, 1991, a company interested in becoming a mentor firm and is seeking: (1) Credit only against SDB subcontracting goals for costs incurred under the Program or (2) reimbursement of developmental assistance costs via inclusion of program costs in indirect expense pools and credit for such costs, must submit a request to the DoD, USD(A) OSADBU to be approved as a mentor firm under the Program. The request will be evaluated on the extent to which the company's proposal addresses the items listed in B and C below. To the maximum extent possible, the request should be limited to not more than 10 pages, single spaced. A company may identify more than one protege in its request for approval under the Program. The information required in B and C below must be submitted to be considered for approval as a mentor firm, and may cover one or more proposed mentor-protege relationships.

B. A company must indicate whether it is interested in participating in the Program pursuant to I, D, either 2, 3, or 4, and submit the following information:

(1) A statement that the company is currently performing under at least one active approved subcontracting plan negotiated with DoD or another Federal agency pursuant to FAR 19.702, and that the company is currently eligible for the award of Federal contracts.

(2) The number of proposed mentor-protege relationships covered by the request for approval as a mentor firm.

(3) A summary of the company's historical and recent activities and accomplishments under their SDB program.

(4) The total dollar amount of DoD contracts and subcontracts received by the company during the two preceding fiscal years (show prime contracts and subcontracts separately per year).

(5) The total dollar amount of all other Federal agency contracts and

subcontracts received by the company during the two preceding fiscal years (show prime contracts and subcontracts separately per year).

(6) The total dollar amount of subcontracts awarded by the company under DoD contracts during the two preceding fiscal years.

(7) The total dollar amount of subcontracts awarded by the company under all other Federal agency contracts during the two preceding fiscal years.

(8) The total dollar amount and percentage of subcontract awards made to all SDB firms under DoD contracts and other Federal agency contracts during the two preceding fiscal years (show DoD subcontract awards and other Federal agency subcontract awards separately). If presently required to submit a SF 295, provide copies of the two preceding year's end report.

(9) The number and total dollar amount of subcontract awards made to the identified protege firm(s) during the two preceding fiscal years (if any). Show DoD subcontract awards and other Federal agency subcontract awards separately.

C. In addition to the information required by B above, companies must submit the following information for each proposed mentor-protege relationship:

(1) Information on the company's ability to provide developmental assistance to the identified protege firm and how that assistance will potentially increase subcontracting opportunities for the protege firm, including subcontracting opportunities in industry categories where SDBs are not dominant in the company's vendor base.

(2) A letter of intent indicating that both the mentor firm and the protege firm will negotiate a mentor-protege agreement. The letter of intent must be signed by both parties and contain the following information:

(a) The name, address and phone number of both parties.

(b) The protege firm's business classification, based upon the SIC code(s) which represents the contemplated supplies or services to be provided by the protege firm to the mentor firm.

(c) A statement that the protege firm meets the eligibility criteria in either IVA (1), (2), or (3).

(d) A preliminary assessment of the developmental needs of the protege firm and the proposed developmental assistance the mentor firm envisions providing the protege firm to address those needs and enhance the protege firm's ability to perform successfully under contracts or subcontracts with DoD, other Federal agencies and commercial contracts.

(e) An estimate of the dollar amount and type of subcontracts that will be awarded by the mentor firm to the protege firm, and the period of time over which they will be awarded.

(f) Information as to whether the protege firm's development will be concentrated on a single major system(s), a service or supply program, research and development programs, initial production, mature systems, or in the mentor firm's overall contract base.

(3) An estimate of the cost of the developmental assistance program and the period of time over which the assistance will be provided.

D. A company that has identified Program funds to be made available through a DoD program manager(s), must provide: (1) The information in B and C above to both the USD(A) OSADBU and the appropriate program manager(s) and (2) the USD(A) OSADBU with a letter signed by the appropriate program manager indicating the amount of funding that has been identified for the developmental assistance program.

E. Companies seeking credit only for the cost of developmental assistance, reimbursement of program costs via their inclusion in indirect expense pools and credit for such costs, or reimbursement with funds made available by a DoD program manager, shall submit four copies of the information specified in B and C above to: DoD, USD (A/OSADBU, room 2A340, The Pentagon, Washington, DC 20301-3061, Attn: Pilot Mentor-Protege Program Manager. Upon receipt of this information, OSADBU will review and evaluate each request and, to the maximum extent possible, within 30 days advise each applicant of approval or rejection of its request to become a mentor firm.

F. Companies interested in reimbursement of costs of a developmental assistance program through a separate contract awarded for that purpose will be solicited to provide the information in B and C above as well as any other information specified in the program solicitation.

G. A company approved as a mentor firm for credit only, for reimbursement through funds made available by a DoD program manager, or for reimbursement via inclusion of program costs in indirect expense pools and credit for such costs, may proceed with the negotiation of the mentor-protege agreement with the identified protege firm(s).

H. Companies that apply for participation in the program pursuant to E above and are not approved, will be provided the reasons therefor and will also be provided an opportunity to submit additional information for reconsideration.

I. A company may not be approved for participation in the Program as a mentor firm if at the time of requesting participation in the Program it is currently debarred or suspended from contracting with the Federal Government pursuant to FAR part 9.4.

J. If the mentor firm is suspended or debarred while performing under an approved mentor-protege agreement, the mentor firm:

(1) May continue to provide assistance to its protege firms pursuant to approved mentor-protege agreements entered into prior to the imposition of such suspension or debarment;

(2) May not be reimbursed or take credit for any costs of providing developmental assistance to its protege firm, incurred more than 30 days after the imposition of such suspension or debarment; and

(3) Shall promptly give notice of its suspension or debarment to its protege firm and OSADBU.

VII. Mentor-Protege Agreements

A. Subsequent to approval as a mentor firm pursuant to VI above, a signed mentor-protege agreement for each mentor-protege relationship identified under VI(B)(2), must be submitted to USD(A) OSADBU and approved before developmental assistance costs may be incurred. To the maximum extent possible, such mentor-protege agreements will be approved within 5 business days of receipt.

B. Each signed mentor-protege agreement submitted for approval under the Program shall include:

(1) The name, address and telephone number of the mentor firm and the protege firm and a point of contact within the mentor firm who will administer the developmental assistance program;

(2) The SIC code which represents the contemplated supplies or services to be provided by the protege firm to the mentor firm and a statement that at the time the agreement is submitted for approval, the protege firm if, a SDB concern, does not exceed the size standard for the appropriate SIC code.

(3) A developmental program for the protege firm specifying the type of assistance identified in (F) below that will be provided. The developmental program shall also include the following:

(a) Factors to assess the protege firm's developmental progress under the Program including milestones for providing the identified assistance; and

(b) The anticipated number, dollar value and type of subcontracts to be awarded the protege firm consistent with the nature of mentor firm's business and the period of time over which they will be awarded.

(4) An initial program participation term for the protege firm which shall not exceed five years and may be renewed for four years.

(5) Procedures for the mentor firm to notify the protege firm in writing at least 30 days in advance of the mentor firm's intent to voluntarily withdraw its' participation in the Program. Mentor firms may only voluntarily terminate the mentor-protege agreement(s) if they no longer want to be a participant in the Program as a mentor firm. Otherwise, a mentor firm must terminate a mentor-protege agreement for cause.

(6) Procedures for a protege firm to notify the mentor firm in writing at least 30 days in advance of the protege firm's intent to voluntarily terminate the mentor-protege agreement.

(7) Procedures for the mentor firm to terminate the mentor-protege agreement for cause which provide:

(a) The protege firm shall be furnished a written notice of the proposed termination, stating the specific reasons for such action, at least 30 days in advance of the effective date of such proposed termination.

(b) The protege firm shall have 30 days to respond to such notice of proposed termination, and may rebut any findings believed to be erroneous and offer a remedial program.

(c) Upon prompt consideration of the protege firm's response, the mentor firm shall either withdraw the notice of proposed termination and continue the protege firm's participation, or issue the notice of termination.

(d) The decision of the mentor firm regarding termination for cause, conforming with the requirements of this section, shall be final and is not reviewable by DoD.

(8) Additional terms and conditions as may be agreed upon by both parties.

C. A copy of any termination notices shall be sent by the mentor firm to the DoD, USD(A), OSADBU, and where funding is made available through a DoD program manager, also provide a copy to the program manager and to the appropriate PCO or ACO.

D. Termination of a mentor-protege agreement shall not impair the obligations of the mentor firm to perform pursuant to the contractual obligations under Government contracts and subcontracts. Termination of all or part of the mentor-protege agreement shall not impair the obligations of the protege firm to perform pursuant to the contractual obligations under any contract awarded to the protege firm by the mentor firm.

E. Only developmental assistance provided after the DoD approval of the mentor-protege agreement may be reimbursed.

F. The mentor-protege agreement may provide for the mentor firm to furnish any or all of the types of developmental assistance as follows:

(1) Assistance by mentor firm personnel in:

(a) General business management including organizational management, financial management and personnel management, marketing, business development and overall business planning;

(b) Engineering and technical matters such as production inventory control, quality assurance; and

(c) Any other assistance designed to develop the capabilities of the protege firm under the developmental program.

(2) Award of subcontracts under DoD contracts or other contracts on a noncompetitive basis.

(3) Payment of progress payments for the performance of subcontracts by a protege firm in amounts as provided for in the subcontract; but in no event may any such progress payment exceed 100% of the costs incurred by the protege firm for the performance of the subcontract. Provision of progress payments by a mentor firm to a protege firm at a rate other than the customary rate for small disadvantaged businesses shall be implemented in accordance with FAR 32.504(c).

(4) Advance Payments under such subcontracts. Advance payments must be administered by the mentor firm in accordance with FAR. 32.4.

(5) Loans.

(6) Investment(s) in the protege firm in exchange for an ownership interest in the protege firm, not to exceed 10% of the total ownership interest. Investments may include but not be limited to cash, stock, contributions in kind, etc.

(7) Assistance obtained by the mentor firm for the protege firm from one or more of the following:

(a) Small Business Development Centers (SBDC) established pursuant to section 21 of the Small Business Act (15 U.S.C. 648).

(b) Entities providing procurement technical assistance pursuant to chapter 142 of title 10 U.S.C. (Procurement Technical Assistance Centers).

(c) Historically Black Colleges and Universities as defined by 334 CFR part 608.2.

(d) Minority Institutions of Higher Education.

G. A mentor firm may not require a SDB concern to enter into a mentor-protege agreement as a condition for being awarded a contract by the mentor firm including a subcontract under a DoD contract awarded to the mentor firm.

VIII. Reimbursement Procedures

A. A mentor firm may only be reimbursed for the cost of developmental assistance incurred by the mentor firm and provided to a protege firm under VII (F) (1) and (7), and pursuant to an approved mentor-protege agreement. Reimbursement shall only be made through: (1) A separate contract entered into between the DoD and the mentor firm awarded for the purpose of providing developmental assistance to one or more protege firms, (2) a separately priced contract line item in a DoD contract or (3) inclusion of program costs in indirect expense pools. No other means for the reimbursement of the costs of developmental assistance provided under VII (F) (1) and (7) are authorized under the Program.

B. Costs reimbursed via inclusion in indirect expense pools may only be reimbursed to the extent that they are otherwise reasonable, allocable, and allowable.

C. Assistance provided in the form of progress payments in excess of the customary progress payment rate for SDBs, shall only be reimbursed if implemented in accordance with FAR 32.504(c).

D. Assistance provided in the form of advance payments shall only be reimbursed if they have been provided to a protege firm under subcontract terms and conditions similar to FAR 52.232-12. Reimbursement of any advance payments shall be made pursuant to the inclusion of DFAR 252.232-7008, "Reimbursement of Advance Payments—DoD Pilot Mentor-Protege Program (October, 1991)" in appropriate contracts. In requesting reimbursement, the mentor firm agrees that the risk of any financial loss due to the failure or inability of protege firm to repay any unliquidated advance payments shall be the sole responsibility of the mentor firm.

E. No other forms of developmental assistance are authorized for reimbursement under the Program.

IX. Credit for Unreimbursed Developmental Assistance Costs

A. Except as provided in F below, developmental assistance costs incurred by a mentor firm for providing such assistance to a protege firm pursuant to an approved mentor-protege agreement,

which have been charged to, but not reimbursed through, a separate contract entered into between DoD and the mentor firm, or through a separately priced contract line item added to a DoD contract, shall be recognized for credit in lieu of subcontract awards for determining the performance of such mentor firm in attaining a SDB subcontracting goal(s) established under any contract containing a subcontracting plan pursuant to FAR 52.219–9.

B. For crediting purposes only, costs which have been reimbursed via inclusion in indirect expense pools shall be recognized for credit in lieu of subcontract awards and considered as if they were unreimbursed developmental assistance costs as in A above. However, costs that have not been reimbursed because they are not reasonable, allocable or allowable under VIII, B, shall not be recognized for crediting purposes.

C. Other costs that are not eligible for reimbursement pursuant to VIII, A, may be recognized for credit only if requested, identified and incorporated in an approved mentor-protege agreement. Such costs are not eligible for reimbursement.

D. The amount of credit a mentor firm may receive for any such unreimbursed developmental assistance costs shall be equal to:

(1) Four times the total amount of such costs attributable to assistance provided by SBDCs, HBCUs, MIs, and PTACs.

(2) Three times the total amount of such costs attributable to assistance furnished by the mentor's employees.

(3) Two times the total amount of other such costs incurred by the mentor in carrying out the developmental assistance program.

E. A mentor firm shall receive credit toward the attainment of a SDB subcontracting goal(s) for each subcontract awarded for a product or a service by the mentor firm to a business concern that, except for its size would be a small business concern owned and controlled by socially and economically disadvantaged individuals, but only if:

(1) The size of such business concern is not more than two times the appropriate size standard;

(2) The business concern formerly had a mentor-protege agreement with such mentor firm that was not terminated for cause; and

(3) The credit is taken not later than October 1, 1999.

F. Amounts credited toward the SDB goal(s) for unreimbursed costs under the program shall be separately identified from the amounts credited toward the goal resulting from the award of actual subcontracts to protege firms. The combination of the two shall equal the mentor firm's overall accomplishment toward the SDB goal(s).

G. Adjustments may be made to the amount of credit claimed under A and B above if the Director, DoD, USD(A) OSDBU determines that:

(1) A mentor firm's performance in the attainment of its SDB subcontracting goals through actual subcontract awards declined from the prior fiscal year without justifiable cause.

(2) Imposition of such a limitation on credit appears to be warranted to prevent abuse of this incentive for mentor firm's participation in the Program.

H. The mentor firm shall be afforded the opportunity to explain the decline in SDB participation before imposition of any such limitation on credit. In making the final decision to impose a limitation on credit, the following shall be considered:

(1) The mentor firm's overall SDB participation rates (in terms of percentages of subcontract awards and dollars awarded) as compared to the participation rates existing during the two fiscal years prior to the firm's admission to the Program;

(2) The mentor firm's aggregate prime contract awards during the prior two fiscal years and the total amount of subcontract awards under such contracts; and

(3) Such other information the mentor firm may wish to submit.

I. The decision of the Director regarding the imposition of a limitation on credit shall be final.

J. Any prospective limitation on credit imposed by the Director shall be expressed as a percentage of otherwise eligible credit and shall apply beginning on a specific date in the future and continue until a date certain during the current fiscal year.

K. Any retroactive limitation on credit imposed by the Director shall reflect the actual costs incurred for developmental assistance (not exceeding the maximum amount reimbursed).

L. For purposes of calculating any incentives to be paid to a mentor firm for exceeding a SDB subcontracting goal pursuant to 252.219–7009, incentives shall only be paid if a SDB subcontracting goal has been exceeded as a result of actual subcontract awards to SDBs.

M. Developmental assistance costs that are incurred pursuant to an approved mentor-protege agreement, and have been charged to, but not reimbursed through, a separate contract entered into between the DoD and the mentor firm, or through a separately priced contract line item added to a DoD contract, shall not be otherwise reimbursed, either as a direct or indirect cost, under any other DoD contract, irrespective of whether the costs have been recognized for credit against SDB subcontracting goals.

N. Developmental assistance provided under an approved mentor-protege agreement is distinct from, and shall not duplicate, any effort that is the normal and expected product of the award and administration of the mentor firm's subcontracts. Costs associated with the latter shall be accumulated and charged in accordance with the contractor's approved accounting practices; they are not considered developmental assistance costs eligible for either credit or reimbursement under the program.

X. Advance Agreements on the Treatment of Developmental Assistance Costs

Pursuant to FAR 31.109, approved mentor firms seeking reimbursement, credit, or a combination thereof, are encouraged to enter into an advance agreement with the contracting officer responsible for determining final indirect cost rates under FAR 42.705. The purpose of the advance agreement is to establish the accounting treatment of the costs of the development assistance pursuant to the mentor-protege agreement prior to the incurring of any costs by the mentor firm. While not mandatory, an advance agreement is an attempt by both the Government and the mentor firm to avoid possible subsequent dispute based on questions related to reasonableness, allocability, or allowability of costs of developmental assistance under the Program. Absent an advance agreement, mentor firms are advised to establish the accounting treatment of such costs and address the need for any changes to their cost accounting practices that may result from the implementation of a mentor-protege agreement, prior to incurring any costs, and irrespective of whether costs will be reimbursed, credited or a combination thereof.

XI. Reporting Requirements and Program Reviews

A. Mentor firms shall report on the progress made under active mentor-protege agreements semi-annually, including an attachment to their SF 295 providing:

(1) The number of active mentor-protege agreements in effect; and

(2) The progress in achieving the developmental assistance objectives under each mentor-protege agreement, including whether the objectives of the

Program set forth in the DoD policy statement were met, any problem areas encountered, and any other appropriate information.

(3) A copy of the SF 294 if appropriate for each contract where developmental assistance was credited, with a statement in Block 18 identifying:

(a) The amount of dollars credited to the SDB subcontract goal as a result of developmental assistance provided to protege firms under the Program; and

(b) An explanation as to the relationship between the developmental assistance provided the protege firm(s) under the Program and the activities under the contract covered by the SF 294(s).

(c) The number and dollars value of subcontracts awarded to the protege firm(s).

B. For companies participating in the DoD "Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans," and commercial companies indicate in Block 16 of the SF 295:

(1) The total dollar credited to the SDB goal as a result of developmental assistance provided to a protege firm(s) under the Program.

(2) The total dollar amount of subcontracts awarded to the protege firm(s).

C. OSADBU will conduct periodic performance reviews of the progress and accomplishments realized under approved mentor-protege agreements.

XII. Definitions

A. "Emerging SDB Concern" means a small disadvantaged business whose size is no greater than 50% of the numerical size standard applicable to the standard industrial code for the supplies or services which the protege firm provides or would provide to the mentor firm.

B. "Minority Institution of Higher Education" means an institution of higher education with a student body that reflects the composition specified in sections 3112(b) (3), (4), and (5) of the Higher Education Act of 1965 (20 U.S.C. 1058(b) (3), (4), and (5)).

(End of Policy Statement)

B. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this regulation as an interim rule. Urgent and compelling reasons exist to promulgate this rule before affording the public an opportunity to comment because section 814 of the Fiscal Year 1992 Authorization Act, Public Law 102-190, was effective upon enactment, December 5, 1991, and section 8064A of the Fiscal Year 1992, Appropriations Act, Public Law 102-172, was effective upon enactment November 26, 1991.

C. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. because it does not diminish any preference accorded small businesses by the FAR, and does not adversely affect the competitive posture of small businesses, but instead increases the incentives for mentor firms to provide assistance which will benefit protege firms under the pilot program. The interim rule also provides for a contract clause which serves the purpose of advising DoD contractors of the basic elements of the DoD policy and program. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR Subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 92-610 in correspondence.

D. Paperwork Reduction Act

The interim rule does not impose any reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 219 and 252

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 219 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 219 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, Defense FAR Supplement 201.301.

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

SUBPART 219.71—PILOT MENTOR-PROTEGE PROGRAM

2. Section 219.7100 is amended by adding the following sentence at the end of the section to read as follows:

§ 219.7100 Scope.

* * * * *

Qualified organizations employing the severely disabled, as defined in section 8064A of Public Law 102-172, are also eligible to participate as protege firms.

3. Section 219.7102 is amended by revising paragraphs (b) and (d) to read as follows:

§ 219.7102 General.

* * * * *

(b) Protege firms, which are small disadvantaged business (SDB) concerns or qualified organizations employing the severely disabled, eligible for receipt of Federal contracts and selected by the mentor firm.

* * * * *

(d) Incentives, which may be provided to mentor firms by the DoD including:

(1) Reimbursement for developmental assistance costs through

(i) A separate contract;

(ii) A separately priced contract line item on a DoD contract; or

(iii) Inclusion of program costs in indirect expense pools;

(2) Credit toward SDB subcontracting goals, established under a subcontracting plan negotiated under FAR subpart 19.7, for developmental assistance costs which are either reimbursed through indirect expense pools or are not reimbursed; or

(3) A combination of reimbursement and credit.

4. Section 219.7103-1 is amended by revising paragraph (a) to read as follows:

§ 219.7103-1 General.

(a) In accordance with the DoD policy statement, a prospective mentor firm shall—

(1) Apply to OUSD(A)SADBU to participate in the Program as a mentor firm, when seeking credit only, reimbursement through indirect cost pools, or when funding is made available from a DoD program manager to implement a mentor-protege agreement; and subsequent to approval as a mentor firm, an approved mentor shall submit a signed mentor-protege agreement to OUSD(A)SADBU for approval before developmental assistance costs may be reimbursed through an existing DoD contract, included in indirect expense pools, or credited against SDB subcontract goals.

(2) When direct funding is available, submit a proposal for reimbursement, or a combination of reimbursement and credit, in response to a mentor-protege program solicitation issued by DoD.

* * * * *

5. Section 219.7104 is amended by removing paragraph (b), redesignating paragraphs (c), (d), and (e) as

paragraphs (b), (c), and (d) and revising the redesignated (d) to read as follows:

219.7104 Developmental assistance costs eligible for reimbursement or credit.

* * * * *

(d) Developmental assistance costs incurred before October 1, 1999, by a mentor firm that are eligible for crediting under the Program may be credited towards subcontracting plan goals as follows:

* * * * *

6. Section 219.7107 is added to read as follows:

291.7107 Solicitation provisions and contract clauses.

Use the clause at 252.219-7708, Pilot Mentor-Protege Program, in solicitations and contracts when the contract amount is expected to be over the small purchase threshold at FAR 13.000 unless—

(a) A personal services contract is contemplated (see FAR 37.104); or

(b) The contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 252.219-7008 is added to read as follows:

252.219-7008 Pilot Mentor-Protege Program.

As prescribed in 219.7107, use the following clause:

Pilot Mentor Protege Program (Oct 1992)

(a) In accordance with section 831 of the National Defense Authorization Act for Fiscal Year 1991, the Pilot Mentor-Protege Program provides incentives for Department of Defense (DoD) contractors to assist small disadvantaged businesses, or qualified organizations employing the severely disabled, to enhance their capabilities and increase the participation of such firms in Government and commercial contracts.

(b) The pilot program consists of:

(1) Mentor firms, which are prime contractors with at least one active subcontracting plan negotiated under Subpart 19.7 of the Federal Acquisition Regulation (FAR).

(2) Protege firms, which are small disadvantaged business (SDB) concerns, or qualified organizations employing the severely disabled (as defined in section 8064A of Pub. L. 102-172), eligible for receipt of Federal contracts and selected by the mentor firm.

(3) Mentor-protege agreements, approved by the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense for Acquisition, which establish developmental assistance programs for protege firms.

(4) Incentives, which may be provided to mentor firms by the DoD, including:

(i) Reimbursement for developmental assistance costs through a separate contract, or a separately priced contract line item on a DoD contract, or inclusion of program costs in indirect expense pools; or

(ii) Credit toward SDB subcontracting goals, established under a subcontracting plan negotiated under FAR subpart 19.7, for developmental assistance costs which are either reimbursed through indirect expense pools or are not reimbursed; or

(iii) A combination of reimbursement and credit.

(c) Contractors interested in participating in the pilot program are encouraged to contact the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense for Acquisition, OUSD (A) SADBU, room 2A340, The Pentagon, Washington, DC 20301-3061, (703) 697-1688, for information regarding application and acceptance to the program, approval of mentor-protege agreements, incentives, reporting requirements, and program reviews.

(End of clause)

[FR Doc. 92-24912 Filed 10-14-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 920937-2237]

Threatened Fish and Wildlife; Steller Sea Lions; Exemption to Buffer Zones

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

ACTION: Notice of exemption.

SUMMARY: With few exceptions, vessel entry within 3 nautical miles (nm) of listed Steller sea lion rookery sites in the Bering Sea, Aleutian Islands, and Gulf of Alaska is currently prohibited. These prohibitions were established concurrent with the listing of the Steller sea lion (*Eumetopias jubatus*) as a threatened species under the Endangered Species Act to aid the species' recovery. As authorized by regulation, NMFS intends to grant, for the purpose of safe navigation, an exemption to these restrictions to allow vessel transit through the Steller sea lion rookery buffer zones at Cape Morgan, Akutan Island, and at Clubbing Rocks. NMFS has determined that these navigational routes have been used traditionally by vessels; vessel transit through the buffer zones for an interim period, at a minimum distance of 1 nm from the rookery boundary, is not likely to have a significant adverse affect on Steller sea lions; and there are no reasonable and acceptable alternatives for navigation in the vicinity of these locations. NMFS expects to propose shortly, amendments to existing regulations to provide a permanent exception for transit through these two buffer zones.

EFFECTIVE DATE: October 15, 1992 through February 1, 1993.

ADDRESSES: A copy of an Environmental Assessment is available upon request to Dr. Steven Zimmerman, National Marine Fisheries Service, Protected Resources Management Division, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Susan Mello, NMFS Alaska Region, Protected Resources Management Division, (907) 586-7235.

SUPPLEMENTARY INFORMATION:

Background

Via an emergency interim rule (55 FR 12645, April 5, 1990), NMFS listed the Steller (northern) sea lion as a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; ESA). Coincident with the listing, NMFS established the following protective regulations to aid the species' recovery: (1) Prohibited, with limited exceptions, vessel entry within 3 nm of listed Steller sea lion rookeries; (2) prohibited shooting at or near Steller sea lions; and (3) reduced the allowable level of take incidental to commercial fisheries in Alaskan waters (50 CFR 227.12).

The emergency rule included an exception for transit through rookery buffer zones at 12 listed straits, passes, and narrows. During the comment period on the interim rule, one commenter objected to this navigational transit exception and recommended that advanced approval and showing of necessity should be required. NMFS responded to the comment in the proposed rule (55 FR 29792, July 20, 1990), and proposed to exclude the navigational transit exception from the final rule. This decision was based on the presumed availability of alternative routes and the buffer zone exception for emergency situations. No comments were received on this portion of the proposed rule, and the final rule did not include an exception for navigational routes (55 FR 49204, November 26, 1990).

Subsequent to these actions, NMFS promulgated additional protection measures for Steller sea lions. Under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*),

NMFS has prohibited groundfish trawling within 10 nm of listed Steller sea lion rookeries year round, and within 20 nm of five Steller sea lion rookeries during the Bering Sea and Aleutian Islands winter pollock roe fishery (57 FR 2683, January 23, 1992).

During the North Pacific Fishery Management Council's January 1992 meeting, a representative of the fishing industry testified that the 3-nm no-entry zone around the Akutan/Cape Morgan sea lion rookery created a significant safety hazard to fishing vessels. In a subsequent letter to the Alaska Regional Director, the same representative requested that NMFS reevaluate the specific navigational routes contained in the emergency interim rule.

In response to this request, NMFS evaluated the need for and the likely effects of reestablishing navigational routes. Based on a review of the available information, NMFS has determined that exceptions for the purposes of navigational transit are warranted at Akutan Pass and in the vicinity of Clubbing Rocks. Alternative routes are either significantly longer (around both Akutan and Akun Islands) or through more shallow, treacherous waters (Unalga Pass). In addition, fishermen from Sand Point and King Cove have traditionally travelled between Clubbing Rocks and Cherni Island enroute to fishing grounds in the vicinity of Sanak Island. For them, alternative routes entail significantly longer distances or cross shallow waters where kelp beds and reefs pose navigational hazards. Thus, NMFS has determined that there is a need for, and no safe, feasible alternatives to, navigational transit through these passages.

Exemption

The existing regulations at 50 CFR 227.12(b)(5) allow the Regional Director, Alaska Region, NMFS, to grant exemptions for activities that will not have a significant adverse affect on Steller sea lions, have been conducted historically or traditionally in the buffer zones, and for which there are no readily available or acceptable alternatives to, or site for, the activity. Navigational transit through buffer zones at Cape Morgan, Akutan Island, and Clubbing Rocks meets these criteria.

Adverse effects to Steller sea lions are not expected to be significant. This exemption is anticipated to be for a limited period of time until a permanent exemption is established by regulation. Vessels are required to maintain a minimum distance of 1 nm from the rookery boundaries, and may only engage in continuous navigational transit through the buffer zones.

Vessel traffic has occurred traditionally through waters encompassed by these two buffer zones, particularly by vessels operating out of Dutch Harbor, Sand Point, and King Cove. Alternative routes entail significantly increased safety hazards for vessel operators and crew, and thus, are not acceptable alternatives.

Therefore, NMFS is granting an exemption to the buffer zones at Cape Morgan, Akutan Island, and Clubbing Rock for navigational transit, pending formal revision of the existing regulations. This exemption is effective immediately, applies to all vessels and only at these two locations, requires that vessels maintain a minimum distance of 1 nm from the rookery boundaries at all times, and is for the purpose of continuous navigational transit through these areas only.

NMFS expects to propose shortly, amendments to existing regulations to provide a permanent exception for transit through these two buffer zones. Both this exemption and the proposed rulemaking are expected to provide adequate protection to Steller sea lions. Vessels will be required to maintain a minimum of 1 nm from the rookery boundary and are prohibited from all other non-passage activities within the buffer zones, e.g., fishing and anchorage. In this regard, NMFS conducted a consultation under section 7 of the ESA that concluded that implementation of exemptions to the buffer zones in these two locations in not likely to jeopardize the continued existence of Steller sea lions.

Dated: October 9, 1992.

Nancy Foster,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-25056 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS has established a directed fishing allowance and is closing the directed fishery for thornyhead rockfish in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the total allowable catch (TAC) specified for thornyhead rockfish in this area.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), October 10, 1992, until 12 midnight, A.l.t., December 31, 1992.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The thornyhead rockfish TAC in the GOA was established by the final notice of specifications (57 FR 2844, January 24, 1992) as 1,798 metric tons.

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the thornyhead rockfish TAC in the GOA will soon be reached. Therefore, the Regional Director has established a directed fishing allowance of 1,598 metric tons, and set aside the remaining 200 metric tons as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for thornyhead rockfish in the GOA, effective from 12 noon, A.l.t., October 10, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: October 9, 1992.

David S. Crestin,

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

[FR Doc. 92-25035 Filed 10-9-92; 3:54 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 200
Thursday, October 15, 1992

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 335

RIN 3206-AF09

Promotion and Internal Placement

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing a revision of the temporary and term promotion authorizes covering employees in the competitive service. This change would merge the two authorities into a single time-limited promotion authority for up to 5 years, would eliminate the need for agencies to enter into a written delegation agreement or seek OPM prior approval to make a time-limited promotion for more than 2 years, would eliminate the requirement to make these promotions in 1-year increments, and would require the agency to notify the employee in writing of the conditions of the time-limited promotion.

DATES: Written comments will be considered if received no later than December 14, 1992.

ADDRESSES: Send 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: Leota Shelkey on 202-606-0960 (FAX 202-606-0390).

SUPPLEMENTARY INFORMATION: Currently, 5 CFR part 335 permits agencies to make time limited promotions in the competitive service under two separate authorities. Section 335.102(f) permits an agency to promote an employee temporarily to meet a temporary need for up to 1 year and to extend the promotion for no more than 1 additional year. Further extensions require OPM prior approval.

Section 335.102(g) permits agencies, after entering into a formal written agreement with OPM, to promote an employee for a limited term in excess of 2 years but not more than 4 years to complete a designated project or as part of a planned rotational system. The agency may request OPM approval for extension for a total of 5 years.

OPM proposes to merge these two authorities into a single authority for time-limited promotions of up to 5 years. Our purpose in doing so is to increase the usefulness of the time limited promotion mechanism and to eliminate the overlap between the two existing very similar authorities and the resulting confusion over their use. The proposed changes include:

a. New Time Limit

The proposed regulation allows agencies to make time-limited promotions for up to 5 years. This new time limit would allow agencies, for example, to staff longer term projects or to fill positions temporarily pending future reorganization or downsizing, but without the need to obtain OPM prior approval. We believe this new time limit should meet most needs. If a legitimate need were to extend beyond 5 years, OPM could approve an extension of a promotion without the need for a variation under Civil Service Rule 5.1. However, this authority could not be used for retroactive promotions except with OPM prior approval. Furthermore, we propose to eliminate the provision in the current temporary promotion authority that restricts actions to 1-year increments. This serves no useful purpose and creates additional unnecessary paperwork.

b. Agency Delegation

The current requirement under the term promotion authority to enter into a written delegation agreement with OPM would be eliminated. Based on agency use of this authority, we believe the delegation agreements are no longer necessary. Even without such delegation agreements, OPM has the authority to audit agency actions under the merit promotion program, including use of time limited promotions.

c. Employee Notice

The proposed regulation would require agencies to give employees advance written notice of the conditions of any time limited promotion. This currently is required only for term promotions.

d. Documentation

The proposed regulation would require agencies to state the specific reason for the time-limited promotion on the Notification of Personnel Action. Currently, agencies are not required to document reasons.

e. Return Rights

Under the current § 335.102(f), termination of a temporary promotion and return to the former grade level is not subject to parts 351, 752, 771, or 772 of title 5, CFR. (This section was never revised to reflect the 1979 elimination of part 772 and creation of part 432.) The current § 335.102(g) provides that, upon completion or termination of a project or rotation, return to the former grade and pay is not subject to parts 351, 432, 752, or 771. However, termination of a term promotion for any other reason is covered by the appropriate part.

Neither the current § 335.102(f) nor § 335.102(g) had been revised previously to reflect *Phipps* v. *Department of Health and Human Services*, 767 F.2d 895 (Fed. Cir. 1985), in which the U.S. Court of Appeals for the Federal Circuit held that if agencies had informed employees in advance that a promotion was only temporary, they are not required to follow adverse action procedures when terminating a temporary promotion at any time. The proposed regulation would be consistent with *Phipps* and would conform to the existing provisions of 5 CFR § 351.202(c)(1), § 432.102(b)(13), and § 752.401(b)(12). Likewise, part 771 is applied consistent with *Phipps*.

OPM notes that the current provisions of 5 CFR Parts 432 and 752 concerning the return from temporary and term promotions were made after publication in the Federal Register and the opportunity for public comment. With respect to 5 CFR 752.401(b)(12), OPM specifically pointed out, in response to a comment that *Phipps* was not well-established case law, that the Merit System Protection Board had subsequently affirmed and applied *Phipps* in the case of *Mosley* v. *Department of the Navy*, 31 M.S.P.R. 669 (1986). (Federal Register, Volume 53, No. 111, Page 21620, June 9, 1988)

Accordingly, the proposed regulation provides that termination of a time

limited promotion and return to the grade from which promoted is not subject to procedural, appeal, or grievance rights if the agency has informed the employee in advance that the promotion has a definite ending date and may be terminated at an earlier date. The employee may be returned to the position from which promoted or another position at an equivalent grade as the former position.

OPM is making no change in the existing requirement that time-limited promotions for more than 120 days are subject to merit promotion competition. (Some exceptions may apply, such as when an employee previously held the grade on a permanent basis in the competitive service and did not lost it under "for cause" reasons.) However, OPM plans to revise the Federal Personnel Manual Chapter 335 to provide that, in computing the 120 days, prior service during the preceding 12 months must be counted when it was under a noncompetitive time-limited promotion or detail to a higher graded position. Existing instructions in Chapter 335 require that both competitive and noncompetitive details and temporary promotions be counted toward the 120-day period. OPM welcomes comments on computing the 120-day period along with comments on the proposed regulatory change.

Employees covered by the proposed time-limited promotion authority are those under the following types of appointments: career, career-conditional, status quo, indefinite, terms, and overseas limited indefinite and term. While under a time-limited promotion, and employee continues to receive the rights and benefits that attach to his or her appointment. For example, any health or life insurance coverage a career employee might have would continue, and the employee could not be removed from Federal service without appropriate adverse action procedures.

Although this authority to make time-limited promotions cover only employees in the competitive service, agencies may promote excepted service employees for temporary periods if the appointment authorities covering these employees permit it. Both parts 432 and 752 of 5 CFR exclude form covered actions the terminations of temporary or term promotions where agencies have informed the employees that the promotions were to be of limited duration, and returned the employees to the positions from which they were temporarily promoted or to ones of equivalent grade and pay. (See 5 CFR 432.102(b)(13) and § 752.401(b)(12).)

When final regulations are issued, agencies will be authorized to convert employees serving under temporary or term promotions to promotions under the new regulations. However, total time under both actions would count towards the 5-year limit.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined in 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 certain Federal employees.

List of Subjects in 5 CFR Part 335

Government employees.

Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Accordingly, OPM proposes to amend part 335 of title 5, Code of Federal Regulations, as follows:

PART 335—PROMOTION AND INTERNAL PLACEMENT

1. The authority citation for part 335 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p.218.

2. In § 335.102, the introductory text is republished for the convenience of the reader, paragraph (g) is removed, and paragraph (f)(1) is revised to read as follows:

§ 335.102 Agency authority to promote, demote, or reassign.

Subject to § 335.103 and, when applicable, to Part 319 of this chapter, an agency may:

* * * * *

(f)(1) Make time-limited promotions for a specified period of not more than 5 years, unless OPM authorizes the agency to make and/or extend time-limited promotions for a longer period. The employee must be informed in writing in advance of the action that it has a time limit and that return to the position from which temporarily promoted, or to a different position of equivalent grade and pay, may be effected at any time and is not subject to the procedures in parts 351, 432, 752, or 771 of this chapter. The specific reason for the time-limited promotion must be stated on the Notification of Personnel Action documenting the action. This authority may be used to effect promotions on a retroactive basis only with OPM's prior approval.

* * * * *

[FR Doc. 92–24950 Filed 10–14–92; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5 and 16

[Docket No. 92–22]

RIN 1557–AA65

Securities Offering Disclosure Rules

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing revisions to its regulations governing the disclosure requirements for offers and sales of national bank securities. Under the proposal, the OCC will eliminate regulations detailing the contents of offering documents covering national bank securities and instead require that offering documents contain the information that would be required by the appropriate Securities and Exchange Commission (SEC) form for registration. The OCC is also proposing to cross-reference certain definitions and exemptions in the Securities Act of 1933 (Securities Act) as well as a number of SEC rules. The proposal seeks to treat national bank securities more like those of other corporations and eliminate a duplicative system of regulations and forms.

The OCC is requesting comments on the proposed adoption of SEC forms and the cross-referencing of certain SEC regulations. The OCC is also requesting comments on what additional cross-references to SEC regulations, if any, the OCC should include.

DATES: Comments must be received by December 14, 1992.

ADDRESSES: Comments should be directed to: Communications Division, Office of the Comptroller of the Currency, Independence Square, 250 E Street SW., Washington, DC 20219, Attention: Docket No. 92–22. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Elizabeth Malone, Senior Attorney, Securities, Investments, and Fiduciary Practices Division, (202) 874–5210.

SUPPLEMENTARY INFORMATION:

Proposed Amendments to Part 16

Overview

The OCC places great importance on the protection of purchasers of national bank stock and the integrity of bank capital and therefore has in place comprehensive securities offering regulations to ensure that investors receive full disclosure of all material facts when purchasing national bank securities. The OCC's current securities offering disclosure rules in 12 CFR part 16 provide detailed instructions regarding the use, form, and content of national bank offering documents and set forth requirements for nonpublic offerings and advertisements of national bank securities.

The OCC believes, however, that its current securities offering regulations may unnecessarily burden national banks and thus impede bank efforts to raise capital. In several respects the OCC's existing regulations are significantly more restrictive than the analogous SEC regulations applicable to other corporations. The OCC's existing regulations have not been updated to reflect recent changes in SEC regulations. In addition, since the OCC now requires different forms for offering documents than the SEC requires, banks may have incurred additional costs and experienced some unnecessary confusion. The OCC also believes that clarification of the coverage of its current securities offering regulations is necessary.

The OCC's current nonpublic offering regulation is significantly more restrictive than the SEC's. The OCC's regulation permits nonpublic offerings to only 15 sophisticated purchasers, including accredited investors, in a 12-month period. The proposal increases the number of permitted purchasers by providing that nonpublic offerings may generally be made in accordance with the SEC's Regulation D (17 CFR 230.501–230.508). The proposal generally permits sales to an unlimited number of accredited investors and up to 35 other sophisticated purchasers, or to any number of sophisticated purchasers with a limitation on the aggregate offering price.

The OCC's existing regulations do not provide for the registration of securities that are not to be presently offered (shelf registration). This has imposed additional costs on national banks and put them at a disadvantage with respect to other corporations in the raising of capital. To remedy this, the proposal includes a cross-reference to the SEC's Rule 415 (17 CFR 230.415) on shelf registration. Cross-reference of Rule 415 will enable banks to better take advantage of changes in market conditions.

The OCC's instructions for the form and content of offering documents now generally require the disclosure of information similar to that required by the SEC. However, the format of the disclosure varies somewhat from that used by the SEC. In addition, unlike the SEC, the OCC does not currently provide for incorporation by reference of filings made under the Securities Exchange Act of 1934. Under the proposed revisions to part 16, offering documents will be on the form for registration that the bank would be eligible to use were it required to register the securities under the Securities Act and will meet the requirements of SEC regulations referred to in the form for registration. In light of the general familiarity with the SEC forms on the part of banks, bank counsel, and investors, adoption of the SEC forms for registration should reduce the regulatory burden on national banks without affecting the quality of disclosure. Allowing banks to incorporate by reference other filings to the extent permitted by the SEC should provide further efficiencies.

The OCC's current Part 16 regulations have created some confusion as to whether sales of securities by control persons and affiliates of banks are covered and as to what instruments fall within the definition of security. The OCC is attempting to end that confusion and codify existing coverage by adopting the Securities Act definition of underwriter and by specifying the instruments included in the Part 16 definition of security.

Approach

The OCC is proposing to adopt the SEC forms for registration and to cross-reference certain sections and definitions of the Securities Act and certain SEC rules. The OCC also anticipates adopting through interpretation certain SEC releases issued under the Securities Act.

However, the OCC is also proposing to maintain certain differences between its regulations and the Securities Act and the SEC's rules under the Securities Act. The OCC's proposal does not provide for automatic effectiveness of registration statements; all registration statements must be declared effective by the OCC. In addition, the proposal requires that OCC authorization be obtained before a preliminary prospectus may be used. The proposal requires delivery of the final prospectus at the time of the offer rather than at the time of confirmation, unless the OCC has authorized the use of a preliminary prospectus. Further, the proposal provides that all nonpublic officers and sales must be to sophisticated purchasers.

Most of these differences are also in the current version of Part 16. The purpose of these differences is to provide the OCC greater opportunity to review and comment on the disclosure documents relied on by potential purchasers and provide additional investor protections. The OCC recognizes that some confusion may result from having requirements in Part 16 that differ from the requirements in the Securities Act and its rules.

The OCC requests comments on any aspect of this proposal, and specifically, whether differences between OCC and SEC regulations are necessary or appropriate.

A section-by-section discussion of the most significant aspects of the proposal follows:

Definitions (Section 16.2)

Proposed § 16.2 contains cross-references to a number of definitions in the Securities Act. One such definition is the Securities Act definition of underwriter. The proposal's cross-reference to the underwriter definition brings sales of stock by control persons and affiliates within the coverage of part 16. Those sales are also covered under the existing version of part 16 as indirect sales by a bank, but adoption of the Securities Act underwriter definition should clarify this coverage.

Proposed § 16.2 contains a detailed definition of security. That definition specifies that all bank debt, not just debt subordinated to the claims of general creditors, falls within the part 16 definition of security. It is not intended that the definition include traditional bank products such as banker's acceptances or letters of credit.

The OCC requests comment as to the appropriateness of the proposed definition of security, including its incorporation of senior bank debt. The OCC further requests comment as to whether the definition should specifically exclude letters of credit and other traditional bank products or whether such products can be interpreted as outside the definition.

Registration statement and prospectus requirements (Section 16.3)

Proposed § 16.3 contains the general prohibitions on offers and sales of bank securities. The section provides that no person shall offer or sell a bank security unless a registration statement for the security has been filed with and declared effective by the OCC and the

offer or sale is made through the use and delivery of a prospectus filed as a part of that registration statement, or an exemption is available under part 16. The registration statement required under proposed § 16.2 is generally equivalent to the offering circular that is currently required by § 16.3. Information that will be included in a registration statement under the proposal that is not part of the prospectus provided to shareholders (the Part II. information in the SEC form) will be kept on file at the OCC and will be available for public inspection.

The proposal requires prior OCC authorization to use a preliminary prospectus. The prior authorization requirement is in the current part 16 but not in the SEC's Rule 430 (17 CFR 230.430) (Prospectus for use prior to effective date). The proposal also requires that, except in a situation where the OCC has authorized the use of a preliminary prospectus, offers be made through the use and delivery of a prospectus that has been declared effective by the OCC. The proposal does not generally permit a bank to provide the final prospectus with the confirmation.

The OCC requests comment on whether the proposed conditions placed on the use of a preliminary prospectus are adequate, necessary, or appropriate. The OCC also requests comment on whether the proposed requirement that the final prospectus be provided at the time of the offer rather than at the time of the confirmation is necessary or appropriate.

The proposal provides that offers and sales of nonconvertible debt are subject to an abbreviated registration system if those transactions meet certain requirements. Offers and sales that meet those requirements are deemed to be in compliance with the Registration statement and prospectus and the Periodic and current reports provisions of part 16.

The requirements specify that (1) the bank issuing the nonconvertible debt must have securities registered under the Securities Exchange Act of 1934 ("Exchange Act") or be a subsidiary of a bank holding company that has securities registered under the Exchange Act; (2) the insured depository institution subsidiaries of the registered bank holding company must constitute at least 80% of the holding company's assets; (3) the debt must be offered only to accredited investors; (4) the debt must be sold by a reputable and experienced underwriter; (5) the debt must be sold in minimum denominations of more than $100,000; (6) the debt must be rated as investment quality by a nationally recognized statistical rating agency; (7) potential purchasers must receive an offering document containing a statement in boldface type that the obligations do not represent deposits, describing the terms of the debt, and incorporating the bank's latest call reports and the bank or holding company's Exchange Act filings; (8) the offering document and any amendments must be filed with the OCC within five days of first use; and (9) the appropriate filing fees must be submitted.

The above requirements are designed to ensure that potential purchasers of debt subject to the abbreviated registration system have access to the necessary information on the issuing bank and the other commonly controlled depository institutions as well as the appropriate knowledge and experience to evaluate that information. The Exchange Act consolidated holding company financial statements may be particularly helpful in light of the cross-guarantee provisions in 12 U.S.C. 1815.

The OCC requests comment on whether the abbreviated registration system for certain offers and sales of nonconvertible debt is necessary or appropriate. The OCC also requests comment on whether the specific requirements proposed are adequate, necessary, or appropriate, particularly the requirement that depository institution subsidiaries compose at least 80% of the holding company assets.

Communications Not Deemed an Offer (Section 16.4)

Proposed § 16.4 cross-references SEC Rules 134 and 135 (17 CFR 230.134, 230.135), which govern advertisements used prior and subsequent to the filing of a registration statement. Proposed § 16.4 also provides that supplemental sales literature may be used after a registration statement has been declared effective if the sales literature is accompanied or preceded by a prospectus. Under the proposal, advertisements must only be filed with the OCC upon the OCC's request. Current § 16.8 permits the use of only extremely limited information in advertisements, such as the name of the bank and the amount of securities being offered, does not provide for the use of sales literature, and requires that all advertisements be cleared by the OCC prior to use.

The OCC requests comment on whether to include a provision on the use of supplementary sales literature.

Exemptions (Section 16.8)

Under proposed § 16.8, the registration and prospectus requirements do not apply to an offer or sale of securities exempt under certain sections of the Securities Act. The registration and prospectus requirements do not apply if the securities are exempt from registration under section 3(a) of the Securities Act (15 U.S.C. 77c(a)) by reason of an exemption other than those contained in section 3(a)(2) (for securities issued by banks) or section 3(a)(11) (for intrastate offerings). The registration and prospectus requirements also do not apply to transactions exempt from registration under section 4 of the Securities Act (15 U.S.C. 77d), relating to transactions by any person other than an issuer, underwriter or dealer, transactions by an issuer not involving a public offering, transactions involving offers or sales by an issuer solely to accredited investors, and other technical types of transactions. Cross-reference of section 4 includes cross-reference of the 4(1½) exemption, which involves securities issued in an exempt transaction or securities sold by an affiliate and is not available under the current version of part 16. *See* H. Bloomenthal, Securities Law Handbook § 8.02 (1990).

The OCC is proposing to exempt from the § 16.3 registration statement and prospectus requirements offers and sales of bank issued securities in transactions that satisfy the less demanding disclosure requirements of certain SEC rules that are appropriate given the particular circumstances of certain types of transactions. Such rules include Rules 144 (17 CFR 230.144) (Persons deemed not to be engaged in a distribution and therefore not underwriters), 144A (17 CFR 230.144A) (Private resales of securities to institutions), 236 (17 CFR 230.236) (Exemption of shares offered in connection with certain transactions), and Regulation S (17 CFR 230.901–230.904) (Rules governing offers and sales made outside the United States without registration under the Securities Act of 1933).

The proposal also exempts transactions that comply with the requirements of SEC Rules 701, 702T, and 703T (17 CFR 230.701, 230.702T, and 230.703T), which cover offers and sales of securities pursuant to certain compensatory benefit plans and contracts relating to compensation. The exemption under Rules 701, 702T, and 703T is not as broad as the current part 16 exemption for any transaction in which securities of a bank are offered to its employees or directors pursuant to a stock purchase, stock option, or savings plan.

The OCC requests comment on whether the change in the exemption for employee benefit plans will result in disclosures being made to individuals who already have access to the necessary information.

The proposal does not cross-reference the SEC's Regulation A exemption from registration (17 CFR 230.251–230.264). Regulation A permits the unregistered, public offering of securities under specified conditions. Use of the exemption would require qualification of an offering document which would be filed with and reviewed by the OCC.

The OCC requests comment on whether to cross-reference the SEC's Regulation A. Comments should include discussions of the SEC's revisions to Regulation A which are a part of the SEC's Small Business Initiatives (SEC Release No. FR–38).

Nonpublic Offerings (Section 16.9)

Proposed § 16.9 permits offers and sales without compliance with the registration statement and prospectus requirements of § 16.3 if the offers and sales are made in accordance with SEC Regulation D (17 CFR 230.501–230.508) and all the purchasers who are not accredited investors are sophisticated. SEC Regulation D sets forth rules governing the limited offer and sale of securities without registration under the Securities Act and is the safe harbor for compliance with sections 3(b) and 4(2) of the Securities Act.

The proposal's cross-reference of Regulation D greatly increases the number of purchasers permitted in a nonpublic offering from the number permitted in current part 16. Currently, part 16 permits sales to only 15 purchasers, including accredited investors. Regulation D, in contrast, generally permits sales to an unlimited number of accredited investors and up to 35 other purchasers, or to any number of purchasers with a limitation on the aggregate offering price.

Under the proposal, a notice of sales must be filed no later than 15 days after the first sale of securities in accordance with SEC Rule 503 of Regulation D. Nonpublic offering notices no longer need to be filed 20 days prior to the time any security is offered or sold as is required under current part 16. This change will give banks added flexibility in the timing of sales of securities.

The proposal provides that securities subject to the limitations on resale of Regulation D must be sold pursuant to SEC Rule 144 or 144A, another exemption from registration under the Securities Act, or in accordance with the part 16 registration and prospectus requirements. The current version of Part 16 does not permit any securities sold in a nonpublic offering to be resold for two years. The change in resale limitations will increase the marketability of bank securities.

Form and Content (Section 16.10)

Proposed § 16.10 provides that any registration statement filed with the OCC must be on the form for registration that the bank would be eligible to use were it required to register the securities under the Securities Act. Which form a bank uses will depend on such criteria as whether the bank has been subject to the registration and reporting requirements of section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l* and 78o(d)) and the amount of the offering. The proposal provides that the registration statements must meet the requirements of the SEC regulations referred to in the form for registration. Those regulations currently consist of Regulation S–X (17 CFR part 210), which applies to financial statements, and Regulation S–K (17 CfR part 229), which applies to the nonfinancial statement portion of the registration statement.

The proposal to adopt SEC forms will result in bank registration statements being prepared in accordance with Securities Act Industry Guide 3, which covers statistical disclosure by bank holding companies. Registration statements must also comply with the SEC's requirements in Regulation S–X that financial statements be audited. Current part 16 does not require that banks provide audited financial statements, although if the most recent fiscal year's financial statements included in the offering circular have been examined and reported upon by an independent accountant, the offering circular must include the report of that accountant. Adoption of the SEC's requirements on audited financial statements will increase the confidence of potential purchasers of bank securities in the accuracy of the financial information provided.

The OCC requests comment on whether the SEC's requirements on audited financial statements should be limited to banks of a certain size. The OCC also requests comments on whether that size should be $150,000,000 in total assets, since that is the cut-off for the requirement for annual independent audits in section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

The proposal provides that the registration statement of a bank that is not in compliance with the regulatory capital requirements of 12 CFR part 3 must be on the SEC's Form S–1.

The OCC requests comment on whether Form S–1 should be required for banks that do not meet regulatory capital requirements.

The proposal cross-references the SEC's general rules on registration in Rule 400 and Articles 1–3 of SEC Regulation C (17 CFR 230.400–230.439), including Rules 415 (Delayed or continuous offering and sale of securities) and 430A (Prospectus in a registration statement at the time of effectiveness). Under the proposal, a Rule 415 or 430A prospectus must be filed in accordance with Rule 424 of Regulation C. The current version of Part 16 contains no provision comparable to either Rule 415 or Rule 430A so price and other information must be set at the time an offering document is filed. The cross-reference of Regulation C in the proposal states that a registration statement must comply with Rule 400 and Articles 1–3 of Regulation C, except to the extent those requirements conflict with Part 16. The conflicts between Regulation C and part 16 include the additional requirements for the use of a preliminary prospectus beyond those in Rule 430 imposed by proposed § 16.3(c) and the smaller number of copies of a registration statement that need to be filed with the OCC.

The OCC requests comment on whether there are certain rules, including Rule 430, in the cross-referenced portion of Regulation C that are difficult to reconcile with the requirements of Part 16. The OCC also requests comment on whether the OCC should cross-reference SEC Rule 430A and whether the OCC should cross-reference Articles 4–6 of Regulation C.

The proposed cross-reference of Rule 415 of Regulation C, the SEC's rule on shelf registration, does not change a bank's obligation to comply with 12 CFR 5.46 and 5.47. Section 5.46 requires OCC preliminary approval for a change in capital due to a sale of common stock for property or a sale of preferred stock. Section 5.46 further specifies that changes in equity capital must occur within 12 months of preliminary approval. Section 5.47 requires OCC approval for subordinated debt that is to be considered part of a bank's capital structure; a bank must receive preliminary approval prior to the issuance of subordinated debt and the subordinated debt must be issued within 12 months of the preliminary approval.

The OCC requests comment on whether 12 CFR 5.46 and 5.47 must be modified in order to enable banks to use SEC Rule 415. Comments proposing modifications to §§ 5.46 and 5.47 should

include discussions of the effect of those modifications on the OCC's ability to consider the specific terms of stock or debt offerings when deciding whether to approve changes in capital.

Filing Requirements and Inspection of Documents (Section 16.11)

Proposed § 16.11 provides that no registration statement, prospectus or amendment shall be effective until declared effective by the OCC. Unlike registration statements filed with the SEC under the Securities Act, no registration statements filed with the OCC will automatically become effective. The requirement that all registration statements must be declared effective is in current Part 16 and is designed to ensure that a prospectus will not be used before it has been processed under the OCC's review procedures. Prohibiting banks from using prospectuses before they have been cleared by the OCC helps protect banks from shareholder suits based on inadequate disclosure and as a result protects bank capital. However, the OCC recognizes that it could contact registrants and tell them that their registration statements are going to be reviewed and that they should therefore not proceed until they receive OCC clearance.

The OCC requests comment on whether part 16 should provide for automatic effectiveness for registration statements.

Use of Prospectus (Section 16.12)

Proposed § 16.12 states that a prospectus or amendment declared effective by the Comptroller of the Currency shall not be used more than nine months after the effective date unless the information contained therein is as of a date not more than 16 months prior to such use. This section is based on the requirement in section 10(a)(3) of the Securities Act on the age of information in a prospectus. Current part 16 provides that an offering circular shall be effective for a period of six months, which period may be extended for two consecutive 90 day periods upon request to the OCC. The proposal therefore provides more time for an offering to be completed than does current Part 16. This section of the proposal also states that if there is a material change after a prospectus has been declared effective, the prospectus may not be used until an amendment reflecting the change has been filed with and declared effective by the OCC.

Withdrawal or Abandonment (Section 16.13)

Proposed § 16.13 provides that registration statements and amendments may be withdrawn prior to the effective date and that registration statements and amendments on file for nine months that have not become effective may be declared abandoned.

Documents that have been withdrawn or declared abandoned will be so marked but will remain in the OCC files. The current version of Part 16 does not have a section on withdrawal or abandonment. However, it has been OCC practice to permit withdrawals and to inform filers that their offering documents will be considered abandoned if the filers make no effort to have their documents declared effective within a reasonable period of time.

Current and Periodic Reports (Section 16.17)

Proposed § 16.17 requires each bank that files a registration statement that has been declared effective pursuant to Part 16 to file with the OCC periodic and current reports until the bank is eligible to suspend the filing of those reports. This requirement is identical to that imposed by section 15(d) of the Exchange Act on corporations filing Securities Act registration statements with the SEC. The bank's filing of periodic and current reports ensures that purchasers have available updated information necessary for their investment decisions. If a bank is a subsidiary of a one-bank holding company and the bank's parent bank holding company files periodic and current reports pursuant to section 13 of the Exchange Act, the bank does not have to file such reports. The periodic and current reports requirement replaces the requirement in the existing version of Part 16 that banks update offering circulars by attaching the most recent balance sheet and statement of income filed with the OCC as part of the most recent call report.

The OCC requests comment on whether banks should have to file periodic and current reports. The OCC also requests comment on whether a bank that is a subsidiary of a one-bank holding company or a multi-bank holding company should have to file periodic and current reports if the bank's parent bank holding company files such reports.

Requests for Interpretive Advice or no Objection Letter (Section 16.18)

Proposed § 16.18 sets forth the requirements that must be met to obtain interpretive advice or a no objection letter under Part 16. Although these requirements are not detailed in current Part 16, they are based on Banking Circular 205, OCC Staff No-Objection Positions, which has been in effect since July 26, 1985.

Escrow requirement (Section 16.19)

Proposed § 16.19 provides that if funds received in an offering are to be certified as capital, those funds must be held in an insured escrow account at an unrelated financial institution. Although current Part 16 does not contain this requirement, it has been OCC policy for several years to strongly encourage the use of third party escrow accounts for offerings of bank securities. Placing the requirements in part 16 puts banks on notice of the escrow requirement in advance of the filing of an offering document with the OCC. The proposal also requires a bank that does not obtain final approval and certification of its capital from the OCC to return all funds promptly to investors. The OCC will generally interpret the term promptly to mean within 30 days.

Fraudulent transactions and unsafe and unsound practices (Section 16.20)

Proposed § 16.20 prohibits untrue statements of material fact, omissions of material fact, and acts or practices that operate as a fraud in the offer or sale of a bank security. The language in § 16.20(a) is substantially similar to the language in section 17(a) of the Securities Act. The section 17(a) prohibitions apply to offers and sales of bank securities regardless of whether or not the prohibitions are restated in part 16. The OCC believes that placing them in Part 16 will furnish warning that the prohibitions apply. In addition, the proposal provides that violations of the fraudulent transactions section also constitute unsafe or unsound practices under 12 U.S.C. 1818.

Conforming Amendments to Part 5

The proposal includes a conforming amendment to 12 CFR part 5. Section 5.33(b)(6) requires that all shareholders in a merger or consolidation transaction be adequately informed of all aspects of the transaction. Section 5.33(b)(6) further specifies that each bank involved in a merger or consolidation must comply with the proxy requirements of the OCC, unless the bank is subject to the proxy requirements of the Board of Governors of the Federal Reserve System (12 CFR part 206) or the requirements of the Federal Deposit Insurance Corporation (12 CFR part 335)

This proposal amends part 5 to specify that a bank required by part 16

to file a registration statement with the OCC may use that registration statement to comply with the proxy statement requirements in 12 CFR 5.33(b)(6). In addition, a bank holding company required to file a registration statement with the SEC may use that registration statement to comply with OCC proxy statement requirements. (Securities issued by a bank holding company in a bank merger or consolidation transaction may be required to be registered with the Securities and Exchange Commission under section 5 of the Securities Act of 1933).

The proposed amendments to part 5 do not impose additional requirements for providing audited financial statements in merger proxy materials beyond those already imposed by other provisions. While all banks required to have an audit under the provisions of 12 CFR parts 11 or 16 or any other provision of applicable law, and all banks who in fact have an independent audit must use audited financial statements in connection with the proxy or information statement requirements of 12 CFR 5.33(b)(6), any other bank need not provide audited financial statements.

Comments are requested as to whether audited financial statements are necessary or appropriate in merger transactions where shareholders exchange their shares for shares in the resulting entity.

General Request for Public Comment

The OCC requests comment from all interested persons, including the SEC and financial institutions regulators, on the specific issues raised in this proposal as well as any other pertinent issues.

Regulatory Flexibility Act

For the purposes of the Regulatory Flexibility Act, 5 U.S.C. 605(b), it is certified that this amendment will not have a significant economic impact on a substantial number of small entities. The impact should be beneficial. This amendment improves an existing set of regulations by eliminating a redundant system of forms and filings and by making the requirements applicable to national banks similar to those applicable to other corporations.

Executive Order 12291

The OCC has determined that this amendment is not a "major rule" for the purposes of Executive Order 12291 and therefore does not require a Regulatory Impact Analysis. The impact of this amendment should be beneficial. If adopted, the amendment will improve an existing set of regulations by eliminating a redundant system of forms and filings and making the requirements applicable to national banks similar to those applicable to other corporations. The OCC expects that over time the amendment will have a positive impact on national banks but that the impact will not be substantial.

Paperwork Reduction Act

This notice of proposed rulemaking would modify the information collection requirements in 12 CFR part 16 by abolishing separate OCC forms and directing national banks to file SEC forms with the OCC. Therefore, this notice of proposed rulemaking has been submitted to the Office of Management and Budget under control number 1557-0120 for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information contained in this notice of proposed rulemaking, but found in the SEC's rules at 17 CFR part 239, should be sent to the Comptroller of the Currency, Legislative and Regulatory Analysis Division, 250 E Street, SW., Washington, DC 20219 with a copy to the Office of Management and Budget, Paperwork Reduction Project (1557-0120), Washington, DC 20503.

This information is needed to provide information to investors and the public about the condition of national banks. The likely respondents are for-profit institutions.

Estimated annual reporting burden for 12 CFR part 16 is 19 hours per respondent per year. This burden will vary from two hours to 100 hours per response, depending on the circumstances. This proposal, if adopted as a final rule, will result in a slight burden decrease on average for national banks.

List of Subjects

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, and Securities.

12 CFR Part 16

National banks, Reporting and recordkeeping requirements, and Securities.

Authority and Issuance

For the reasons set out in the preamble, in Chapter I of Title 12 of the Code of Federal Regulations, part 5 is proposed to be amended and part 16 is proposed to be revised as follows:

PART 5—[AMENDED]

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

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a.

2. In § 5.33, paragraph (b)(6)(ii) is revised to read as follows:

§ 5.33 Merger, consolidation, purchase and assumption.

* * * * *

(b) * * *

(6) * * *

(ii) It is required that all shareholders be adequately informed of all aspects of the transaction. In this regard, banks are required to file with the Office proxy materials in conformance with the requirements of Securities and Exchange Commission Regulation 14A, 17 CFR 240.14a-1 up to but not including 240.14b-1, or information statements in conformance with the requirements of Securities and Exchange Commission Regulation 14C, 17 CFR 240.14c-1 up to but not including 240.14d-1. However, if a bank does not have an independent auditor and is not required to have an independent auditor by any provision of law or regulation other than this Section, then such bank need not provide audited financial statements as part of its proxy materials or information statements. Such a bank shall, however, provide unaudited financial statements prepared in accordance with generally accepted accounting principles (GAAP) and otherwise meeting the requirements of Regulation 14A, 17 CFR 240.14a-1 up to but not including 240.14b-1, or Regulation 14C, 17 CFR 240.14c-1 up to but not including 240.14d-1. In any transaction where securities are required to be registered with the Office under part 16 of this chapter or with the Securities and Exchange Commission under the Securities Act of 1933, the registration statement filed with the Office or the Commission, respectively, may be submitted for filing with the Office to meet the requirements of this paragraph.

* * * * *

3. Part 16 is revised to read as follows:

PART 16—SECURITIES OFFERING DISCLOSURE RULES

Sec.
16.1 Authority and OMB control number.
16.2 Definitions.
16.3 Registration statement and prospectus requirements.
16.4 Communications not deemed an offer.
16.8 Exemptions.
16.9 Nonpublic offerings.
16.10 Form and content.
16.11 Filing requirements and inspection of documents.

Sec.
16.12 Use of a prospectus.
16.13 Withdrawal or abandonment.
16.17 Current and periodic reports.
16.18 Requests for interpretive advice or no objection letter.
16.19 Escrow requirement.
16.20 Fraudulent transactions and unsafe and unsound practices.
16.21 Filing fees.

Authority: 12 U.S.C. 1 *et seq.* and 93a.

§ 16.1 Authority and OMB control number.

(a) *Authority.* This part is issued under the general authority of the national banking laws, 12 U.S.C. 1 *et seq.*, and the Comptroller of the Currency's general rulemaking authority in 12 U.S.C. 93a. This part contains rules applicable to the offer and sale of bank issued securities.

(b) *OMB control number.* The collection of information contained in this part was approved by the Office of Management and Budget under OMB control number 1557-0120.

§ 16.2 Definitions.

For purposes of this part, the following definitions apply:

Accredited investor means the same as in Commission Rule 501(a) (17 CFR 230.501(a)) under the Securities Act.

Bank means an existing national bank, a national bank in organization, a bank operating under the Code of Law of the District of Columbia, or a federal branch or agency of a foreign bank.

Commission means the Securities and Exchange Commission.

Dealer means the same as in section 2(12) of the Securities Act.

Exchange Act means the Securities Exchange Act of 1934 (15 U.S.C. 78a-78jj).

Insured depository institution means the same as in section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c)(2).

Issuer means a bank which issues or proposes to issue any security.

Nonconvertible debt means a general obligation of the bank, whether senior or subordinated, which may not be converted into any class of common or preferred stock or any derivative thereof.

OCC means the Office of the Comptroller of the Currency.

Prospectus means an offering document that includes the information required by section 10 of the Securities Act.

Registration statement means a filing that includes the prospectus and other information required by section 7 of the Securities Act.

Sale, sell, offer to sell, offer for sale, and *offer* means the same as in section 2(3) of the Securities Act.

Securities Act means the Securities Act of 1933 (15 U.S.C. 77a-77aa).

Security means any nonwithdrawable account, note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting trust certificate or, in general, any interest or instrument commonly known as a *security*, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing, except that a *security* shall not include an account insured, in whole or in part, by the Federal Deposit Insurance Corporation.

Underwriter means the same as in section 2(11) of the Securities Act. Commission Rules 137, 140, 141, 142, and 144 (17 CFR 230.137, 230.140, 230.141, 230.142, and 230.144) (which apply to section 2(11) of the Securities Act) apply to this part.

§ 16.3 Registration statement and prospectus requirements.

(a) No person shall offer, offer to sell, offer for sale, or sell, directly or indirectly, and bank issued security unless:

(1) A registration statement for the security meeting the requirements of § 16.10 of this part has been filed with and declared effective by the OCC pursuant to this part and the offer or sale is made through the use and delivery of a prospectus that has been filed with and declared effective by the OCC as a part of that registration statement; or

(2) An exemption is available under this part.

(b) If the OCC declares a registration statement effective, the prospectus that was filed as a part of the registration statement will also be deemed declared effective.

(c) Notwithstanding paragraph (a) of this section, securities of a bank may be offered through the use of a preliminary prospectus before a registration statement and prospectus for the securities are effective if:

(1) A registration statement containing the prospectus has been filed with the OCC;

(2) The prior authorization of the OCC is obtained;

(3) The prospectus contains the information required by § 16.10 of this part except for the omission of information with respect to the offering price, underwriting discounts or commissions, discounts or commissions to dealers, amount of proceeds, conversion rates, call prices, or other matters dependent upon the offering price; and

(4) A copy of the prospectus as declared effective is furnished to each purchaser prior to or simultaneously with the consummation of the sale.

(d) A person who offers, offers to sell, offers for sale, or sells any bank issued nonconvertible debt shall be deemed to be in compliance with §§ 16.3, 16.10(a), and 16.17 of this part if all of the following requirements are met:

(1) The bank issuing the debt has securities registered under the Exchange Act or is a subsidiary of a bank holding company that has securities registered under the Exchange Act;

(2) The insured depository institution subsidiaries of the registered bank holding company constitute at least 80% of the bank holding company's assets;

(3) The debt is offered and sold only to accredited investors;

(4) The debt is offered and sold by a reputable and experienced underwriter, not affiliated with the bank, as part of an underwritten offering;

(5) The debt is sold in minimum denominations of more than $100,000 and each note or debenture provides that it cannot be exchanged for notes or debentures of the bank in smaller denominations;

(6) The debt is rated as investment quality by a nationally recognized statistical rating agency;

(7) Potential purchasers receive an offering document that includes a statement in boldface type that the obligations do not represent deposits and will not be insured by the Federal Deposit Insurance Corporation or any other government agency, contains a description of the terms of the debt, the use of proceeds, and method of distribution, and incorporates the bank's latest call report and the bank's or its bank holding company's filings under the Exchange Act;

(8) The offering document and any amendments are filed with the OCC no later than the fifth business day after they are first used; and

(9) Filing fees are submitted in accordance with § 16.21 of this part.

(e) Commission Rule 174 (17 CFR 230.174) (delivery of prospectus by dealers and exemptions under section 4(3) of the Securities Act) applies to transactions by dealers in bank issued securities.

§ 16.4 Communications not deemed an offer.

(a) The following communications shall not be deemed an offer under § 16.3 of this part:

(1) Prior to the filing of a registration statement, any notice of a proposed offering which satisfies the requirements of Commission Rule 135 (17 CFR 230.135);

(2) Subsequent to the filing of a registration statement, any notice, circular, advertisement, letter, or other communication published or transmitted to any person which satisfies the requirements of Commission Rule 134 (17 CFR 230.134);

(3) Subsequent to the effective date of a registration statement, any written communication if it is proved that each recipient of the communication simultaneously or previously received a written prospectus meeting the requirements of section 10(a) of the Securities Act and § 16.10 of this part that was filed with an declared effective by the OCC.

(b) Communications not deemed an offer under paragraph (a) of this section shall be submitted to the OCC upon its request.

(c) The OCC may prohibit the publication or distribution of any communication not deemed an offer under paragraph (a) of this section if necessary to protect the investing public.

§ 16.8 Exemptions.

The registration statement and prospectus requirements of § 16.3 of this part shall not apply to an offer or sale of bank securities:

(a) If the securities are exempt from registration under section 3(a) of the Securities Act (15 U.S.C. 77c(a)), but only by reason of an exemption other than section 3(a)(2) (for bank securities) and section 3(a)(11) (for intrastate offerings) of the Securities Act. Commission Rules 149 and 150 (17 CFR 230.149, 230.150) (which apply to section 3(a)(9) of the Securities Act) apply to this part;

(b) In a transaction exempt from registration under section 4 of the Securities Act (15 U.S.C. 77d). Commission Rule 152A (17 CFR 230.153) (which applies to section 4(1) of the Securities Act) applies to this part;

(c) In a transaction not involving any public offering which satisfies the requirements of § 16.9 of this part. Commission Rule 152 (17 CFR 230.152) applies to determinations of whether a transaction is a transaction not involving a public offering;

(d) In a transaction that satisfies the requirements of Commission Rule 144, 144A, 145, or 236 (17 CFR 230.144, 230.144A, 230.145, 230.236);

(e) In a transaction that satisfies the requirements of Commission Rules 701, 702T, and 703T (17 CFR 230.701, 230,702T, and 230.703T);

(f) In a transaction that is an offer or sale occurring outside the United States under Commission Regulation S (17 CFR part 230, Regulation S—Rules Governing Offers and Sales Made Outside the United States Without Registration Under the Securities Act of 1933).

§ 16.9 Nonpublic offerings.

(a) Offers and sales of bank issued securities that meet all of the following requirements shall be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Securities Act and §§ 16.8(b) and 16.8(c) of this part:

(1) All the securities are offered and sold in a transaction that satisfies the requirements of Commission Regulation D (17 CFR part 230, Regulation D—Rules Governing the Limited Offer and Sale of Securities Without Registration Under the Securities Act of 1933);

(2) Each purchaser who is not an accredited investor has such knowledge and experience, either alone or with their purchaser representative(s), in financial and business matters that the purchaser is capable of evaluating the merits and risks of the prospective investment, or the bank reasonably believes immediately prior to making any sale that such purchaser comes within this description; and

(3) A notice that meets the requirements of Commission Rule 503 (17 CFR 230.503) is filed with the OCC.

(b) All subsequent sales of bank issued securities subject to the limitations on resale of Commission Regulation D (17 CFR part 230, Regulation D—Rules Governing the Limited Offer and Sale of Securities Without Registration Under the Securities Act of 1933) must be made pursuant to Commission Rule 144 (17 CFR 230.144), Commission Rule 144A (17 CFR 230.144A), another exemption from registration under the Securities Act referenced in § 16.8 of this part, or in accordance with the registration and prospectus requirements of § 16.3 of this part.

§ 16.10 Form and content.

(a) Any registration statement filed pursuant to this part shall be on the form for registration (17 CFR part 239) that the bank would be eligible to use were it required to register the securities under the Securities Act and shall meet the requirements of the Commission regulations referred to in the applicable form for registration. The registration statement shall also comply with the requirements of Rule 400 and Articles 1–3 of Commission Regulation C (17 CFR part 230, Regulation C—Registration (General Requirements, Form and Content of Prospectuses, and Written Consents), except to the extent those requirements conflict with this part.

(b) In addition to the information expressly required to be included in the registration statement by paragraph (a) of this section, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

(c) Notwithstanding paragraph (a) of this section, the registration statement of a bank that is not in compliance with the regulatory capital requirements set forth in part 3 of this chapter shall be on the Form S–1 (17 CFR part 239) registration statement under the Securities Act.

(d) All references to the Commission required by the form for registration should instead refer to the OCC.

§ 16.11 Filing requirements and inspection of documents

(a) Except as provided in paragraph (b) of this section, all registration statements, amendments, notices, or other documents shall be filed with the Securities, Investments, and Fiduciary Practices Division, Office of the Comptroller of the Currency Washington, DC 20219.

(b) All registration statements, amendments, notices, or other documents relating to a bank in organization shall be filed with the appropriate district office of the OCC.

(c) Where this part refers to a section of the Securities Act or the Exchange Act or a Commission rule that requires the filing of a notice or other document with the Commission, such notice or other document shall be filed with the OCC.

(d) No registration statement, prospectus, or amendment shall be effective until declared effective by the OCC.

(e) Unless otherwise requested by the OCC, any filing under this part shall include four copies of any document filed. Material maybe filed by delivery to the OCC through use of the mails or otherwise. The date on which documents are actually received by the OCC shall be the date of filing of those documents, if the person or bank filing the documents has complied with all requirements regarding the filing.

including the submission of any fees required under § 16.21 of this part.

(f) Any filing of amendments or revision shall include at least four copies, two of which are marked to indicate clearly and precisely, by underlying or in some other appropriate manner, the changes made.

(g) Copies of the registration statements, amendments, exhibits, notices or reports filed pursuant to this part will be available for public inspection at the OCC, at the address identified in § 4.17 of this chapter.

§ 16.12 Use of prospectus.

(a) A prospectus or amendment declared effective by the OCC shall not be used more than nine months after the effective date unless the information contained therein is as of a date not more than 16 months prior to such use.

(b) If any event arises, or change in fact occurs, after the effective date and such event or change in fact, individually or in the aggregate results in the prospectus containing any untrue statement of material fact, or omitting to state a material fact, in order to make statements made in the prospectus not misleading under the circumstances, then no prospectus that has been declared effective under this part shall be used until an amendment reflecting such event or change has been filed with and declared effective by the OCC.

§ 16.13 Withdrawal or abandonment

(a) Any registration statement, amendment or exhibit may be withdrawn prior to the effective date. A withdrawal shall be signed and state the grounds upon which it is made. Any document withdrawn will not be removed from the files of the OCC, but will be marked withdrawn upon the request of the registrant on (date).

(b) When a registration statement or amendment has been on file with the OCC for a period of nine months and has not become effective, the OCC may, in its discretion, determine whether the filing has been abandoned, after notifying the issuer that the filing is out of date and must either be amended to comply with the applicable requirements of this part or be withdrawn within 30 days after the date of such notice. When a filing is abandoned, the filing will not be removed from the files of the OCC, but will be marked Declared abandoned by the OCC on (date).

§ 16.17 Current and periodic reports.

(a) Each bank that files a registration statement that has been declared effective pursuant to this part shall file with the OCC, after such effective date, such periodic and current reports as may be required by section 13 of the Exchange Act (15 U.S.C. 78m) as if the securities covered by the registration statement were securities registered pursuant to section 12 of the Exchange Act. The periodic and current reports shall be filed in accordance with Commission Regulation 15D (17 CFR 240.15d-1 up to but not including 240.15Aa-1).

(b) Suspension of the duty to file periodic and current reports under this section shall be in accordance with section 15(d) of the Exchange Act (15 U.S.C. 78o(d)), Commission Regulation 15D (17 CFR 240.15d-1 up to but not including 240.15Aa-1), and Commission Rule 12h-3 (17 CFR 240.12h-3).

(c) Paragraph (a) of this section shall not apply if the bank is a subsidiary of a one-bank holding company and the bank's parent bank holding company files current and periodic reports pursuant to section 13 of the Exchange Act.

(d) Paragraph (a) of this section shall not apply if the bank files the registration statement in connection with a merger, consolidation, or acquisition of assets subject to § 5.33(b)(6)(ii) of this chapter.

§ 16.18 Requests for interpretive advice or no objection letter.

Any requests to the OCC for interpretive advice or a no objection letter with respect to any provision of this part shall satisfy the following requirements:

(a) A copy of the request, including any attachments, shall be filed with the Securities, Investments, and Fiduciary Practices Division;

(b) The provisions of this part to which the request relates, the participants in the proposed transaction, and the reasons for the request shall be specifically identified or described; and

(c) The request shall include a legal opinion as to each legal issue raised and an accounting opinion as to each accounting issue raised.

§ 16.19 Escrow requirement.

(a) If any funds received in an offering are to be certified as capital, those funds shall be held in an independent escrow account maintained by an unrelated insured depository institution until such time as the issuing bank obtains any final approval and certification of the capital by the OCC that is required by §§ 5.46 or 5.47 of this chapter. If the issuing bank does not obtain final approval and certification of the capital, all funds shall be returned promptly to investors.

(b) In an offering of securities which is offered and sold on a best efforts all-or-none condition or with a minimum amount to be sold, funds shall be held in an independent escrow account maintained by an unrelated insured depository institution and returned promptly to investors if the amount of securities required to be sold is not sold within the time period for the offering, as disclosed in the prospectus.

§ 16.20 Fraudulent transactions and unsafe and unsound practices.

(a) No person in the offer or sale of bank securities shall directly or indirectly:

(1) Employ any device, scheme or artifice to defraud;

(2) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(3) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person, in connection with the purchase or sale of any security of a bank.

(b) Nothing in this section shall be construed as a limitation on the applicability of section 17 of the Securities Act or section 10(b) of the Exchange Act or Rule 10b-5 promulgated thereunder (17 CFR 240.10b-5).

(c) Violations of this section shall also constitute an unsafe or unsound practice under 12 U.S.C. 1818.

§ 16.21 Filing fees.

(a) Filing fees must accompany certain filings made under the provisions of this part before such filings will be accepted for filing by the OCC. The applicable fee schedule is provided in the Notice of Comptroller of the Currency Fees described in § 8.8 of this chapter.

(b) Filing fees must be paid by check payable to the Comptroller of the Currency.

Dated: August 20, 1992.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

[FR Doc. 92-23998 Filed 10-14-92; 8:45 am]

BILLING CODE 4810-33-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 607 and 618

RIN 3052-AB19

Assessment and Apportionment of Administrative Expenses; General Provisions

AGENCY: Farm Credit Administration (FCA).

ACTION: Proposed rule.

SUMMARY: The FCA proposes new regulations at 12 CFR part 607 that would prescribe the method by which the assessments that are required to pay the FCA's annual administrative expenses are apportioned among and paid by Farm Credit System (System) institutions and other entities that are required to pay such expenses. The proposed regulations would supersede existing assessment regulations in 12 CFR part 618, which are proposed to be rescinded.

These proposed regulations are based in large part on the consensus recommendations of the FCA Assessment Regulations Negotiated Rulemaking Committee (Committee), which was established by the FCA to help develop the assessment regulations.

DATES: Comments must be submitted on or before November 16, 1992.

ADDRESSES: Comments should be mailed or delivered (in triplicate) to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all comments received will be available for examination by interested parties in the Regulation Development Division, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4189, TDD (703) 883-4444,

or

William L. Larsen, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. The Assessment Regulations

The operating expenses of the FCA in administering the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* (Act) are paid by the institutions it regulates and examines. Section 5.15 of the Act establishes the process by which System institutions are assessed for their share of FCA administrative expenses. Prior to the beginning of every fiscal year, the FCA must determine the cost of administering the Act for succeeding year as well as the amount of assessments needed pay such expenses and maintain a necessary reserve. On the basis of the assessment determination, the FCA must apportion the assessment among System institutions in a manner "determined to be equitable" by the FCA. 12 U.S.C. 2250(a)(2)(A). The FCA then assesses and collects the allocations on a periodic basis during the fiscal year. Regulations implementing section 5.15 of the Act are found in § 618.8230 of this chapter.

The current FCA assessment process was developed before Congress enacted the Agricultural Credit Act of 1987. Public Law 100-233, (1987 Act). The 1987 Act provided for substantial restructuring of the System and gave impetus to, among other developments, the creation of Farm Credit Banks (FCBs) from the merger of Federal land banks and Federal intermediate credit banks, the formation of the National Bank for Cooperatives (CoBank) from the merger of 10 banks for cooperatives (BCs) with the Central Bank for Cooperatives, and the merger of some Federal land bank associations (FLBAs) and production credit associations (PCAs) into agricultural credit associations (ACAs). The 1987 Act also increased the complexity of and the requirements applicable to the regulatory, supervisory and examination functions of the FCA.

The structural and regulatory changes brought about by the 1987 Act led the FCA to examine its current assessment process to determine whether it remained valid and fair. On the basis of this examination, the FCA concluded that the current assessment formula needed to be revised. In April, 1991, the FCA published a Notice of Proposed Rulemaking that proposed to establish and asset-based formula for assessments of System institutions. 56 FR 13424, April 2, 1991. The comments received indicated a concern that the asset-based formula as proposed would create inequities due to the method by which assets of banks and associations would be counted for assessment purposes . Further, some commenters strongly urged that alternative assessment procedures be explored before adoption of an asset-based formula.

II. The Negotiated Rulemaking

Recognizing that a fuller participation of affected institutions in a further exploration of assessment allocation procedures could be beneficial, the FCA considered various alternatives for public participation in the rulemaking process. The FCA concluded that negotiated rulemaking might provide a creative means to achieve an equitable assessment formula and was, therefore, in the public interest. In accordance with the Negotiated Rulemaking Act of 1990, 5 U.S.C. 581 *et seq.*, the FCA published notice of its intent to establish a negotiated rulemaking committee to develop and negotiate proposed amendments to its assessment regulations. 57 FR 19405, May 6, 1992.

A. The Negotiated Rulemaking Committee

To meet the statutory and practical requirements of negotiated rulemaking, the FCA attempted to select a group of System institutions that would be as balanced and representative as possible. The FCA used four major criteria to select institutions to be represented on the negotiated rulemaking committee: (1) Type of institution, (2) size of institution, (3) financial condition of institutions, and (4) geographical location of institution. The FCA developed these criteria from responses to a Systemwide survey it conducted before initiating the negotiated rulemaking.

Members of the Committee were as follows:

Terry D. Anders, President, Farm Credit Services Of Mountain Plains, PCA/FLBA
Gregory J. Buehne, General Counsel, Farm Credit Bank of Spokane
Larry Burbank, President, Farm Credit Services of Eastern Missouri, FLCA/PCA
Gale D. Cameron, President and Chief Executive Officer, PCA/FLBA of the Midlands
Ron Carli, President and Chief Executive Officer, Pacific Coast Farm Credit Services, ACA
Victor Cohen, Assistant General Counsel, Farm Credit Administration
Jeffrey M. Crews, President Sacramento Valley PCA/FLBA
Dennis DeVos, Senior Vice President, Farm Credit Services of West Central Minnesota, ACA
David M. Engel, AgriBank
Jacob F. Grigg, President, Mountain Farm Credit, ACA
Billy D. Harmon, President, Lubbock PCA
Tom Hill, Vice President-Financial Reporting, Farm Credit Bank of Texas
Leon "Joe" Leiser, President and Chief Executive Officer, Ag Credit, ACA
Richard Lorenz, President, Colusa-Glenn PCA, FLBA of Colusa, FLCA
Charles McCoy, Public Affairs Officer, Farm Credit Services of Mandan, PCA/FLCA
Earle R. Steeves, III, President and Chief Executive Officer, Farm Credit of North Central Jersey, ACA
Glenn L. Stevens, Executive Vice President and Chief Operating Officer, Farm Credit Bank of Baltimore
Wayne A. Stuart, Senior Vice President and Treasurer, Springfield Bank for Cooperatives
Kenneth T. Sullivan, Senior Vice President and General Counsel, National Bank for Cooperatives

Donald W. Winters, President and Chief Executive Officer, Farm Credit Services of Mid-America, ACA

The Federal Mediation and Conciliation Service provided a team of two neutral facilitators for the negotiated rulemaking.

B. The Committee Proceedings and Recommendations

The FCA issued an advisory committee charter to the Committee on June 5, 1992. In its Notice of Intent to establish this Committee (*supra*, 57 FR at 19406), the FCA noted its expectation that the Committee would consider alternative assessment procedure options to develop proposed assessment regulations that are equitable and capable of effective administration by The FCA.

The Committee met four times. The first three meetings were held at FCA's McLean, Virginia headquarters: June 8–9, 22–23, and July 7–9, 1992. The last meeting was held at the Stapleton Plaza Hotel, Denver, Colorado on July 20, 1992. Committee procedures complied with the Negotiated Rulemaking Act, *supra*, and the Federal Advisory Committee Act, 5 U.S.C. App. 2. All meetings were open to the public and meeting minutes were recorded. Following each meeting, a summary of Committee proceedings was sent to all System institutions. In addition, pertinent Committee records and documents were transferred to the FCA to become part of the public record of this rulemaking.

In accordance with section 586(f) of the Negotiated Rulemaking Act, *supra*, at the conclusion of negotiations, the Committee submitted a report to the FCA containing the consensus recommendations and views of the Committee regarding proposed amendments to the assessment regulations.

The Committee defined "consensus" in its ground rules as the agreement (or lack of opposition) of all members of the Committee. Further, the Committee ground rules defined consensus as a decision that the entire group could support, *i.e.*, a decision that was not necessarily everyone's first choice, but one that everyone could accept. All Committee actions and positions taken were on a consensus basis.

After establishing ground rules, the Committee identified a substantial number of issues that appeared pertinent to the assessment process. The Committee also examined information relating to the FCA's current assessment procedure. Before looking at different assessment options, the Committee established standards to be applied to any assessment options developed during Committee deliberations. These standards were that any assessment option should reflect the following:

1. Simple—easy to apply and easy to understand.
2. Adaptable to future changes—flexible.
3. In compliance with statute or law.
4. A high level of objectivity.
5. Should not drive structural change.
6. Some costs allocated on a basis that reflects cost of services.
7. Other costs divided on a basis not related to cost of services.

The Committee discussed the issue of the appropriate organizational level at which notification and payment of assessments should be made: (1) Assess by institution/bill by institution; (2) assess by institution/bill by district; or (3) bill by district/assess by district. The Committee reached consensus on assessing and billing at the institutional level.

To reach a consensus on an equitable assessment formula, the Committee examined a number of different approaches. The Committee reviewed over 30 different computer-generated scenarios testing the impact of using various factors to determine the level of assessment to be charged to institutions. As a result of its analysis and discussions, the Committee concurred that the assessment formula for banks, associations, banks for cooperatives, and the Farm Credit Services Leasing Corporation should be as follows:

30 percent = pro rata share based on institution's risk-adjusted assets.

70 percent = share based on amount of risk-adjusted assets falling into 8 tier levels, with institutions that have a CAMEL (capital, asset quality, management, earnings, and liquidity) rating of 3 paying 20 percent more and institutions that have a CAMEL rating of 4 or 5 paying 40 percent more.

The Committee also concurred that all institutions should pay a minimum assessment of $20,000, regardless of level of risk-adjusted assets.

Utilizing the standards it developed for evaluating options, the Committee concluded that this formula would be easy to apply and understand. Using risk-adjusted assets to calculate assessment levels largely eliminates the issue of where to count assets that may appear as assets of both banks and associations in some circumstances, since loans to associations are risk-weighted at 20 percent and would only be counted in the formula to that extent. The Committee concurred that risk-adjusted assets should be calculated as set forth in the FCA's capital regulations in § 615.5210(e) of this chapter.

The Committee concluded that its recommended formula is adaptable to future change and complies with section 5.15 of the Act. The Committee also found the formula to be objective and unlikely to bring about structural change in the System.

The Committee stated that it attempted to allocate some of FCA's regulatory costs on a basis that generally reflects the cost of services. Therefore, in the expectation that the FCA will expend more regulatory time and effort on institutions that have been found through the examination process to have a higher level of risk than other institutions, the formula requires that institutions having a composite CAMEL rating of 3 or 4–5, respectively, will pay a higher assessment than institutions with a 1 or 2 rating. The Committee concluded that the composite CAMEL ratings, which the FCA assigns to System institutions on the basis of its examinations of their financial condition, would be an appropriate measure of risk.

The Committee designed the risk-adjusted asset tiers that establish the amounts that institutions will pay under the 70 percent provision of the assessment formula to reflect economies of scale that can affect the examination of larger institutions. Accordingly, as an institution's level of risk-adjusted assets rises, the applicable tier assessment rate declines.

The Committee's proposed formula also incorporates the idea that all banks, associations, and designated other System entities should pay some minimum assessment, regardless of risk-adjusted asset base, to reflect a share of FCA regulatory costs and as a necessary cost of doing business as a federally chartered System financial institution. The Committee determined that the $20,000 minimum assessment fairly accomplishes this goal.

The Committee concurred that the Farm Credit System Financial Assistance Corporation, the Federal Farm Credit Banks Funding Corporation, the Farm Credit Finance Corporation of Puerto Rico, and any other entity statutorily designated as a System institution that is not a bank or association (excluding the Federal Agricultural Mortgage Corporation (FAMC)) should be assessed for estimated direct expenses plus an allocated portion of FCA indirect expenses. The Committee determined, however, that the Farm Credit Services Leasing Corporation should be assessed on the same basis as banks and associations due to the comparability of its asset base. The Committee did not

attempt to determine the method of assessment for FAMC.

III. The Proposed Assessment Regulations

The FCA finds that the consensus recommendations of the Committee regarding proposed assessment regulations are consistent with the FCA's legal obligations under the Act. Therefore, as sanctioned by the Negotiated Rulemaking Act, *supra*, the proposed assessment regulations set forth below are based in large part on the consensus recommendations of the Committee.

A. Assessment of Banks, Associations, and Designated Other System Entities

The assessment formula developed by consensus of the negotiated rulemaking committee is embodied in proposed § 607.3. The total amount of the annual assessment of banks, associations, and other System entities designed by the FCA to be assessed on the same basis as banks and associations, is based on the FCA budget for each fiscal year plus a necessary reserve amount, subtracting amounts to be assessed against other System entities and reimbursements received from non-System entities. Deduction of amounts to be assessed against other System entities and reimbursements received from non-System entities will ensure that banks, associations, and designated other System entities are not assessed for costs of the FCA's activity with regard to those entities. The assessment of banks, associations, and designated other System entities net of amounts assessed other System entities is also necessary due to the separate assessment criteria for FAMC set out in section 5.15 of the Act.

The formula is applied to the FCA fiscal year budget, adjusted as described above, using the risk-adjusted asset base of the banks, associations, and designated other System entities of the System as a whole and of the individual institutions. The risk-adjusted asset base is defined in proposed § 607.2(b) and is calculated in accordance with § 615.5210(e) of the FCA capital regulations.

Thirty (30) percent of the adjusted FCA budget is assessed to each such institution based on the institution's pro rata share of the total average risk-adjusted asset base of all banks, associations, and designated other System entities.

Seventy (70) percent of the adjusted FCA budget is assessed to each bank, association, and designated other System entity based upon the amounts of the institution's average risk-adjusted asset base that fall within the eight graduated risk-adjusted asset tiers contained in the table accompanying proposed § 607.3(b)(2). The table is used to compute the amount of assessment under proposed § 607.3(b)(2) only. Neither the table nor the example of the 70 percent assessment portion calculation provided includes the 30 percent assessment portion due under proposed § 607.3(b)(1).

The assessment under proposed § 607.3(b)(2) is further adjusted to increase by 20 percent the assessment of an institution receiving an FCA composite CAMEL rating (defined in proposed § 607.2(c)) of 3 following its most recent examination preceding the assessment. The assessment would increase by 40 percent for an institution receiving a composite CAMEL rating of 4 or 5. The FCA accepts the Committee's recommendation to utilize composite CAMEL ratings as a factor in determining assessments for banks, associations, and designated other System entities. However, to ensure that CAMEL ratings of institutions remain strictly confidential, the FCA will not make public the assessments allocated to individual banks, associations, and designated other System entities.

Under proposed § 607.3(b)(3), each bank, association, and designated other System entity would be required to pay a minimum assessment of $20,000 if its total assessment as calculated under proposed §§ 607.3(b)(1) and 607.3(b)(2) amounted to less than $20,000.

B. Assessment of Other System Entities

Other System entities are defined in proposed § 607.2(j). While the major focus of the Committee was on the formula for assessing banks, associations, and designated other System entities, the Committee concurred with the assessment procedure set forth in proposed § 607.4(a) for other System entities (excluding FAMC). Under this proposed section, other System entities would be assessed for estimated direct expenses plus an allocated portion of FCA indirect expenses and an amount for necessary reserves.

C. Assessment of the Federal Agricultural Mortgage Corporation

The Committee did not attempt to develop the method of assessment for FAMC. Under section 5.15(a) of the Act, the assessment of FAMC is separate from the rest of the System. Thus FAMC's assessment is separately covered in proposed § 607.4(b). FAMC would be assessed for the estimated cost of FCA's regulation, supervision, and examination of FAMC. FAMC is not subject to an assessment for FCA's necessary reserves under section 5.15(a)(1)(B) of the Act. However, the FCA will include in its estimate of regulatory expenses sufficient funds to provide for anticipated increases in activity and significant developments in order to cover its expenses for the examination and supervision of FAMC during a fiscal year.

D. Notification and Payment of Assessments

Under proposed § 607.5, prior to September 15 of each year, the FCA would provide each System institution with a notice of assessment specifying the total amount of the annual assessment, the fiscal year covered by the assessment, the amounts of the installment payments and the dates on which such payments are due. For banks, associations, and designated other System entities, the notice of assessment also would include an assessment table detailing the application of the assessment formula under proposed § 607.3(b)(2). The notice of assessment would be the only billing from FCA. The total annual assessment would become an obligation of the assessed entity on October 1 of each fiscal year. However, based on the flexibility accorded the FCA in section 5.15 of the Act regarding collection of assessments, proposed § 607.5 provides that the total annual assessment would be payable not less often than quarterly in equal installments during each fiscal year. Thus, the FCA could require smaller payments more often than quarterly if it found such a payment schedule better met the needs of the System and the agency. Currently, System institutions make quarterly assessment payments.

The assessment for banks, associations, and designated other System entities that were chartered during the period July 1 through September 30 and that were not formed as a result of mergers, consolidations, or transfers of direct lending authority, would be determined by the FCA prior to December 15. A notice of assessment would be provided before December 15. The assessment would become an obligation of the institution on January 1, payable in equal installments not less often than quarterly for the remainder of the fiscal year.

For any System institution whose charter is to be canceled, all remaining installment payments on the institution's total assessment for a fiscal year become due and payable and must be provided for prior to the cancellation of the institution's charter. Institutions in

receivership would be assessed in accordance with these proposed regulations, so long as they retain their charters. The FCA invites comment on whether this approach is equitable for such institutions.

Proposed § 607.6 provides that assessment payments shall be made by check, electronic funds transfer, or by such other means as the FCA may authorize. Proposed § 607.7, consistent with the Debt Collection Act of 1982, 31 U.S.C. 3711 *et seq.*, and the Federal Claims Collection Standards thereunder, 4 CFR Ch. II, provides for the payment of interest, penalties, and administrative expenses of collection on all assessments that are determined to be delinquent.

E. Reimbursement of Other Examination Expenses

Pursuant to 12 U.S.C 3025, the FCA is authorized and directed to examine the National Consumer Cooperative Bank, doing business as the National Cooperative Bank (NCB), and receive reimbursement from the NCB for such examinations and audits. Due to the close structural relationship between the NCB and the NCB Development Corporation (NCBDC) provided for in 12 U.S.C. 3051, the FCA also examines the NCBDC as part of its examination of the NCB. The FCA currently bills the NCBDC separately for the expenses associated with its examination by the FCA.

In § 607.2, the proposed regulations define the NCB and the NCBDC as "non-System entities." Proposed § 607.8 provides that reimbursable billings for FCA examination of non-System entities would be based on direct expenses incurred plus a portion of indirect expenses allocated on the basis of direct expenses incurred as a percentage of the total direct expenses for the FCA. Under proposed § 607.9, the FCA would bill the amounts due for its direct and indirect expenses to the non-System entities subsequent to the issuance of their respective reports of examination.

F. Adjustments in Assessments

Proposed § 607.10 provides that credits for overpayment and charges for underpayment of assessments shall be applied to the next applicable assessment payment due date during the current or subsequent fiscal year. Such adjustments would be made pursuant to proposed § 607.3(d) (for banks, associations, and designated other System entities), § 607.4(a)(2) (for other System entities), or § 607.4(b) (for FAMC), or if the amount allocated to System institutions at the end of the fiscal year is greater or lesser than the amount collected. If adjustments are made, the FCA shall provide the institution with a statement of adjustment at least 15 days prior to the institution's next assessment payment date. Adjustments in assessments would be made in principal amount only. Payments found to be delinquent under proposed § 607.7 are not underpayments for purposes of § 607.10.

G. Statement of Assessments and Expenses

Proposed § 607.11 would require the FCA, by January 15 of each calendar year, to provide each assessed System institution with a statement of assessments and expenses for the preceding fiscal year showing total assessments and other income received as applied to expenses incurred by major budget category and amounts set aside for necessary reserves. This section is intended to enhance the information currently available to System institutions pursuant to § 618.8230 of this chapter, which is proposed to be replaced by new part 607.

List of Subjects

12 CFR Part 607

Accounting, Agriculture, Archives and records, Banks, Banking, Claims, Credit, Finance, Government securities.

12 CFR Part 618

Agriculture, Archives and records, Banks, Banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended by adding part 607 to subchapter A and amending part 618 as follows:

PART 607—ASSESSMENT AND APPORTIONMENT OF ADMINISTRATIVE EXPENSES

Sec.

607.1 Purpose and scope.
607.2 Definitions.
607.3 Assessment of banks, associations, and designated other System entities.
607.4 Assessment of other System entities.
607.5 Notice of assessment.
607.6 Payment of assessment.
607.7 Late-payment charges on assessments.
607.8 Reimbursements for services to non-System entities.
607.9 Reimbursable billings.
607.10 Adjustments for overpayment or underpayment of assessments.
607.11 Statement of assessments and expenses.

Authority: Secs. 5.15, 5.17 of the Farm Credit Act; 12 U.S.C. 2250, 2252, 3025.

§ 607.1 Purpose and scope.

The regulations in part 607 implement the provisions of section 5.15 of the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* (Act) relating to Farm Credit Administration (FCA) assessments. The regulations prescribe the procedures for the equitable apportionment of FCA annual administrative expenses and necessary reserves among Farm Credit System (System) institutions. Pursuant to section 5.15(a) of the Act, the regulations also provide for the separate assessment of the FCA's costs of supervising and examining the Federal Agricultural Mortgage Corporation (FAMC). The regulations further provide for the reimbursement of expenses incurred in performing statutorily required examinations of non-System entities.

§ 607.2 Definitions.

For the purpose of this part, the following definitions shall apply:

(a) *Assessment* means the annual amount to be paid by each System institution to the Farm Credit Administration in accordance with section 5.15 of the Act.

(b) *Average risk-adjusted asset base* means the average of the risk-adjusted asset base (as determined in accordance with § 615.5210(e) of this chapter) of banks, associations, and designated other System entities, calculated as follows:

(1) For banks, associations, and designed other System entities with four quarters of risk-adjusted assets as of June 30 each year, the sum of the average daily risk-adjusted assets as of the last day of the quarter as reported on each quarterly Call Report Schedule RC–G to the FCA for the most recent four quarters immediately preceding each September 15, divided by four;

(2) Except as provided in paragraphs (b)(3) and (b)(4) of this section, for banks, associations, and designated other System entities with less than four quarters of risk-adjusted assets as of June 30 of each year, the sum of the average daily risk-adjusted assets as of the last day of the quarter reported on each quarterly Call Report Schedule RC–G to the FCA for the quarters in which it was in existence immediately preceding September 15, divided by the number of quarters for which the Call Report Schedule RC–G was received;

(3) For banks, associations, and designated other System entities that were formed through mergers, consolidations, or transfers of direct lending authority and have less than four quarters of risk-adjusted assets as of June 30, the sum of the average daily

risk-adjusted assets as the last day of the quarter for the most recent four quarters immediately preceding September 15 as reported on each quarterly Call Report Schedule RC–G filed by the newly chartered institution and the institutions that were merged or consolidated or that received direct lending authority, divided by four;

(4) For banks, associations, and designated other System entities chartered during the period July 1 through September 30 of each year that were not formed by the merger or consolidation of existing System institutions or the transfer of direct lending authority from another System institution, the total of the average daily risk-adjusted assets as of the last day of the quarter as reported on Call Report Schedule RC–G for the quarter ending September 30.

(c) *Composite CAMEL* rating means the composite numerical assessment of the financial condition of an institution assigned to the institution by the FCA based on its most recent examination of the institution. "CAMEL" is an acronym for capital, asset quality, management, earnings, and liquidity. The CAMEL factors are generally considered to be important indicators of an institution's financial health. Institutions are rated on each of the factors during an examination. CAMEL ratings range from 1–5, with a lower number indicating better financial condition than a higher number.

(d) *Delinquent amount* means an amount owed to the FCA that has not been paid by the date specified in the FCA's Notice of Assessment or billing.

(e) *Designated other System entities* means other System entities designated by the FCA in § 607.3(c) to be assessed on the same basis as banks and associations under § 607.3

(f) *Direct expenses* means the expenses of the FCA attributable to the performance of examinations.

(g) *Indirect expenses* means all FCA expenses that are not attributable to the performance of examination.

(h) *Non-System entities* means the National Consumer Cooperative Bank, the National Cooperative Bank Development Corporation, and any other entity that is required to be examined, supervised, or otherwise regulated by the FCA that is not a System institution.

(i) *Notice of Assessment* means a written notice to each System institution showing the total amount assessed and owing, the fiscal year covered by the assessment, the amounts of installment payments, and the due dates for such payments. For banks, associations, and designated other System entities, the Notice of Assessment shall also include an individualized assessment table showing the assessment under § 607.3(b)(2) where applicable.

(j) *Other System entities* means any service corporation chartered under section 4.25 of the Act, the Farm Credit System Financial Assistance Corporation, FAMC, the Federal Farm Credit Banks Funding Corporation, the Farm Credit Finance Corporation of Puerto Rico, and any other entity statutorily designated as a System institution that is not a bank or association.

(k) *System institutions* means banks, associations, and other System entities.

§ 607.3 Assessment of banks, associations, and designated other System entities.

(a) Banks, associations, and other System entities designated in paragraph (c) of this section will be assessed annually pursuant to this section for funds to cover a portion of the FCA's administrative expenses and necessary reserves. The total amount of the annual assessment of banks, associations, and designated other System entities shall be based on the FCA budget for each fiscal year plus a necessary reserve amount, excluding amounts to be assessed against other System entities and reimbursements received from non-System entities.

(b) The assessment shall be apportioned among the banks, associations, and designated other System entities as follows:

(1) Thirty (30) percent of the assessment under this section shall be apportioned to each bank, association, and designated other System entity on the basis of each institution's pro rata share of the total average risk-adjusted asset base.

(2) Seventy (70) percent of the assessment under this section shall be apportioned to each bank, association, and designated other System entity based upon the amounts of the institution's average risk-adjusted assets that fall within the graduated risk-adjusted asset tiers contained in the following table. An institution's total assessment under this paragraph is the sum of the amounts assessed for risk-adjusted assets falling into each applicable tier, subject to adjustment for its CAMEL rating as required in paragraphs (b)(2)(i) and (b)(2)(ii) of this section. The same assessment rate (designated as X_1 or a declining percentage of X_1 in the following table) will be applied to each dollar value of risk-adjusted assets falling within each tier, increased where applicable, by the amounts prescribed in paragraphs (b)(2)(i) and (b)(2)(ii) of this section. The actual assessment rate under this paragraph shall be determined annually based on relative average risk-adjusted asset bases, the CAMEL ratings of individual institutions, and the FCA budget as adjusted pursuant to paragraph (a) of this section, but the relationship between the rates applied to each tier shall remain constant as set forth in the following table.

Average risk-adjusted asset size range (in millions)		Assessment rate
Over	To	
$0	$25	X_1
25	50	$.85X_1$
50	100	$.75X_1$
100	500	$.60X_1$
500	1,000	$.50X_1$
1,000	7,000	$.35X_1$
7,000	10,000	$.20X_1$
10,000	—	$.10X_1$

Example: XYZ association has a CAMEL rating of 2 and average risk-adjusted assets of $500.4 million. The value of X_1 has been determined to be .000917, based on an FCA budget of $40.29 million.

X_1 = .000917 therefore $ 25,000,000 × .0917% = $ 22,925
$.85X_1$ = .000780 therefore $ 25,000,000 × .0780% = $ 19,500
$.75X_1$ = .000688 therefore $ 50,000,000 × .0688% = $ 34,400
$.60X_1$ = .000550 therefore $400,000,000 × .0550% = $220,000
$.50X_1$ = .000458 therefore $ 400,000 × .0458% = $ 183

Total Assessment under § 607.3(b)(2) = $297,008

(i) If the FCA assigns a bank, association, or designated other System entity a composite CAMEL rating of 3 following its most recent examination of the institution prior to the date of assessment, the assessment provided for

in paragraph (b)(2) of this section shall be increased by 20 percent.

(ii) If the FCA assigns a bank, association, or designated other System entity a composite CAMEL rating of 4 or 5 following its most recent examination of the institution prior to the date of assessment, the assessment provided for in paragraph (b)(2) of this section shall be increased by 40 percent.

(iii) Banks, associations, and designated other System entities that were formed through mergers or consolidations and have not been examined before their initial assessment under this section shall be deemed to have a composite CAMEL rating equivalent to the highest composite CAMEL rating assigned to the merged or consolidated institutions in the FCA's most recent examination of the individual institutions prior to the date of merger or consolidation. Newly chartered institutions not formed through mergers or consolidations that have not been examined before their initial assessment under this section shall be deemed to have a composite CAMEL rating of 2.

(3) Each bank, association, and designated other System entity shall pay a minimum assessment of $20,000 regardless of the result of the application of the assessment formula established by paragraphs (b)(1) and (b)(2) of this section. If such a minimum assessment is apportioned to an institution, that institution's average risk-adjusted asset base shall be deducted from the total average risk-adjusted asset base, and $20,000 shall be deducted from the total assessment amount for purposes of determining the assessments of banks, associations, and designated other System entities paying more than the $20,000 minimum assessment.

(c) Other System entitles designated to be assessed in accordance with this section are:

The Farm Credit Services Leasing Corporation.

(d) Assessments may be adjusted periodically to reflect:

(1) Changes in the FCA budget and necessary reserves; and

(2) Any overpayment or underpayment by a bank, association, or designated other System entity in the prior fiscal year.

§ 607.4 Assessment of other System entities.

(a)(1) Unless otherwise designated to be assessed under § 607.3 and with the exception of FAMC as provided in paragraph (b) of this section, other System entities will be assessed for estimated direct expenses plus an allocated portion of FCA indirect expenses and an amount for necessary reserves. The estimate for direct expenses shall take into account the direct expenses incurred in the most recent examination of the entity preceding each September 15 and expected increases or decreases in examination work for the next fiscal year. A proportional amount of FCA indirect expenses will be allocated to each entity based on the estimated direct expenses related to the particular entity as a percentage of the total budgeted direct expenses of the agency (excluding direct expenses under paragraph (b) of this section) for the fiscal year covered by the assessment.

(2) Assessments of other System entities under paragraph (a)(1) of this section may be adjusted periodically to reflect:

(i) Changes in the FCA budget and necessary reserves; and

(ii) Any overpayment or underpayment by such other System entity in the prior fiscal year.

(b) *Assessment of Federal Agricultural Mortgage Corporation.* The FCA shall assess FAMC for the estimated cost of FCA's regulation, supervision, and examination of FAMC. FAMC's assessment may be adjusted periodically to reflect changes in the FCA budget and to reconcile differences between FAMC's assessment and FCA's actual expenditures for regulation of FAMC in the prior fiscal year.

§ 607.5 Notice of assessment.

(a) Except as provided in paragraph (b) of this section, prior to September 15 of each year, the FCA shall determine the amount of assessment to be collected from each System institution for the next fiscal year under §§ 607.3 and 607.4 and shall provide each System institution with a Notice of Assessment. The total amount assessed each System institution in the Notice of Assessment shall be an obligation of each institution on October 1 of each fiscal year. The total amount assessed each System institution shall be payable not less often than quarterly in equal installments during each fiscal year, subject to adjustment pursuant to §§ 607.3(d), 607.4(a)(2), 607.4(b), and 607.10.

(b) For banks, associations and designated other System entities chartered during the period July 1 through September 30 of each year, the FCA shall, prior to December 15, determined the amount of assessment to be collected from each such institution for the remainder of the fiscal year and provide the institution with a Notice of Assessment. The total amount of the assessment becomes an obligation of the institution on January 1 and shall be payable in equal installments, subject to adjustment pursuant to §§ 607.3(d) and 607.10, not less often than quarterly for the remainder of the fiscal year. The first installment shall be due on January 1. This paragraph shall not apply to banks, associations, and designated other System entities formed by merger, consolidation, or transfer of direct lending authority.

(c) In the event of the proposed cancellation of the charter of a System institution, the unpaid installments of the total amount of the institution's assessment shall be provided for prior to the cancellation of the charter.

§ 607.6 Payment of assessment.

(a) System institutions shall pay the amounts due as scheduled in the FCA Notice of Assessment. Payment shall be made by electronic funds transfer (EFT) for credit to the FCA's account in the Department of the Treasury, by check to the FCA for deposit, or by such other means as the FCA may authorize.

(b) Payments made by EFT that are not received by the close of business on the due date shall be considered delinquent in accordance with § 607.7.

(c) Payments made by check that are not received by the FCA before the close of business on the third workday preceding the due date shall be considered delinquent in accordance with § 607.7.

§ 607.7 Late-payment charges on assessments.

(a) If any portion of a scheduled installment of an institution's total assessment or the reimbursement billed to a non-System entity is not paid by the due date, the overdue amount shall be considered delinquent.

(b) Delinquent amounts shall be charged late-payment interest at the United States Treasury Department's current value of funds rate published in the **Federal Register**. Late payment interest shall be expressed as an annual rate of interest and shall accrue on a daily basis starting on the due date of the delinquent amount and continuing through the date payment is received by the FCA.

(c) The FCA shall waive the collection of interest on the delinquent amounts if such amounts are paid within 30 days of the date interest begins to accrue. The FCA may waive interest due on delinquent amounts upon finding no fault with the performance of the remitter.

(d) The FCA shall charge an amount necessary to cover the administrative

costs incurred as a result of collection of any delinquent amount.

(e) The FCA shall charge a penalty of 6 percent per annum on any portion of a delinquent amount that is more than 90 days past due. Such penalty shall accrue from the date the amount became delinquent.

§ 607.8 Reimbursements for services to non-System entities.

Non-System entities shall be assessed for direct expenses plus an allocated portion of FCA indirect expenses. The FCA shall record the direct expenses incurred in the performance of an examination of a non-system entity and the rendering of required reports of examination. The FCA shall add a portion of its indirect expenses to the direct expenses for an examination. Indirect expenses shall be allocated based on the ratio of direct expenses incurred for each such examination to the total budgeted examination expenses of the FCA.

§ 607.9 Reimbursable billings.

The FCA shall bill the amounts due for services to non-System entities each year subsequent to the issuance of their respective Reports of Examination. Amounts billed are due in full within 30 days from the date billed. If the billed amount or any portion thereof remains unpaid at close of business on the due date, such amount or portion shall be considered delinquent in accordance with § 607.7.

§ 607.10 Adjustments for overpayment or underpayment of assessments.

Where adjustments for overpayment or underpayment of assessments are made pursuant to §§ 607.3(d), 607.4(a)(2), and 607.4(b), or, if at the end of the fiscal year, the amount allocated to System institutions is different from the amount collected, credit for overpayments and charges for underpayments shall be applied to the next applicable assessment payment due during the current or subsequent fiscal year. Where such adjustments are made, the FCA shall provide the institution with a statement of adjustment at least 15 days prior to the date when the institution's next assessment payment is due. Adjustments in assessments shall be made in principal amount only. Overdue amounts under § 607.7 are not underpayments for assessment adjustment purposes.

§ 607.11 Statement of assessments and expenses.

By January 15 of each calendar year, the FCA shall provide each assessed System institution with a statement of assessments and expenses for the preceding fiscal year showing total assessments and other income received as applied to expenses incurred by major budget category and amounts set aside for necessary reserves.

PART 618—GENERAL PROVISIONS

1. The authority citation for part 618 is revised to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act; 12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252.

Subpart F—Miscellaneous Provisions

§ 618.8230 [Removed and Reserved]

2. Subpart F is amended by removing and reserving § 618.8230.

Dated: October 7, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-24792 Filed 10-14-92; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 29

[Docket No. 92-ASW-4; Notice No. SC-92-4-SW]

Special Condition: Bell Helicopter Textron Model 230 Helicopter, Electronic Flight Instrument System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special condition.

SUMMARY: This notice proposes a special condition for the Bell Helicopter Textron Model 230 helicopter modified by Heli-Dyne Systems, Inc. This helicopter will have a novel or unusual design feature associated with the electronic flight instrument system. The applicable airworthiness regulations do not contain appropriate safety standards for the requirements to protect critical function systems from the effects of external radio frequency energy sources. This notice contains proposed additional safety standards that the Administrator considers necessary to ensure that critical functions of systems in the Bell Helicopter Textron Model 230 helicopter would be maintained when exposed to high intensity radiated fields (HIRF).

DATES: Comments must be received on or before November 16, 1992.

ADDRESSES: Submit comments in duplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ASW-4, Fort Worth, Texas 76193-0007, or deliver in duplicate to the Office of the Assistant Chief Counsel, Building 3B, room 158, 4400 Blue Mound Road, Fort Worth, Texas.

All comments must be marked Docket No. 92-ASW-4. Comments may be inspected in the Office of the Assistant Chief Counsel, at the address specified above, between 8 a.m. and 4 p.m., weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, FAA, Rotorcraft Standards Staff, Regulations Group, Fort Worth, Texas 76193-0111; telephone (817) 624-5121.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this process by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket or notice number and be submitted in duplicate to the address specified under the caption "**ADDRESSES**." All communications received on or before the closing date for comments will be considered before taking action on this proposal. The special condition proposed in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report will be filed in the Rules Docket that summarizes each substantive FAA-public contact concerning this notice of proposed special condition. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-ASW-4." The postcard will be date/time stamped and returned to the commenter.

Background

On April 10, 1992, Heli-Dyne Systems, Inc., Hurst, Texas, applied for a Supplemental Type Certificate for installation of an electronic flight instrument system and flight management system in the Bell Helicopter Textron Model 230 helicopter. This model helicopter is a 10-passenger, two-engine, 8,400-pound transport category helicopter.

Type Certification Basis

The certification basis established for the Model 230 helicopter includes: FAR 21.29 and FAR 29 effective February 1, 1965, amendments 29–1 through 29–9; and § 29.997, amendment 29–10; and § 29.1401, amendment 29–11; and §§ 29.25(c), 29.801, 29.865, 29.1555(c), 29.1557(c), amendment 29–12; and § 29.927(b)(2), amendment 29–17; and instrument flight rules (IFR) requirements dated December 15, 1978; and FAA exemption no. 2789, FAR 29.811(f)(1); and FAA exemption no. 4395, FAR 29.855(a); and the selected sections of FAR 29 up to and including amendment 29–26 as follows: §§ 29.1, 29.21 thru 29.175, 29.231 thru 29.235, 29.251 thru 29.361, 29.411, 29.471 thru 29.493, 29.501, 29.547 thru 29.549, 29.561 thru 29.603, 29.607 thru 29.609, 29.611 thru 29.629, 29.683, 29.723 thru 29.727, 29.731, 29.735, 29.771 thru 29.775, 29.785, 29.831, 29.855, 29.861 thru 29.863, 29.873 thru 29.917, 29.931, 29.939 thru 29.953, 29.955, 29.961, 29.993 thru 29.997, 29.1011 thru 29.1023, 29.1027 thru 29.1105, 29.1121 thru 29.1123, 29.1141, 29.1143 thru 29.1145, 29.1163 thru 29.1307, 29.1321 thru 29.1322, 29.1327, 29.1331 thru 29.1333, 29.1337, 29.1359 thru 29.1381, 29.1401, 29.1431, 29.1461 thru 29.1505, 29.1517 thru 29.1521, 29.1527, 29.1541 thru 29.1543, 29.1549 thru 29.1551, 29.1555 thru 29.1559, 29.1581 thru 29.1587, Appendix B; and the noise standards of FAR Part 36 and International Civil Aviation Organization (ICAO) Annex 16; and Canadian Airworthiness Manual 529: 529.1301–1, 529.1557(c)(3), 529.581, 529.1093(b)(1)(ii).

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of novel or unusual design features of an aircraft or installation. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become a part of the type certification basis, as provided by § 21.101(b)(2).

Discussion

The Bell Helicopter Textron Model 230 helicopter, at the time of application for modification by Heli-Dyne Systems, Inc., was identified as incorporating one and possibly more electrical/electronic systems that will perform functions critical to the continued safe flight and landing of the helicopter. The electronic flight instrument system performs the attitude display function. The display of attitude, altitude, and airspeed is critical to the continued safe flight and landing of the helicopter for IFR operations in instrument meteorological conditions. After the design is finalized, Heli-Dyne Systems, Inc., will provide the FAA with a preliminary hazard analysis that will identify any other critical functions performed by the electrical/electronic systems.

Recent advances in technology prompted the design of aircraft that include advanced electrical/electronic systems that perform functions required for continued safe flight and landing. These advanced systems respond to the transient effects of induced electrical current and voltage caused by the high intensity radiated fields (HIRF) incident on the external surface of the helicopter. These induced transient currents and voltages can degrade the performance of the electrical/electronic systems by damaging the components or by upsetting the systems' functions.

Furthermore, the electromagnetic environment has undergone a transformation not envisioned by the current application of FAR § 29.1309(a). Higher energy levels radiate from operational transmitters currently used for radar, radio, and television; and, the number of transmitters has increased significantly.

Existing aircraft certification requirements are inappropriate in view of these technological advances. In addition, the FAA has received reports of some significant safety incidents and accidents involving military aircraft equipped with advanced electrical/electronic systems when they were exposed to electromagnetic radiation.

The combined effects of technological advances in helicopter design and the changing environment have resulted in an increased level of vulnerability of the electrical/electronic systems required for the continued safe flight and landing of the helicopter. Effective measures to protect these helicopters against the adverse effects of exposure to HIRF will be provided by the design and installation of these systems. The following are primary factors that contributed to the current conditions: (1) Increased use of sensitive electronics that perform critical functions; (2) reduced electromagnetic shielding afforded helicopter systems by advanced technology airframe materials; (3) adverse service experience of military aircraft using these technologies; and (4) increase in the number and power of radio frequency emitters and the expected increase in the future.

The FAA recognizes the need for aircraft certification standards to keep pace with technological developments and a changing environment. In 1986 it initiated a high priority program to: (1) Determine and define electromagnetic energy levels; (2) develop guidance material for design, test, and analysis; and (3) prescribe and promulgate regulatory standards. The FAA participated with industry and foreign airworthiness authorities to develop internationally recognized standards for certification.

The FAA and foreign airworthiness authorities have identified a level of HIRF environment that a helicopter could be exposed to during IFR operations.

While the HIRF requirements are being finalized, the FAA is adopting a special condition for the certification of aircraft that employ electrical/electronic systems performing critical functions. The accepted maximum energy levels that civilian helicopter system installations must withstand for safe operation are based on surveys and analysis of existing radio frequency emitters. This special condition will require the helicopter's electrical/electronic systems and associated wiring to be protected from these energy levels. These external threat levels are believed to represent the worst-case exposure for a helicopter operating under IFR.

The HIRF environment specified in this proposed special condition is based on many critical assumptions. With the exception of takeoff and landing at an airport, one of these assumptions is the aircraft would be not less than 500 feet above ground level (AGL). Helicopters operating under visual flight rules (VFR) routinely operate at less than 500 feet AGL and perform takeoffs and landings at locations other than controlled airports. Therefore, it would be expected that the HIRF environment experienced by a helicopter operating VFR may exceed the defined environment by 100% or more.

This special condition will require the systems that perform critical functions, as installed in the aircraft, to meet certain standards based on either a defined HIRF environment or a fixed value using laboratory tests.

The applicant may demonstrate that the operation and operational capability of the installed electrical/electronic systems, that perform critical functions, are not adversely affected when the aircraft is exposed to the defined HIRF environment. The FAA has determined that the environment defined in Table 1 is acceptable for critical functions in

helicopters operating at or above 500 feet AGL. For critical functions of helicopters operating at less than 500 feet AGL, additional considerations must be given.

The applicant may demonstrate, by a laboratory test, that the electrical/electronic systems that perform critical functions can withstand a peak electromagnetic field strength in a frequency range of 10 KH_z to 18 GH_z. If a laboratory test is used to show compliance with the defined HIRF environment, no credit will be given for signal attenuation due to installation. A level of 100 v/m and other considerations, such as an alternate technology backup that is immune to HIRF, are appropriate for critical functions during IFR operations. A level of 200 v/m and further considerations, such as an alternate technology backup that is immune to HIRF, are more appropriate for critical functions during VFR operations.

The primary electronic flight displays are critical for helicopters in IFR operations. A full authority digital engine control (FADEC) is an example of a critical functioning system for all operations (both IFR and VFR).

Applicants for FAA approval under this special condition must perform a preliminary hazard analysis to identify electrical/electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause a failure condition that would, prevent the continued safe flight and landing of the helicopter. The systems identified by the hazard analysis as performing critical functions are required to have HIRF protection.

A system may perform both critical and noncritical functions. Primary electronic flight display systems and their associated components perform critical functions such as attitude, altitude, and airspeed indication. HIRF requirements would apply only to the systems that perform critical functions.

Compliance with HIRF requirements will be demonstrated by tests, analysis, models, similarity with existing systems, or a combination of these methods. Service experience alone will not be acceptable since such experience in normal flight operations may not include an exposure to the HIRF environmental condition. Reliance on a system with similar design features for redundancy, as a means of protection against the effects of external HIRF, is generally insufficient because all elements of a redundant system are likely to be concurrently exposed to the fields.

The modulation that represents the signal most likely to disrupt the operation of the system under test, based on its design characteristics, should be selected. For example, flight control systems may be susceptible to 3 H_z square wave modulation while the video signals for electronic display systems may be susceptible to 400 H_z sinusoidal modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KH_z sine wave with 80 percent depth of modulation in the frequency range from 10 KH_z to 400 MH_z and 1 KH_z square wave with greater than 90 percent depth of modulation from 400 MH_z to 18 GH_z. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Acceptable system performance would be attained by demonstrating that the critical function components of the system under consideration continue to perform their intended function during and after exposure to required electromagnetic fields. Deviations from system specifications may be acceptable but must be independently assessed by the FAA on a case by case basis.

TABLE 1.—FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10-500 KH_z	60	60
500-2000	80	80
2-30 MH_z	200	200
30-100	33	33
100-200	150	33
200-400	56	33
400-1000	4020	935
1-2 GH_z	7850	1750
2-4	6000	1150
4-6	6800	310
6-8	3600	666
8-12	5100	1270
12-18	3500	551
18-40	2400	750

Conclusion

This proposed action would affect only certain unusual or novel design features on one series of helicopter. It would not be a rule of general applicability and would affect only applicants for FAA approval of those features.

List of Subjects in 14 CFR Parts 21 and 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11541; 49 U.S.C. 106(g) (Rev. Pub. L. 97-449, January 12, 1983).

The Proposed Special Condition

Accordingly, the Federal Aviation Administration (FAA) proposes the following special condition as a part of the type certification basis for the Bell Helicopter Textron Model 230 helicopter.

Protection for Electrical/Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Fort Worth, Texas, on September 28, 1992.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 92-25009 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 35

[Docket No. 92-ANE-46; Notice No. SC-92-02-NE]

Special Conditions; Hamilton Standard Model 247F-1 Propeller

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This document proposes special conditions for the Hamilton Standard Model 247F-1 propeller. This propeller is constructed using all composite blades, a novel and unusual design feature. Part 35 of the Federal Aviation Regulations (FAR's) currently does not address the airworthiness considerations associated with propellers constructed using all composite blades. This notice proposes additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 35 of the FAR's.

DATES: Comments must be received on or before November 16, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ANE-46, 12 New England Executive

Park, Burlington, Massachusetts 01803-5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under "ADDRESSES." All communications received on or before the closing date for comments, specified under "DATES," will be considered before taking action on the proposed special conditions. The proposals contained in this section 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 special conditions. 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. 92-ANE-46." The postcard will be date stamped and returned to the commenter.

Availability of Notice of Special Condition

Any person may obtain a copy of this Notice of Special Condition by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ANE-46, 12 New England Executive Park, Burlington, Massachusetts 01803-5229.

Discussion

Background

On May 24, 1991, Hamilton Standard applied for type certification for a new Model 247F-1 propeller. This propeller is constructed using all composite blades, a novel and unusual design feature. Propellers constructed entirely of composite material have additional airworthiness considerations not currently addressed by Part 35 of the FAR's. Those additional airworthiness considerations associated with propellers constructed using all composite blades are propeller integrity following a bird strike, propeller integrity following a lightning strike, and propeller fatigue strength when exposed to the deteriorating effects of in-service use and the environment.

Type Certificate Basis

Under the provisions of § 21.17 of the FAR's, Hamilton Standard must show that the Model 247F-1 propeller meets the requirements of the applicable regulations in effect on the date of the application. Those Federal Aviation Regulations are § 21.21 and part 35, effective February 1, 1965, as amended.

The Administrator funds that the applicable airworthiness regulations in part 35, as amended, do not contain adequate or appropriate safety standards for the Model 247F-1 propeller because it is constructed using composite material. Therefore, the Administrator proposes special conditions under the provisions of § 21.16 of the Federal Aviation Regulations to establish a level of safety equivalent to that established in part 35.

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

Novel or Unusual Design Features

The Hamilton Standard 247F-1 propeller incorporates propeller blades constructed using composite material. This material has fibers that are woven or aligned in specific directions to give the material directional strength properties. These properties depend on the type of fiber, the orientation and concentration of fiber, and the matrix material. Composite materials exhibit multiple modes of failure. Propellers constructed of composite material must demonstrate continued airworthiness when considering these novel design features not associated with propeller blades constructed using other materials.

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

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

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

Conclusion

This action affects only the Hamilton Standard Model 247F-1 propeller and

future propeller models within this series. It is not a rule of general application, and it affects only the manufacturer who applied to the FAA for approval of this propeller model.

List of Subjects in 14 CFR Part 35

Air Transportation, Aircraft, Aviation safety, Safety.

The Proposed Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes the following Special Conditions for the Hamilton Standard Model 247F-1 Propeller:

The authority citation continues to read as follows:

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

(a) For purposes of these special conditions, a hazardous condition is considered to exist for each of the following conditions:

(1) Loss of the propeller blade, or a major portion of a blade.

(2) Overspeed of the propellers.

(3) Unintended movement of the blade below the established minimum inflight blade angle or to an angle that results in excessive drag.

(4) For the purpose of these special conditions the inability to feather the propeller when necessary.

(b) In addition to the requirements of Federal Aviation Regulation part 35, the following must be shown:

Bird Strike

For propeller of composite construction it must be shown that:

The propeller can withstand a 4 pound bird strike at the blade's critical radial location when operating at takeoff RPM and liftoff (Vr) speed of a typical aircraft, without giving rise to a hazardous condition and while maintaining the capability to be feathered.

Lightning Strike

A lightning strike on a propeller of a composite construction shall not result in a hazardous condition. The propeller shall be capable of continued safe operation.

Fatigue Evaluation

A fatigue evaluation must be provided and the fatigue limits determined for each propeller hub, blade and each primary load carrying component of the propeller. The fatigue evaluation must consider all known and reasonable foreseeable vibration and cyclic load patterns that may be encountered in service. The fatigue limits must account for the effects of in-service deterioration such as impact damage, nicks, grooves, galling, or bearing wear; for variations in production material properties; for environmental effects such as temperature, moisture, erosion, chemical attack, etc., that cause deterioration.

Issued in Burlington, Massachusetts, on October 2, 1992.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92-25010 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-164-AD]

Airworthiness Directives; Beech Model 400A and 400T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech Model 400A and 400T series airplanes. This proposal would require replacing the existing link assembly of the uplink mechanism of the main landing gear door with an improved link assembly. This proposal is prompted by an investigation, conducted by the manufacturer, which revealed that uplock links installed on certain airplanes were undersized. The actions specified by the proposed AD are intended to prevent snagging of the end clevis fitting and kinking (and subsequent failure) of the emergency release cable of the main landing gear, which may prevent extension of the main landing gear.

DATES: Comments must be received by December 2, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-164-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, Propulsion Branch, ACE-140W, FAA, Small Airplane Directorate, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4122; fax (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-164-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-164-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Recently, an incident occurred in which the undercarriage of a Beech Model 400A series airplane could not be retracted. An investigation, conducted by the manufacturer, revealed that the uplock links installed on certain Beech Model 400A and 400T series airplanes were undersized. This investigation also revealed that undersized link assemblies caused the end clevis fitting on the

emergency release cable of the main landing gear door to overtravel and become snagged. This condition, if not corrected, could cause snagging of the end clevis fitting on the emergency release cable and kinking of the emergency release cable of the main landing gear door. Snagging may prevent normal extension of the main landing gear and cable kinking may cause cable failure, which would prevent the emergency extension of the main landing gear.

Subsequent to the incident described above, production parts were inspected and undersized parts were purged. New link assemblies having correct dimensions were provided to the manufacturer by the vendor.

The FAA has reviewed and approved Beechcraft Service Bulletin 2447, dated June 1992, that describes procedures for replacing the existing link assembly of the uplink mechanism of the main landing gear door with an improved link assembly.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacing the existing link assembly of the uplink mechanism of the main landing gear door with an improved link assembly. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 38 Beech Model 400A and 400T series airplanes of the affected design in the worldwide fleet. The FAA estimates that 27 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $700 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $27,810. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Beech Aircraft Corporation: Docket 92-NM-164-AD.

Applicability: Model 400A series airplanes having serial numbers RK-1 through RK-32, inclusive; and Model 400T series airplanes having serial numbers TT-1 through TT-6, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent snagging of the end clevis fitting and kinking (and subsequent failure) of the emergency release cable of the main landing gear, which may prevent extension of the main landing gear, accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, replace the existing link assembly from the uplink mechanism of the main landing gear door with an improved link assembly, in accordance with Beechcraft Service Bulletin 2447, dated June 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 29, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-25006 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-134-AD]

Airworthiness Directives; Beech Model 400 and Mitsubishi Model MU-300-10 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Beech Model 400 and Mitsubishi Model MU-300-10 airplanes. This proposal would require a revision to the Airplane Flight Manual (AFM) to include certain performance limitations. This proposal is prompted by results of recent tests that have revealed that climb performance with one engine inoperative was less than that shown in the AFM for these airplanes. In addition, N_1 thrust settings made by the pilot during takeoff roll have been observed to decrease as takeoff progresses, resulting in a decrease in thrust that is not presently accounted for in the AFM. The actions specified by the proposed AD are intended to ensure that the required minimum takeoff and climb performance can be achieved for each approved combination of takeoff or landing configuration, weight, pressure altitude, and temperature.

DATES: Comments must be received by December 2, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-134-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from

Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Carlos Blacklock, Aerospace Engineer, Flight Test Branch, ACE-160W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4166; fax (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-134-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-134-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Results of recent tests performed on Beech Model 400 airplanes have revealed that data related to climb performance with one engine inoperative were less than those data shown in the FAA-approved Airplane Flight Manual (AFM) for these airplanes. In addition, N_1 thrust settings made by the pilot during takeoff roll have been observed to decrease as takeoff progresses, resulting in a decrease in thrust that is not currently accounted for in the takeoff field length and weight limits contained in the AFM. The FAA has determined that when these airplanes are operated at a maximum takeoff weight calculated by reference to the AFM for existing conditions of temperature and pressure altitude, the takeoff and climb performance required by Federal Aviation Regulations (FAR) § 25.1583(h) may not be achieved. This could result in an inability to clear obstacles, to climb after takeoff, to take off within the computed field length, to accomplish a go-around, and to land within the computed field length. The actions specified by the proposed AD are intended to ensure that the required minimum takeoff and climb performance can be achieved for each approved combination of takeoff or landing configuration, weight, pressure altitude, and temperature.

The FAA has reviewed and approved the BEECHJET 400 Airplane Flight Manual, A9 Revision, part number 128-590001-1349, dated August 14, 1992, that describes revisions to certain performance limitations for the affected airplanes.

Mitsubishi Model MU-300-10 airplanes are identical to Beech Model 400 airplanes and are required to use the BEECHJET 400 AFM in lieu of the AFM provided originally at the time of delivery of the airplane. Therefore, the FAA has determined that Mitsubishi Model MU-300-10 airplanes are also affected by the addressed unsafe condition. These airplanes have been included in the applicability of the proposed AD.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a revision to the Limitations Section of the FAA-approved AFM for these models to include certain performance limitations.

The FAA estimates that 64 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,520. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Beech Aircraft Corporation: Docket 92-NM-134-AD.

Applicability: All Beech Model 400 airplanes and Mitsubishi Model MU-300-10 airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the required minimum takeoff and climb performance can be achieved for each approved combination of takeoff or landing configuration, weight, pressure altitude, and temperature, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved BEECHJET 400 Airplane Flight Manual by inserting the new pages contained in the BEECHJET 400 Airplane Flight Manual, A9 Revision, part number 128-590001-13A9, dated August 14, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), ACE-115W, FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 29, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-25007 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-170-AD]

Airworthiness Directives; Short Brothers Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Short Brothers Model SD3-60 series airplanes, that currently requires repetitive inspections of the horizontal stabilizer rear spar web fuselage attachment fitting area for defective rivets, and repair, if necessary. This action would clarify that the aft face of the front spar web need not be inspected. This proposal is prompted by a report that a requirement to inspect the aft face of the front spar web was inadvertently included in the existing AD. The actions specified by the proposed AD are intended to ensure that only the appropriate area of the horizontal stabilizer is inspected.

DATES: Comments must be received by December 2, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-170-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Short Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3719. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Jenkins, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-170-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-170-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On March 20, 1989, the FAA issued AD 89-07-14, Amendment 39-6176 (54 FR 12588, March 28, 1989), to require repetitive inspections of the horizontal stabilizer rear spar web fuselage attachment fitting area for defective rivets, and repair, if necessary. That action was prompted by reports of failure of rivets connecting the stabilizer rear spar web to the fuselage attachment fittings due to vibration of the tailplane during takeoff. The requirements of that AD are intended to prevent loss of structural integrity of the attachment of the horizontal stabilizer to the fuselage and reduced life of the tailplane.

Since the issuance of that AD, the FAA has become aware of a requirement in the AD that was inadvertently included. The AD correctly requires inspection of the forward face of the rear spar web in accordance with Shorts Service Bulletin SD360-55-16, dated April 1988. However, that AD incorrectly includes a requirement to inspect the aft face of the front spar web as well. The FAA did not intend to include such a requirement in the AD. Further, the referenced service bulletin contains no procedures for accomplishing such an inspection of the aft face of the front spar web.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the United Kingdom Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the identified unsafe condition continues to exist, the proposed AD would supersede AD 89-07-14 to retain the requirement to inspect the forward face of the horizontal stabilizer rear spar web for defective rivets, and repair, if necessary. However, this proposal would delete the requirement to inspect the aft face of the front spar web, which was erroneously included in the existing AD.

The format of the proposed AD has been restructured to be consistent with the standard **Federal Register** style.

Paragraph (d) of the proposed AD (designated as paragraph D. of the previously issued rule) has been revised to clarify the procedure for requesting alternative methods of compliance with this AD.

This proposed AD would require no additional work to be performed by affected operators, since it would delete a previously required action.

The FAA estimates that 51 airplanes of U.S. registry would continue to be affected by the requirements that would be retained in this AD action. To accomplish those actions, it would take approximately 8 work hours per airplane, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $22,440, or $440 per airplane. This total cost figure assumes that no operator has yet accomplished the currently required actions that would be retained in this AD.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6176 (54 FR 12588, March 28, 1989), and by adding a new airworthiness directive (AD), to read as follows:

Short Brothers, PLC: Docket 92-NM-170-AD. Supersedes AD 89-07-14, Amendment 39-6176.

Applicability: Model SD3-60 series airplanes, serial numbers SH3601 through SH3691, inclusive, and SH3694; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note: Paragraph (a) of this AD restates the requirements of AD 89-07-14, Amendment 39-6176. As allowed by the phrase, "unless accomplished previously," if the requirements of AD 89-07-14 have been accomplished previously, paragraph (a) of this AD does not require those inspections to be repeated.

To prevent loss of the structural integrity of the horizontal stabilizer attachment to the fuselage, accomplish the following:

(a) Visually inspect, in accordance with the schedule listed below, the forward face of the rear spar web for defective rivets between fuselage attach fitting at 12.5" left and right of the airplane center line, in accordance with Shorts Service Bulletin SD360-55-16, dated April 1988.

(1) For airplane serial numbers SH3680 through SH3691, inclusive, and SH3694, and for airplanes affected by this AD that have used only a 15 degree takeoff flap setting since before or upon reaching 5,000 flights, inspection is required within the next 100 flights after April 28, 1989 (the effective date of AD 89-07-14, Amendment 39-6176), or prior to the total accumulation of 12,000 flights, whichever occurs later. Repeat the inspection at intervals not to exceed 1,500 flights.

(2) For all other airplanes affected by this AD, inspection is required within the next 100 flights after April 28, 1989, or prior to the accumulation of 8,000 flights, whichever occurs later. Repeat the inspection at intervals not to exceed 1,000 flights.

(b) If defective rivets are found, prior to further flight, repair in accordance with Part II of Shorts Service Bulletin SD360-55-16, dated April 1988. After repair, continue inspections in accordance with paragraph (a) of this AD.

(c) The repetitive inspections required by paragraph (a) of this AD may be terminated following completion of the modification of the horizontal stabilizer spar webs (Modification 7998), in accordance with Shorts Service Bulletin SD360-55-12, Revision 2, dated November 1986.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 29, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-25008 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-14-M

Office of the Secretary

14 CFR Parts 221 and 389

[Docket No. 48365; Notice No. 92-19]

RIN 2137-AC18

Electronic Filing of Property and Passenger Tariffs

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would allow all air carriers and foreign air carriers to file electronic passenger rules and property tariffs, inclusive of all rules, regulations, rates and charges. This proposal, with the previously approved electronic filing of passenger fares that began December 18, 1989, would allow all tariff information to be filed using electronic media instead of paper. All filers would still be allowed to file paper tariffs. Additionally, RSPA proposes to: Eliminate excess filing of tariff information; prescribe the form and content of electronic fare rules; require a finished electronic tariff arrangement or format in addition to the existing subscription service for electronic raw tariff data, and allow the filer to charge a fee to reproduce electronic tariffs in a finished construction; clarify the tariff regulations affecting the filer's proposed effective date of an electronic tariff filing; and revise the user fee regulations to reflect current costs and to clarify the initial exclusion from electronic user fees for electronic tariff filers.

DATES: Comments should be received no later than November 16, 1992.

ADDRESSES: Five (5) copies of any comments should be sent to the Documentary Services Division, C-55, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20593, and should refer to this Docket. Acknowledgement of comments require you to include a stamped, self-addressed postcard which the Docket Clerk will time and date-stamp and return.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Brocenos or Mr. Dean Johnson, Office of Automated Tariffs, DAT-1, Research and Special Programs Administration (RSPA), Department of Transportation, at the address above. Telephone: (202) 366-2412.

SUPPLEMENTARY INFORMATION:

Background

History of Electronic Tariff Filing to Date

The Department of Transportation (DOT or Department), after a six-month testing period that began in 1989, permitted both U.S. air carriers and foreign air carriers to officially file electronic tariffs and to publish their passenger fares (prices only) electronically effective December 18, 1989 (54 FR 2087, January 19, 1989). Most U.S. air carriers and foreign air carriers ceased to file their passenger fares on paper at that date. The remaining tariff publications are required to be filed on paper in the manner prescribed pursuant to Subparts A-V of 14 CFR part 221. Section 403 of the Federal Aviation Act of 1958 (Act), as amended, 49 U.S.C. 1373, requires air carriers and foreign air carriers to file tariffs setting forth all fares, rates and charges, as well as the related rules, that are applicable to the carriage of persons and property in foreign air transportation.

The review and approval of electronic tariffs since December 18, 1989 has been restricted to passenger price information (fares), which make reference to supporting tariff matter still published in printed tariff pages (rules text that contain conditions for application of the price).

Subsequently in November 1991, RSPA began a Pilot Program to test the unified submission into the Electronic Tariff System (ETS) of both passenger fares tariffs and the rules that contain conditions for application of the fares. Although some technical corrections remain to be made for electronic rules, the test is satisfactory as proof of the concept of electronic text filing, and it supports moving forward with complete electronic filings of passenger tariffs.

Electronic filing of the current passenger fare (price) data is performed by an air carrier or its filing agent. The Airline Tariff Publishing Company (ATPCO), one filing agent, represents a substantial portion of the industry in both electronic and paper tariff filings with RSPA. There is no single source of tariff information at present. More than one tariff filer exists, and potential exists for more than one electronic filer. There are approximately 245 tariffs of air carriers filed with RSPA. These tariffs contain millions of effective passenger fares, property charges and cargo rates.

Most U.S. and foreign air carriers filing paper and electronic tariffs with RSPA use ATPCO as their filing agent, and ATPCO has 146 tariffs filed with RSPA. In addition, Cargo Rate Services has 5 tariffs on file, and individual air carriers have 94 tariffs filed with RSPA's Office of Automated Tariffs.

ATPCO, the only electronic tariff filer, is owned by a consortium of air carriers, including both U.S. and foreign air carriers that file tariffs with RSPA. ATPCO's daily electronic tariff filings are transmitted from the ATPCO computer to RSPA computer terminals.

Each fare filing is in an individual record, or Government Filing Advice (FA). Each filing, or a fare in the filing, may be approved or disapproved by the Office of Automated Tariffs (DAT-1, RSPA), and recorded in the official tariff database as well as in the ATPCO computer.

A single passenger tariff filing by one carrier may contain only one rule provision and no fares, or only a few fares and rules. At the other extreme, a single filing may consist of multiple rule provisions and may include as many as several hundred thousand individual fares that affect air carrier ticket pricing. The daily official database record of approved or rejected air carrier fare proposals, on magnetic tape, is transmitted daily by ATPCO to the Volpe National Transportation Systems Center (VNTSC) in Cambridge, Massachusetts, as the official DOT tariff database records.

The official database tariff records of RSPA, electronic tariff system (ETS), are stored with and maintained in archive form by VNTSC. Any person wanting to review the tariffs as to the accessibility and retrieval of each individual carrier's tariff records may do so at RSPA's Office of Automated Tariffs, room 6424, 400 Seventh Street, SW., Washington, DC 20590.

ATPCO's Petitions

ATPCO in a November 1990 petition in Docket 47288 asked the Department to amend 14 CFR part 221 subpart W—"Electronically Filed Tariffs" to expand the electronic tariff filings to include passenger fare rules and property rules, charges and rates. The Department had already acted upon an emergency rulemaking request from the industry filed in Docket 43343, Notice 88-10, and initiated electronic filing on December 18, 1989, restricted to passenger fares, arbitraries, footnotes, routings, and fare class explanations, and excluded electronic text such as tariff rules.

Regulatory Review and Moratorium

On January 28, 1992, President Bush announced a 90-day moratorium and review of regulations to identify unnecessary and burdensome regulations. In response to the President's announcement, DOT published a February 7, 1992 notice in Docket RR-1 (57 FR 4744) requesting public comment on DOT's regulatory programs. During this review period, RSPA identified tariff filing as an area where computer automation could provide significant regulatory relief and reduce burdens to the air carrier industry. DOT's report to the President identifies electronic tariff filings as a high priority administrative action.

Republish Subpart W

While only those portions of Subpart W discussed in this preamble are proposed to be revised, for clarity, Subpart W is being republished in its entirety. Minor editorial changes are also proposed, such as replacing DOT or the Department with RSPA, where appropriate. The following subheadings describe the proposals in detail.

Passenger Tariffs—Unified Filing of Passenger Fares and Rules

RSPA has identified tariff filings as an area where computer automation offers significant potential for paperwork reduction, and proposes to accept complete electronic filings of passenger tariffs in a unified electronic tariff system. RSPA proposes to allow any filer (hereafter, a U.S. air carrier or foreign air carrier or their agent) to file completely electronic international passenger tariffs, consisting of both the price of the air transportation (fare) and the related text conditions which determine the application of the fares (rules). Electronic filing of rules is proposed, because the technology available to the Department and the industry has developed so that electronic filing of rules text is feasible.

Property Tariffs—Completely Electronic, Unified Filings

RSPA proposes to allow any filer to file completely electronic international property tariffs for air freight cargo and other shipments, consisting of both the price of the air transportation and the related text conditions (rules) for the application of the price. Among these tariffs are included General Commodities rates, Exceptions to the General Commodities rates, and Specific Commodity rates.

Regarding RSPA's proposal for the acceptance of electronic property tariffs, RSPA plans to work with filers who propose to submit such tariffs under the conditions specified in § 221.260. Therefore, in 1993, RSPA would accept electronic filing of property tariffs, including cargo rates and rules, from filers who meet the specified conditions. In conjunction with this initiative in 1993, RSPA plans to poll the air transport industry as to the model form of an electronic property tariff, and RSPA expects that this will include circulating a questionnaire to the industry, and developing RSPA computer systems based upon the air carriers' responses.

Elimination of Excess Filing of Changed or Expired Tariff Matter Two Years After It Is No Longer Effective

To eliminate an unnecessary burden to filers, RSPA proposes to remove the requirement in § 221.260(b)(7) that a filer file, on electronic media, expired tariff matter two years after it is no longer effective. This would ease the burden on the air transport industry of having the filer submit similar data to RSPA twice, once on magnetic media when the original filing is made, and again on magnetic media on a date two years after the filed tariff matter is changed or expires, and is no longer effective.

Filer's Responsibility to "Publish" or Reproduce Electronic Tariffs

Each filer is responsible for the form and content of its tariff matter before and after the tariffs are filed with the Department, whether or not submitted by the individual air carrier or through a filing agent, as provided in 14 CFR 221.10 and 11. This duty is also implicit in § 221.172 "Accessibility of tariffs to the public." This requirement applies whether the filer submits the tariff matter to DOT on paper (Subparts A through U) or as electronic media (Subpart W). The subscription service provided for in § 221.600 prescribes that the tariff filer shall make "raw" tariff data in machine-readable form available to subscribers for an appropriate fee, and this proposal would provide for the machine-readable data to be available in finished tariff pages.

RSPA proposes that § 221.260(b)(7) be changed to provide for a finished electronic tariff arrangement, or format, and allow the filer to reproduce electronic tariffs in a finished construction for a fee, so that the tariff may be reproduced on paper, in whole or in part. Upon request from the public, and after the filer has provided at least one free copy of selected tariff matter in compliance with the requirements of § 221.170, RSPA proposes that the requestor shall be provided the entire electronic tariff, or specific requested price and conditions from the electronic tariff. The electronic tariff, in whole or in part, would be reproduced from the electronic media in a tariff page facsimile that reasonably approximates the printed tariff in compliance with subpart D—"Contents of Tariff" and other requirements of part 221 as to arrangement of tariff matter, as illustrated in § 221.248.

RSPA proposes to clarify that the filer shall make available finished tariffs to the general public, and not merely to those requestors who have large computer systems. Therefore, the regulations are proposed to be rewritten to require that the filer shall provide a means for any person to request and obtain specific price and conditions from the electronic tariffs and to reproduce electronic tariff matter in a form that reasonably approximates the former printed tariff pages.

Clarification of Tariff Regulations Affecting the Filer's Proposed Effective Date and Advance Notice of an Electronic Filing

Tariffs are required by section 403 of the Act. Advance Notice is required for a tariff filing by § 221.160 *et seq.* for an official tariff filing and § 221.190 *et seq.* for a Special Tariff Permission. Notice may be statutory notice (which by international agreement may be 30 days or some other agreed upon period) or short-notice (as little as one-day notice) under a Special Tariff Permission Application (paper or electronic), where the RSPA Office of Automated Tariffs waives the notice requirement and accepts a filing under less than statutory notice.

The cited provisions of Part 221 currently require one or more days of notice, and a filing that does not provide such notice is subject to disapproval. A filing that is received after 5:30 p.m. on a Federal business day is received upon and has a filed date of the next business day, and if it proposes an effective date of that day, the filing does not provide at least one day notice before the proposed effective date.

Therefore, in the proposed § 221.270, RSPA would clarify the regulations as to the use of the Federal business day date to establish the proposed tariff filings' proposed effective date and to maintain the required notice before the filing advice becomes effective. This clarification would not limit the time that any filing may be made by any air carrier, since electronic filings would continue to be permitted on a 24-hour basis. Electronic filings have not been and are not proposed to be limited to the Federal business day. An electronic filing received after the Federal business day must propose an interval of time that provides at least one day notice before the proposed effective date.

Form and Contents of an Electronic Rule

Regarding electronic rule requirements, this proposal would amend § 221.260 to require that a change to electronic filing from paper filing shall require the filer to ensure, and affirm in an affidavit to RSPA's Office of Automated Tariffs, that the existing official effective and prospective tariff matter, including rules provisions and limitations, in the tariff will be reflected in the electronic tariff. The requirement for an affirmation as to the accuracy of the tariff records is presently contained in § 221.500(b)(1). We are proposing to move it to 221.250(a) as part of the application requirements for filing. Consequently, the requirement in § 221.500(b)(1) to submit an affidavit with a copy of the existing records would be deleted. The proposed format of the electronic rule would also be required to be submitted for approval by the Office of Automated Tariffs by § 221.260(b)(1), and approved, before an official electronic rule submission is attempted by an electronic filer.

RSPA proposes specific criteria in § 221.281 as to the form and contents of an electronic rule and its relationship in the tariff, and that the electronic rules provisions require a clear statement and systematic arrangement. The requirements of § 221.38 in Subpart D as to the form and content of rules and regulations would continue apply to electronic tariffs as well as paper tariffs, and these proposed criteria would clarify how compliance would be achieved by an electronic filer. RSPA proposes to require in § 221.279 that, if a filer elects to revise and refile a previously disapproved electronic FA, the filer would reference the prior disapproved FA so that the relationship of the filings is maintained. RSPA also

proposes to revise the existing requirements in § 221.284 that require a unique rule number for each carrier that proposes a zone-controlled fare, such as a Standard Foreign Fare Level (SFFL) fare, so each filer provides a unique rule number for its zone-controlled fares. There would be only one such unique rule number for each carrier, although each carrier may have a different unique number.

This proposal would also add a new § 221.281(d) requirement that prescribes in detail the components of an electronic rule provision, and provisions for the modification of the prescribed electronic rule provisions.

To ensure a clear statement and systematic arrangement of electronic rules, RSPA specifically proposes that rules and text fares conditions are hierarchal, that is, the requirements range from the most broad provisions in a general rule to the more fare-specific rules of limited application. This systematic arrangement is designed to provide the general public and RSPA with a clear and unambiguous presentation of the filer's tariff information as to the conditions placed upon proposed fares and rates, including rules that are fare specific, as provided in § 221.38(d) Rules of Limited Application. It is proposed that, if a filer prescribes the existence of a specific fare restriction in a general rule (e.g., advance purchase, capacity control limits or minimum stay), the filer would indicate in the general rule where the specific details of the restriction are recorded in the sequence of restrictions in a fare-specific rule, and, if a separate rule, the rule number. For example, regarding capacity controls limits on fare proposals, the absence of information in the general rules that capacity controls apply in the tariff shall be an assurance to the tariff user that there are no capacity control limits.

General rules must encompass all individual fare, rule and footnote conditions; fare rules must encompass all footnote conditions; footnotes are fare specific, because footnotes are subsidiary to each particular fare in the fare tables.

Electronic rule filing must precede or accompany an electronic fare submission. Each electronic rule shall have a title that generally describes its contents, and each electronic rule shall be consistently numbered and systematically arranged. An effective date is required for each electronic rule provision filed, and each fare text footnote condition must have an effective date of application. Each electronic filing that references an electronic rule or electronic footnote shall provide for access directly from the filing in a timely matter to the relevant text conditions.

Presentation of Fare or Rate and Service Data and Effective Date

RSPA proposes to require in § 221.283(b)(8) that the electronic fare class or rate field shall include in the left-justified position(s), the service class for each passenger fare or cargo rate filed. For economy of representation in an automated system, the type of service class would be identified by the number shown following the description (First Class, 1; Business Class, 2; Coach/Economy/APEX/PEX/Others, 3; SFFL/Zone-Controlled, 4; GCR General Commodity Rate, 5; SCR Specific Commodity Rate, 6; and, Exceptions to a GCR, 7). Since a relevant type of service currently is identified in a tariff filing, the effect of this change is simply to require a more intelligible presentation.

The RSPA Office of Automated Tariffs staff are confronted with a large volume of electronic filings, over a thousand each month, that on average contain over a million electronic records each month, and millions each year. Each of the millions of electronic records filed during a year may contain a price change that would be described by one of the types of service proposed. RSPA anticipates that significant improvements in the speed of processing of electronic tariff filings by RSPA would be made possible by adopting this proposal, which would facilitate the use of routine-action criteria and computer-based edits and analyses of the electronic tariff proposals.

Proposed information in an electronic fare or rate filing would include the type of service left-justified in the same electronic field with the fare class or the rate class, as shown by the following example extracted from an electronic fare filing advice, using the type of service class 4 and fare class Y2. In this example, the proposal would add a 4 to the left of the existing Y2 fare class data field, as follows:

PROPOSED PRESENTATION IN AN ELECTRONIC FILING

Market	Fare	Fare class
AAA-BBB	$99	4Y2

Further, § 221.283 currently requires that the proposed effective date of a fare, which is a date that a carrier proposes, be shown adjacent to the passenger fare (price) in an electronic filing. Each filing may contain thousands of individual fares, and each fare may have different dates when the fare is effective, including the date a fare is effective for sale and the dates a fare is applicable for travel, ticketing or other restrictions.

Because the travel effective date(s) (when the filer proposes that travel may commence under a fare) may differ from the effective date of the fare filed, RSPA is proposing that, in addition to the proposed effective date for the fare, the fare effective date(s) for travel (when travel may commence under that fare), together with the fare discontinue or expiration date, shall be shown in the filing advice adjacent to the passenger fare, § 221.283(b) (4) and (5), and § 221.283(c) (9) and (10).

The travel effective dates, when specified by a carrier, are necessary to determine the application of the fare for travel in order to prohibit conflicting or duplicating fares, as required by § 221.60. The period of validity of a fare for travel (from commencement to last travel day or date a fare is changed or canceled), when specified by a carrier, is also essential to a determination of a through or joint fare for travel, as required by § 221.62(b). Therefore, these dates are already required to be presented with the fare by the cited § 221.50 *et seq.* (Subpart E), as well as Subpart W, since the application of the fare for travel is necessarily based upon the filer's specified travel dates.

Although the existing regulations thus require the travel effective dates to be included in the filing, they are currently shown separately as footnote or fare rule text information, and this proposal would require the travel effective dates to be shown adjacent to the price information in the fare filing.

To illustrate, following is an example, showing a proposed fare from city AAA to BBB of $99, with proposed fare effective and discontinue dates of January 18 and March 10, 1992, respectively, and the result of the proposal.

In this example, the $99 fare is effective for travel on March 1 and the last day the fare is effective for travel is March 10, 1992:

PROPOSED PRESENTATION IN AN ELECTRONIC FA

Market	Fare	EFF-DIS	Travel EFF-DIS
AAA-BBB	$99	18JAN92-10MAR92.	01MAR92-10MAR92

Current information in a fare filing displays the fare effective date(s), as follows:

EXTRACT FROM A CURRENT FARE FILING ADVICE

Market	Fare	EFF-DIS
AAA-BBB	$99	18JAN92-10MAR92

This action is being proposed, because the proposed fare effective date(s) for travel are as important as the proposed effective date of the fare filed. The application of the fare for travel cannot be readily determined for the huge volume of filings received, and the fare effective dates for travel in the official DOT tariff database cannot be accessed efficiently, unless the travel dates are shown in the electronic filing adjacent to the fare, rather than in a separate rule or footnote. As applicable, this presentation also is proposed for property rates, and where the effective dates and transportation dates are identical, only the effective dates are presented.

User Fees

Due to RSPA's increased costs since the fees were established in 1989, RSPA proposes to increase the user fees prescribed in § 389.25(b) that it collects for tariff filings. RSPA specifically would update the fee schedule from five to ten cents for each electronic record of passenger fares, property charges or cargo rates, and provide for a fee of $2 for each electronic rule provision, since these fees are indicated by RSPA's current costs. Fees have not been previously prescribed for electronic rules provisions, since rules have been filed only on paper tariff pages prior to this proposal.

Each separate rule provision is the equivalent of a separate paper tariff rule page, and RSPA's data reveals that, on average, there are three provisions for each rule filing, and about 100 passenger tariff rules are received every Federal business day. Under the electronic tariff system, each individual component of a rule may be changed individually, and each provision would have its own effective date. Since each provision may be revised in isolation, as if it were a separate electronic page, the reasonable approach to establishing a user fee for electronic text tariff matter is to apply a $2 user fee, that reflects RSPA's current costs, to each provision.

No change is proposed to the existing fees of $2 a page and $12 for each Special Tariff Permission Application (STPA), since these two user fees are expected to almost disappear as this proposal is implemented. RSPA anticipates there will be only about 6,000 tariff pages and only a few hundred paper STPA's each year.

The STPA is not an official tariff filing, and it represents a filer's request to submit an official tariff filing on less than statutory notice, and provides advance notice as to the information the filer proposes to submit in an official tariff filing. The paper tariff pages and STPA's would come from filings associated with general tariff rules, and from a few filers that elect to make paper tariff filings.

The user fee increase to ten cents for each electronic record and the new fee of $2 for each electronic rule provision, together with the existing fee of $2 a page and $12 for each STPA, are expected to generate the funds of approximately $1 million each year that are required over the next several years to complete the electronic tariff system, of which about $500,000 is required each year for operations and programming, and the remainder for acquiring equipment and developing the systems and procedures to accommodate electronic cargo tariff filings and to improve the pace of RSPA tariff processing to meet RSPA objective for processing each filing on the most timely basis practicable. These user fees will provide for contractor support, new computer programs and computers to complete the automation of RSPA's Office of Automated Tariffs' Electronic Tariff System.

RSPA also proposes to clarify § 389.25 as to the exclusion from filing fees of those records submitted pursuant to § 221.500(b)(1) for first-time electronic filers, confirming that this is a one-time exemption for the initial electronic submissions of filers.

Regulatory Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

RSPA has determined that this proposed rule is not major under Executive Order 12291. However, the rule is significant under DOT's Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). The Department's Report to the President in April 1992 identified this proposal as a high priority administrative action, because this proposal will minimize paperwork burden significantly for all U.S. and foreign air carriers that file tariffs. A regulatory evaluation in this Docket shows that the benefits of the proposed rule exceed the costs to the industry and the Federal government in a ratio of about 3 to 1, because the industry is expected to save another $3 million each year (in addition to the $12 million that the passenger fare electronic filings continue to generate) for a total savings of about $15 million each year, in comparison with tariff user fees that are anticipated to be about $1 million each year. Further, the proposed rule should reduce significantly the tariff processing and paperwork burdens of the air carriers and RSPA, reducing paper tariff filings to about 6,000 pages each year, from several hundred thousand pages filed each year under the paper-based tariff filing system.

Regulatory Flexibility Act

I certify that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities, because the tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing scheduled service tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file scheduled service tariffs under § 403 of the Federal Aviation Act.

Executive Order 12612

This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism

implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

With respect to the Paperwork Reduction Act, this proposed rule contains information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act. This proposal will substantially reduce paperwork burden, as described in detail in the Regulatory Evaluation in this docket.

If these proposed regulations are implemented, tariff filings would be reduced to about 6,000 pages each year, in lieu of several hundred thousand paper tariff pages formerly filed each year. Paper tariff filings would be replaced by electronic filing of tariffs by most filers, except for those few that elect to use paper. Electronic filing of passenger fares has already reduced annual paper tariff pages from over 300,000 in 1989, when electronic filing began, to slightly more than 100,000 pages that continued to be filed each year, and this proposal will allow filers to eliminate paper filing altogether, if they choose.

The reporting and recordkeeping requirement associated with this rule are being submitted to OMB for approval in accordance with 44 U.S.C. chapter 35 under DOT No. 2137–AC18; OMB No.: 2106–0009; Administration: Research and Special Programs; Title: 14 CFR Part 221 Electronic Filing of Property and Passenger Tariffs; Need For Information: Section 403 of the Federal Aviation Act requires U.S. and foreign air carriers to file tariffs which set out the fares, rates, charges, rules governing international air transportation; Proposed use of Information: Tariffs, fares, rates for public use in international air transportation; Frequency: A tariff filing is required of each respondent; changes are voluntary; Burden Estimate: 1,695,373 hours annually; for 20.7 million electronic records; Respondents: 170; Forms(s) 121,765 records per respondent; Average Burden Hours per Respondent: 0.0819 hours per response, or almost 5 minutes for each electronic record.

For further information contact: The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4735 or Edward Clark, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503, (202) 395–7340.

Any comments regarding the burden estimate or any aspect of these information requirements, including suggestions for reducing the burden, may be sent to: Director, Office of Automated Tariffs, DAT–1, U.S. Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., room 6424, Washington, DC 20590–001 as well as the above contact.

Regulation Identifier Number

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

List of Subjects

14 CFR Part 221

Air fares and rates, Freight, Reporting and recordkeeping requirements.

14 CFR Part 389

Administrative practice and procedure, Fees and charges, Reporting and recordkeeping requirements.

This rule is being issued under the authority contained in 49 CFR 1.56(j)(2)(ii), which by Memorandum of Understanding has been delegated to the Administrator, Research and Special Programs Administration. For the reasons set forth herein, 14 CFR parts 221 and 389 are amended as follows;

PART 221—TARIFFS

1. The authority citation for part 221 continues to read as follows:

Authority: Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1461, 1482.

2. Section 221.4 Subpart A is amended by revising the definition of "Electronic Tariff", removing the definition of "ECAC agreement" due to the expiry of the agreement, and adding the following definitions in alphabetical order to read as follows:

§ 221.4 Definitions.

* * * * *

Discontinue or expiration date or a fare of rate means the date a fare or rate is changed or canceled, or expires under its own terms or, for a passenger fare, the last date the fare is effective for commencement of travel.

* * * * *

Electronic tariff means an international tariff or a special tariff permission application transmitted to RSPA Office of Automated Tariffs by means of an electronic medium.

* * * * *

International tariff means a tariff applicable to foreign air transportation of passengers or property (cargo, express and other air freight shipments) that is (a) a local or joint passenger tariff, (b) a local or joint proportional passenger fare or property tariff, and (c) a local or joint property tariff.

* * * * *

Passenger fare effective date for travel for each fare which shall be the actual date of commencement of travel.

* * * * *

SRFL (Standard Foreign Rate Level) means the Rate Level as established by the Department under § 399.41 of this title.

* * * * *

Tariff Number means a number assigned to a filed tariff by a filer that is consistently and systematically applied, as required in subpart D of part 221.

* * * * *

3. Section 221.165 is amended to add a new paragraph (d)(4)(iii) to read as follows:

§ 221.165 Explanation and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d)* * *

(4)* * *

(iii) Passenger fares and cargo rates that are zone-controlled and subject to specific tariff disclosures as to the percent of change from the previous filing, such as SFFL and SFRL filings, shall comply with the requirements of § 221.286, whether filed by electronic means, or filed on paper tariff pages.

* * * * *

4. Subpart W is revised to read as follows:

Subpart W—Electronic Filing of Property and Passenger Tariffs

Sec.

221.251 Applicability of the subpart.
221.260 Requirements for filing.
221.270 Time for filing and computation of time periods.
221.271 Electronic filing effective date and required notice.
221.275 Requirements for filing paper tariffs.
221.279 Identification of revised and refiled electronic filings.
221.280 Content and explanation of abbreviations, reference marks and symbols.
221.281 Clear statements and systematic arrangements of rules.
221.282 Statements of filing with foreign governments to be shown in air carrier's tariff filings.

Sec.
221.283 The filing of tariffs and amendments to tariffs.
221.284 Unique rule number required for certain fares or rates.
221.285 Adoption of provisions of one carrier by another carrier.
221.286 Justification and explanation for certain fares and rates.
221.287 Statement of fares.
221.300 Suspension of tariffs.
221.301 Cancellation of suspended matter.
221.302 Special tariff permission.
221.400 Discontinuation of electronic tariff system.
221.500 Filing of paper tariffs required.
221.600 Transmission of electronic tariffs to subscribers.
221.650 Copies of tariffs made from filer's printer(s) located in RSPA's Tariffs Public Reference Room.
221.700 Actions under assigned authority and petitions for review of staff action.

Subpart W—Electronic Filing of Property and Passenger Tariffs

§ 221.251 Applicability of the subpart.

(a) Any carrier, consistent with the provisions of this subpart, and part 221 generally, may file its international tariffs, in their entirety or in part, electronically in machine-readable form as an alternative to the filing of printed paper tariffs as provided for elsewhere in part 221. This subpart applies to all carriers and tariff publishing agents and may be used by either if the carrier or agent complies with the provisions of Subpart W. Any carrier or agent that files any portion of its tariffs electronically under this subpart must transmit to RSPA the remainder of the tariff in a form consistent with part 221, Subparts A–V on the same day that the electronic tariff would be deemed received under § 221.270(b).

(b) To the extent that subpart W is inconsistent with the remainder of part 221, subpart W shall govern the filing of electronic tariffs. In all other respects, Part 221 remains in full force and effect.

§ 221.260 Requirements for filing.

(a) No carrier or filing agent shall file an electronic tariff unless, prior to the filing, it has proposed a maintenance agreement or agreements, and received the approval of the RSPA Office of Automated Tariffs, for the maintenance and security of the on-line tariff database. If the filer proposes to expand or change an approved method of electronic filing, the approval of RSPA's Office of Automated Tariffs is required. When a filer makes a request to begin electronic filing in lieu of paper filing for the first time or requests a change in an approved method of electronic filing, the filer's letter of request shall provide an affidavit to the Office of Automated Tariffs attesting that the proposed electronic tariff material completely and accurately depict the existing official effective and prospective tariff matter, including applicable rules, provisions and limitations, in substance and essence of content, as district from form.

(b) No carrier or agent shall file an electronic tariff unless, prior to filing, it has submitted to the RSPA Office of Automated Tariffs, and received approval of, an application containing the following commitments:

(1) The filer shall file tariffs electronically only in such format as shall be agreed to by the filer and RSPA. The filer shall include with its application a proposed format of tariff. The filer shall also submit to RSPA all information necessary for RSPA to determine that the proposed format will accommodate the data elements set forth in § 221.283 or alternative elements that are consistent with § 221.50.

(2) The filer shall provide, maintain and install in the Tariffs Public Reference Room at the RSPA Office of Automated Tariffs one or more CRT devices and printers connected to its on-line tariff database. The filer shall be responsible for the transportation, installation, and maintenance of this equipment and shall agree to indemnify and hold harmless RSPA and the U.S. Government from any claims or liabilities resulting from defects in the equipment, its installation or its maintenance.

(3) The filer shall provide public access to its on-line tariff database at RSPA during normal business hours.

(4) The access required at RSPA headquarters by this subpart shall be provided at no cost to the public or RSPA.

(5) The filer shall provide RSPA access to its on-line tariff database 24 hours a day, 7 days a week, except that the filer may bring its computer down between 6 a.m. and 6 p.m. Eastern Standard Time or Eastern Daylight Savings Time, as the case may be, for maintenance or for operational reasons.

(6) The filer shall ensure that RSPA shall the sole ability to approve or disapprove electronically any tariff filed with RSPA and the ability to note, record, and retain electronically the reasons for approval or disapproval. Except as authorized in writing by RSPA's tariff approving official, the carrier or agent shall not make any changes in data or delete data after it has been transmitted electronically, regardless of whether it is approved, disapproved, or withdrawn. The filer shall be required to make data fields available to RSPA in any record that is part of the online tariff database.

(7) The filer shall maintain all fares, rates, rules, routings or other tariff provisions filed electronically with RSPA and all RSPA approvals, disapprovals, and other actions, as well as all RSPA notations concerning such approvals, disapprovals, or other actions, in the on-line tariff database for a period of two (2) years after they become inactive. For active tariff matter, and for two years after the tariff matter expires or is changed or canceled, the filer shall provide a means for RSPA or any public requestor to obtain an air carrier's tariff in whole or in part. The filer shall produce a finished electronic tariff arrangement, or format, in addition to the electronic raw tariff data provided for by the subscription service in § 221.600, in a finished construction. Upon request, and after the filer has provided at least one free copy of selected tariff matter in compliance with the requirements of § 221.170, the filer shall provide any requestor, for a fee, an entire electronic tariff, or a specific requested price and conditions from the electronic tariff. The electronic tariff, in whole or in part, would be reproduced from the electronic media in a tariff page facsimile that reasonably approximates the printed tariff required by Subpart D—"Contents of Tariff" and other requirements of part 221 as to arrangement of tariff matter, as illustrated in § 221.148. As for the subscription services provided for in § 221.600, the filer may charge a fee to a public requestor.

(8) The filer shall ensure that its on-line tariff database is secure against destruction or alteration except as authorized by RSPA, and against tampering.

(9) Should the filer terminate its business or cease filing tariffs electronically, it shall provide to RSPA on a machine-readable tape or any other mutually acceptable electronic medium, contemporaneously with the cessation of such business, a complete copy of its on-line tariff database.

(10) The filer shall furnish to RSPA, on a daily basis, on a machine-readable tape or any other mutually acceptable electronic medium, all transactions made to its on-line tariff database.

(11) The filer shall afford any authorized Department official and any authorized DOT official full, free, and uninhibited access to its facilities, databases, documentation, records, and application programs, including support functions, environmental security, and accounting data, for the purpose of ensuring continued effectiveness of safeguards against threats and hazards to the security or integrity of its

electronic tariffs, as defined in this subpart.

(12) The filer must provide a field in the Government Filing File for the signature of the approving U.S. Government Official through the use of a Personal Identification Number (PIN).

(13) The filer shall provide a leased dedicated data conditioned circuit with sufficient capacity (initially not less than 9.6K baud rate) to handle electronic data transmission to RSPA. Further, the filer must provide for a secondary or a redundancy circuit in the event of the failure of the dedicated circuit. The secondary or redundancy circuit must be equal to or greater than 4.8K baud rate. In the event of a failure of the primary circuit the filer must notify the Director, Office of Automated Tariffs, RSPA, as soon as possible after the failure, but not later than two hours after failure, and must provide the names of the contact persons at the filer and its communications company who have the responsibility for dealing with the problem.

(c) Each time a filer's on-line tariff database is accessed by any user during the sign-on function the following statement shall appear: The information in this system is for informational purposes only, and is a representation of tariff data that has been formally submitted to the Department of Transportation in accordance with applicable law or a bilateral treaty to which the U.S. Government is a party.

§ 221.270 Time for filing and computation of time periods.

(a) A tariff, tariff revision, or a special tariff permission applcition (STPA) may be electronically filed with RSPA immediately upon compliance with § 221.260, and anytime thereafter, subject to the § 221.500(a) and (b)92) provisions on related paper. The actual date and time of filing shall be noted with each filing.

(b) For the purpose of determining the date that a tariff, tariff revision, or STPA filed pursuant to this subpart shall be deemed received by RSPA:

(1) For each electronic tariff, tariff revision, or STPA filed before 5:30 p.m. local time in Washington, DC, on Federal business days, the date shall be the actual date of filing.

(2) For each electronic tariff, tariff revision, or STPA filed after 5:30 p.m. local time in Washington, DC, on Federal business days, and those filed on days that are not Federal business days, the date shall be the next Federal business day.

(3) Air carriers may submit at any time all-electronic filings of price and text conditions to RSPA: *provided*, the air carrier or filing agent submitting the filing to RSPA shall maintain the prescribed interval of time between the Federal business day of the filing and the proposed effective date, i.e., the statutory or bilateral notice such as 25, 30 or 60 days prescribed in this part (§ 221.160) or separate international agreements, or—under special tariff permission from the Office of Automated Tariffs—at least *one-day notice* between the Federal business day of the filing and the proposed effective date.

(4) A filing received after hours (beyond the 5:30 p.m. local time prescribed in paragraph (b)(1)) or on non-Federal work days that proposes a next-day effective date is subject to disapproval. The requirement for a statutory notice effective date is prescribed in § 221.160. Tariff effectiveness on less than statutory notice (short notice that may be as brief as one day) for official tariff matter submitted pursuant to special tariff permission application is prescribed in § 221.190 *et seq.*, Subpart P "Special Tariff Permission to File on Less than Statutory Notice."

§ 221.271 Electronic filing effective date and required notice.

The filer's proposed effective date is the date on which an electronic filing (a tariff, tariff revision, fare, rate, charge, rule, footnote or other provision in a tariff) will become active under its terms, subject to notice and government approval requirements. The filer may propose different effective dates for a passenger fare, or a property rate, and any related rule provision or provisions, or other related tariff matter, such as footnotes that determine the application of the fare or rate. The filer is required to propose an effective date for each fare or rate price, rule provision, or other tariff matter.

§ 221.275 Requirements for filing paper tariffs.

(a) Any tariff, or tariff revision, filed in paper format which accompanies, governs, or otherwise affects, a tariff filed electronically, must be received by RSPA on the same date that a tariff, or tariff revision, is filed electronically with RSPA under § 221.270(b). Further, such paper tariff, or tariff revision, shall be filed in accordance with the requirements of subparts A–V of part 221. No tariff, or tariff revision, filed electronically under this subpart shall contain an effective date which is at variance with the effective date of the supporting paper tariff, except as authorized by RSPA.

(b) Any printed justifications, or other information accompanying a tariff, or tariff revision, filed electronically under this subpart, must be received by RSPA on the same day as any tariff, or tariff revision, filed electronically.

(c) If a filer submits a filing which fails to comply with paragraph (a) of this section, or if the filer fails to submit the information in conformity with paragraph (b) of this section, the filing will be subject to disapproval.

(d) Access to the electronic text information as to the rules and price conditions for the application of prices that may be contained in each electronic filing advice that are referenced in the electronic filing shall be available from within each filing. Defects in electronic access to conditions that are referenced by the filing subject the filing advice to disapproval as the application of the prices in the filing cannot be determined.

§ 221.279 Identification of revised and refiled electronic filings.

If the filer elects to revise and refile a previously disapproved electronic FA, the filer shall reference the prior disapproved FA.

§ 221.280 Content and explanation of abbreviations, reference marks and symbols.

(a) *Content.* The format to be used for any electronic tariff must be that agreed to in advance as provided for in § 221.260, and must include those data statements set forth in § 221.283 or alternate formats consistent with § 221.50. Those portions that are filed in paper form shall comply in all respects with part 221, subparts A–V.

(b) *Explanation of Abbreviations, Reference Marks and Symbols.* Abbreviations, reference marks and symbols which are used in the tariff shall be explained in the tariff.

(1) The following symbols shall be used:

R–Reduction

I–Increase

N–New Matter

X–Canceled Matter

C–Changed in Footnotes, Routings, Rules or Zones

E–Denotes change in Effective Date Only.

(2) Other symbols may be used only when an explanation is provided in each tariff and such symbols are consistent throughout all the electronically filed tariffs from that time forward.

§ 221.281 Clear statements and systematic arrangements of rules.

(a) General rules shall encompass all individual fare, rule and footnote conditions; fare rules shall encompass all footnote conditions; and footnotes shall be fare specific. Rule provisions or fare text conditions marked "Intentionally Left Blank" in a rule of limited application will default to a general rule (see § 221.100 provisions with reference to governing tariffs).

(b) Electronic rule filing shall precede or accompany an electronic fare submission. Each electronic rule shall have a title that generally describes its contents, and each electronic rule shall be consistently numbered and systematically arranged.

(c) Each electronic filing that references an electronic rule or electronic footnote shall provide for access directly from the filing in a timely matter to the relevant text conditions.

(d) Upon approval by RSPA pursuant to § 221.260(b), electronic rules shall include the following provisions, although other provisions may be proposed by filers and may be used if accepted by RSPA pursuant to § 221.260(b): Eligibility; Day/Time; Flight Application; Advance Reservations/Ticketing; Minimum Stay; Maximum Stay; Stopovers; Transfers; Permitted Combinations; Blackout Dates; Surcharges; Accompanied Travel; Travel Restrictions; Capacity Control Limits; Sales Restrictions; Penalties; Higher Intermediate Point; Ticket Endorsements; Children Discounts; Tour Conductor Discounts; Agent Discounts; All Other Discounts; Miscellaneous Provision(s); International Add-ons; Fare(s) by Rule; Groups; Tours; Visit Another Country; and Deposits. The arrangement of provisions in such fare rules shall be consistent with the arrangement provided in the filer's general rules. Initial filings of electronic rules of limited application shall list all of the provisions adopted under this paragraph, and shall indicate any provisions that are intentionally left blank.

§ 221.282 Statements of filing with foreign governments to be shown in air carrier's tariff filings.

(a) Every electronic tariff filed by or on behalf of an air carrier that contains fares, rates, rules, routings, or other tariff provisions which, by international convention or agreement entered into between any other country and the United States, may be required to be filed with that country, shall include a statement substantially as follows: The rates, fares, charges, classifications, rules, regulations, practices, and services provided herein have been filed in each country in which filing may be required pursuant to treaty, convention, or agreement entered into between that country and the United States, in accordance with the provisions of the applicable treaty, convention or agreement.

(b) The statement referenced in Paragraph (a) may be included with each filing advice by the inclusion of a symbol which is properly explained.

(c) The required symbol may be omitted from an electronic tariff or portion thereof if the tariff publication that has been filed with any other country pursuant to its tariff regulations bears a tariff filing designation of that country in addition to the C.A.B./D.O.T. number appearing in the tariff.

§ 221.283 The filing of tariffs and amendments to tariffs.

All electronic tariffs and amendments filed under this subpart, including filings for which authority is sought to effect changes under § 221.302 on less than statutory notice (less than the 30 days or other days under § 221.160) or other notice provided in a bilateral agreement shall contain the following information:

(a) A Filing Advice Status File—which shall include:

(1) Filing date and time;

(2) Filing advice number;

(3) Reference to carrier;

(4) Reference to geographic area, global indicator;

(5) Effective date of a tariff or tariff revision; effective date of a fare, rate, charge, rule provision, or other tariff matter; and fare or rate travel effective date, where a filer specifies a travel commencement date;

(6) Fare discontinuance or expiration date, where specified by the filer;

(7) A place for government action to be recorded; and

(8) Reference to the Special Tariff Permission when applicable.

(b) A Government Filing File—which shall include;

(1) Filing advice number;

(2) Carrier reference;

(3) Filing date and time;

(4) Effective dates and travel effective dates, as required by § 221.271 of a tariff or tariff revision, and any fare, rule provision or other tariff matter;

(5) Discontinue or expiration date, where specified by a filer for each tariff or tariff revision, fare, rule provision or other tariff matter;

(6) Justification text; reference to geographic area and affected tariff number;

(7) Reference to the Special Tariff Permission when applicable;

(8) Government control data, including places for:

(i) Name of the government analyst, except that this data shall not be made public, notwithstanding any other provision in this or any other subpart;

(ii) Action taken and reasons therefore.

(iii) Remarks, except that internal RSPA data shall not be made public, notwithstanding any other provision in this or any other subpart.

(iv) Date action is taken; and

(v) Personal Identification Number (PIN); and

(9) For each electronic fare or rate filed, a fare class or rate class that includes the service class as the left-justified position(s) of the field, which for economy of representation in an automated system, would be identified by the left-justified number shown following the description (First Class, 1; Business Class, 2; Coach/Economy/APEX/PEX/Others, 3; SFFL/Zone-Controlled, 4; GCR, 5; SCR, 6; and, Exceptions to a GCR, 7), as follows:

(i) Each passenger fare class

F, First Class

C. Business Class,

E, Coach/Economy/Other, separated into E1, Fares that are Coach/Economy/APEX/PEX/Others, or E2, Fares that are SFFL/Zone-controlled, and

(ii) Each property charge or cargo rate class GCR, General Commodity Rate, or SCR, Specific Commodity Rate. Exceptions to a General Commodity Rate (stated in a percentage of the GCR, or zero dollars, or dollars added, or dollars deducted) shall be described in electronic text.

(10) As applicable, the information on Local or Joint Passenger Tariffs, or Local or Joint Proportional Passenger Tariffs, or Local or Joint Rate Tariffs, or Local or Joint Proportional Rate Tariffs, or proposed changes to the tariffs, that is prescribed in paragraph (c) and (d) of this Section.

(c) A Government Historical File for Local or Joint Passenger Tariffs or Local or Joint Proportional Passenger Tariffs, or proposed changes to the tariffs, which shall include the following information, as included in the filing advice:

(1) Market, Origin/Destination;

(2) Fare Code(s);

(3) One-way/Roundtrip (O/R);

(4) Fare Amount;

(5) Currency currency reference; and fare level references, where applicable;

(6) Footnote (FN);

(7) Rule Number(s), *provided* that, if the rule or general rule number is in a separate tariff, reference shall be made to that tariff containing the rule and further *provided*, that the terms and

conditions of the governing fare rule(s) may be submitted in an electronic medium in which case, such submissions shall conform to the terms of subparagraph (viii) of paragraph;

(8) Routing (RG) Number(s), where applicable, *provided* that the abbreviation MPM (Maximum Permissible Routing) shall be considered a number for the purposes of this file;

(9) Effective Date as specified by the filer of a tariff, tariff revision, or tariff matter, such as a fare, rule provision or other tariff matter, and Travel Effective Date, where the filer specifies a date for commencement of travel. The filer's proposed fare Effective Date(s) and fare Travel Effective Date(s) shall be reflected in a Government Historical File as filed in a Government Filing File, adjacent to a passenger fare (price).

(10) Discontinue or Expiration Date, where specified by the filer, or each fare for travel and the Discontinue or Expiration Date, where specified by the filer, of each rule provision or other tariff matter. The specified Discontinue or Expiration Date(s) for a fare shall be reflected in a Government Historical File as filed in a Government Filing File, adjacent to a passenger fare (price).

(11) Government Action;

(12) Carrier;

(13) All inactive fares (two years);

(14) Any other fare data which is essential such as the percent of change from previous fares for SFFL or other zone-controlled fares;

(15) Any necessary cross reference to the Government Filing File for research or other purposes.

(16) Rule provision(s) text of conditions for fare application.

(d) A Government Historical File for Local or Joint Rate Tariffs, or Local or Joint Proportional Rate Tariffs, or proposed changes to the tariffs, shall include the following elements, where applicable, or, upon approval as provided in § 221.260(b)(1), other provisions proposed by filers that are consistent with the requirements in subparts A–V:

(1) Market;

(2) Carrier;

(3) Service Type;

(4) Rate or Charge

(5) Weight(s) and/or quantity discount weights that are applicable to different rates or charges;

(6) Commodities to which rates or charges are to apply;

(7) Commodity descriptions to which the specific commodity rates are to apply;

(8) Currency;

(9) Footnote (FN);

(10) Routings or reference to routing section, as required by § 221.41;

(11) Effective date of a tariff or tariff revision, or tariff matter such as a rate, rule or other tariff matter. The rate effective date (and transportation commencement date if specified by a filer to differ from the effective date) shall be reflected in a Government Historical File as filed in a Government Filing File, adjacent to a rate (price). The effective date of a rule provision or other matter, as specified by the filer, is required.

(12) Discontinue or Expiration Date, where applicable, of each rate for air transportation, and the Discontinue or Expiration Date, where specified by the filer, of each rule provision or other tariff matter. The rate Discontinue or Expiration Date(s) shall be reflected in a Government Historical File as filed in a Government Filing File, adjacent to a rate (price).

(13) Percent of change from previous rate or charge for SFRL or other zone-controlled property tariffs; and

(14) Government Action.

(e) Local or Joint General Rules and Specific Commodity Descriptions—Any General and Specific rule required by part 221 or by any applicable DOT Order may be filed electronically as an alternative to the filing of such rule in a printed paper tariff medium as provide elsewhere in part 221. All such rules shall contain:

(i) A Title;

(ii) A Rule Number, when required.

(iii) An effective date and discontinue date in the event provisions are being superseded; and

(iv) An expiration date, if applicable. In the case of Specific Commodity Descriptions, any electronic submission shall conform to the requirements of § 221.75.

(f) A master Historical File of all electronically submitted data, which shall include:

(1) The records specified in § 221.283(b) as to fares, rates and rules;

(2) The Government Actions specified in § 221.283(a);

(3) All inactive electronic records that were submitted under this subpart during the past two years;

(4) Any necessary cross-reference to the Government Filing File for research or other purposes.

§ 221.284 Unique rule number required for certain fares or rates.

Each filer that files a fare or rate that is required to be justified, explained or identified under § 221.286, shall describe the conditions for the application of the fare or rate in a unique rule number. A fare or rate that is not justified, explained or identified under § 221.286 shall not propose to apply conditions in such unique rule number.

§ 221.285 Adoption of provisions of one carrier by another carrier.

When one carrier adopts the tariffs of another carrier, the effective and prospective tariffs of the adopted carrier shall be changed to reflect the name of the adopting carrier and the effective date of adoption. Further, each adopted tariff shall bear a notation which shall reflect the name of the adopted carrier and the effective date of the adoption, *provided* that any subsequent revision of an adopted tariff may omit the notation.

§ 221.286 Justification and explanation for certain fares and rates.

(a) Passenger tariffs: Any carrier or its agent must provide, in addition to that information required under § 221.165 as to any new or increased bundled or unbundled (whichever is lower) normal economy fare of a direct-service carrier in a direct-service market, a comparison between that proposed fare and the ceiling fare allowed in that market, based on the pertinent SFFL zone.

(b) Cargo tariffs: Any carrier or its agent must provide, in addition to that information required under § 221.165 as to any new or increased general cargo rate of a direct-service carrier in a direct-service market, a comparison between that proposed rate and the ceiling rate allowed in that market based on the pertinent SFRL zone.

(c) Justification Not Required: If a filer's proposed passenger fare or cargo rate is intended to match that already approved for another direct-service carrier, the proponent carrier may forego the comparison required in paragraphs (a) and (b), and instead, simply identify the direct competitor's fare or rate it claims to match.

§ 221.287 Statement of fares.

Each passenger fare and cargo rate filed electronically in direct-service markets shall be filed as a single factor fare or rate. The date on which a passenger fare provides that the filed price is first effective for passenger travel (the fare effective date for travel) and the date on which a cargo rate is first effective for air transportation—and the related expiration or discontinue date—shall be displayed in the electronic tariff system Filing Advice (FA), and in the Official DOT Tariff Database, adjacent to the price and concurrently with the FA effective date.

§ 221.300 Suspension of tariffs.

(a) A rate, fare, charge, change, rule or other tariff provision that is suspended

pursuant to section 1002 of the Act (49 U.S.C. 1482) shall be noted in the Government Filing File and Historical File.

(b) When a tariff suspension is vacated, in full or in part, and after notification of the carrier by RSPA, such event shall be noted by the carrier in the Government Filing File and Historical File.

(c) When a tariff suspension is vacated or when it becomes effective upon termination of the suspension period, the carrier or its agent shall refile the tariff showing the effective date.

§ 221.301 Cancellation of suspended matter.

When, pursuant to an order of the Department, the cancellation of rules, fares, charges, or other tariff provisions is required, such action shall be made by the carrier by appropriate revisions to the tariff.

§ 221.302 Special tariff permission.

(a) When a filer submits an electronic tariff or an amendment to an electronic tariff for which authority is sought to effect changes on less than bilateral/statutory notice, and no related tariff material is involved, the submission shall bear a sequential filing advice number. The submission shall appear in the government Filing File and the Filing Advice Status File, and shall be referenced in such a manner to clearly indicate that such changes are sought to be made on less than bilateral/statutory notice. As a minimum, at least one-day notice as prescribed in § 221.270, is required for special tariff permission.

(b) When a filer submits an electronic tariff or an amendment to the electronic tariff for which authority is sought to effect changes on less than bilateral/statutory notice, and it contains related paper under § 221.275, the paper submission must bear the same filing advice number as that used for the electronic submission. Such paper submission shall be in the form of a revised tariff page as prescribed by subpart H of 14 CFR part 221, rather than as a separate request for Special Tariff Permission. All material being submitted on a paper tariff page as part of an electronic submission, must clearly indicate the portion(s) of such tariff page that is being filed pursuant to, and in conjunction with, the electronic submission on less that bilateral/statutory notice.

(c) RSPA action on a Special Tariff Permission request, both electronic and on paper, shall be noted by RSPA in the Government Filing File and the Filing Advice Status File.

(d) When the paper portion of a Special Tariff Permission that has been filed with RSPA pursuant to paragraph (b) of this section is disapproved or other action taken by RSPA, such disapproval or other action will be reflected on the next consecutive revision of the affected tariff page(s) in the following manner:

(1) The portion(s) of _____ Revised Page _____ filed under EFA No. _____ was/were disapproved by DOT.

(2) *Example of other action:* The portion(s) of _____ Revised Page _____ filed under EFA No. _____ was/were required to be amended by DOT.

(e) When RSPA disapproves in whole or in part or otherwise takes an action against any page filed under this section, the filer must revise and refile a revised page within three business days following the disapproval or notice of other action.

(f) All submissions under this section shall comply with the requirements of § 221.283.

221.400 Discontinuation of electronic tariff system.

In the event that the electronic system is discontinued, or the source of data is changed, or a filer discontinues its business, all electronic data records prior to such date shall be provided immediately to RSPA, free of charge, on a machine-readable tape or other mutually acceptable electronic medium.

§ 221.500 Filing of paper tariffs required.

(a) After approval of any application filed under § 221.260 of this subpart to allow a filer to file tariffs electronically, the filer in addition to filing electronically must continue to file printed tariffs as required by subparts A–V of part 221 for a period of 90 days, or until such time as RSPA shall deem such filing no longer to be necessary: *Provided,* That during the period specified by this section the filed printed tariff shall continue to be the official tariff.

(b) Upon notification to the filer that it may commence to file its tariffs solely in an electronic mode, concurrently with the implementation of filing electronically, the filer shall:

(1) Furnish RSPA with a copy of all the existing effective and prospective records on a machine-readable tape or other mutually acceptable electronic medium; and

(2) Simultaneously cancel such records from the paper tariffs in the manner prescribed by subparts A–V of part 221.

§ 221.600 Transmission of electronic tariffs to subscribers.

(a) Each filer that files an electronic tariff under this subpart shall make available to any person so requesting, a subscription service meeting the terms of paragraph (b) of this section.

(b) Under the required subscription service, remote access shall be allowed to any subscriber to the on-line tariff database, including access to the justification required by § 221.286. The subscription service shall not preclude the offering of additional services by the filer or its agent.

(c) The filer at its option may establish a charge for providing the required subscription service to subscribers: *Provided,* That the charge may not exceed a reasonable estimate of the added cost of providing the service.

(d) Each filer shall provide to any person upon request, a copy of the machine-readable data (raw tariff data) of all daily transactions made to its on-line tariff database. The terms and prices for such value-added service may be set by the filer: *Provided,* That such terms and prices shall be non-discriminatory, i.e., that they shall be substantially equivalent for all similarly-situated persons.

§ 221.650 Copies of tariffs made from filer's printer(s) located in RSPA's Tariffs Public Reference Room.

Copies of information contained in a filer's on-line tariff database may be obtained from the printer or printers placed in the Tariffs Public Reference Room by the filer. The filer may assess a fee for copying, *provided* it is reasonable and that no administrative burden is placed on RSPA to require the collection of the fee or to provide any service in connection therewith.

§ 221.700 Actions under assigned authority and petitions for review of staff action.

(a) When an electronically filed record is disapproved (rejected) by the Director, Office of Automated Tariffs, this action is subject to appeal to the Director to reconsider the adverse action, and, should the Director reaffirm the adverse action, that determination may be appealed to the RSPA Associate Administrator for Research, Technology and Analysis.

(b) When an electronically filed record which has been submitted to RSPA under this subpart, is disapproved (rejected), or a special tariff permission is disapproved or denied, under authority assigned by the Department of Transportation's Regulations, 14 CFR 385.13, such actions shall be understood

to include the following provisions: Applicable to a Record or Records Which is/are Disapproved (rejected): The record(s) disapproved (rejected) is/are void, without force or effect, and must not be used.

Applicable to a record or records which is/are disapproved (rejected), and to Special Tariff Permissions which are disapproved or denied: This action is taken under authority assigned by the Department of Transportation in its Organization Regulations, 14 CFR 385.13. Persons entitled to petition for review of this action pursuant to the Department's Regulations, 14 CFR 385.50, may file such petitions within seven days after the date of this action. This action shall be become effective immediately, and the filing of a petition for review shall not preclude its effectiveness.

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

5. The authority citation for part 389 continues to read as follows:

Authority: Sec 204, 1002, Pub. L. 85-726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 268; 31 U.S.C. 483a.

6. Section 389.25 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 389.25 Schedule of processing fees.

* * * * *

(b) *Electronic Tariff Filing Fees.* The filing fee for one or more electronic passenger fare or cargo rate transactions proposed in any existing record, or for any new or canceled records, shall be ten cents ($0.10) per electronic record. The filing fee for electronic tariff rules of passenger fare or cargo rate conditions of applicability shall be two dollars ($2) for each electronic rule provision.

(c) *Electronic Tariff Filing Fees Exemption.* The filing fees prescribed in paragraph (b) shall not be assessed to a filer for the initial conversion of paper tariff pages to electronic media pursuant to § 221.500(b)(1) of this title, *provided* that this is a one-time exemption from filing fees that may be invoked only once by each electronic filer, at the time of initial conversion to electronic filing, and thereafter no fee exemption relief shall apply. Should the initial conversion be partial or incomplete, subsequent conversions from paper to electronic media are subject to the applicable fees in paragraph (b).

Issued in Washington, DC, on October 2, 1992.

Dr. Richard R. John,

Acting Associate Administrator for Research, Technology and Analysis Research and Special Programs Administration.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10 and 808

[Docket No. 91N-0274]

Administrative Practices and Procedures; Advisory Opinions and Guidelines

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulations governing advisory opinions and guidelines to conform these regulations to current legal standards.

DATES: Written comments by December 14, 1992

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., Office of Policy (HF-26), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION:

I. Background

In promulgating its existing advisory opinion regulation, § 10.85 (21 CFR 10.85), FDA responded to a perceived need to establish a formal system through which to provide advice to the public. This need resulted from the "confusion and uncertainty" that existed regarding the weight to be given to certain agency advice (40 FR 40682 at 40694, September 3, 1975). To eliminate confusion both within and outside the agency, FDA established a two-tiered system in which it gives advice in the form of: (1) Formal agency advisory opinions, and (2) informal advice or correspondence. FDA issues its advisory opinions in a variety of forms. For example, a letter sent to a member of the public in response to a specific request made under § 10.85(b) is an advisory opinion, as is a statement of policy or interpretation made in a compliance policy guide or in a preamble to a proposed or final rule issued pursuant to section 701(a) of the act (21 U.S.C. 371(a)). (See § 10.85(d).)

Under the current regulation, FDA is obligated in most cases to follow advisory opinions until they are amended or revoked (§ 10.85(e)), while such obligation does not apply to informal advice provided by FDA employees (§ 10.85(k)). Section 10.85(e) provides:

> An advisory opinion represents the formal position of FDA on a matter and except as provided in paragraph (f) of this section, *obligates* the agency to follow it until it is amended or revoked. The Commissioner may not recommend legal action against a person or product with respect to an action taken in conformity with an advisory opinion which has not been amended or revoked. (§ 10.85(e) (emphasis added)).

Sections 10.85 and 10.90 (21 CFR 10.85 and 10.90) were intended to clarify the status of certain agency documents, including guidelines. Guidelines issued pursuant to § 10.90(b) "state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA for a subject matter which falls within the laws administered by the Commissioner." (See § 10.90(b)(1).) Except in unusual situations covered by § 10.90(b)(3), § 10.90(b)(2) states that FDA is obligated to follow a guideline until it is amended or revoked. Informal communications do not constitute guidelines and do not bind FDA. (See § 10.90(b)(9).) The similarities between §§ 10.85 and 10.90(b) reflect FDA's intention that guidelines have the same legal status as advisory opinions. (See 40 FR 40682 at 40696; and § 10.85(d)(5).)

In order to ensure that its advisory opinion and guideline regulations are consistent with principles of estoppel and with sound public policy, as discussed in this document, FDA now proposes to revise §§ 10.85 and 10.90 to delete the provisions that are inconsistent with applicable case law in that they purport to limit the agency's discretion with respect to matters addressed in advisory opinions and guidelines. The agency wishes to assure industry and consumers, however, that advisory opinions, while not legally binding FDA to a particular course of action, would still represent the agency's best advice on the matter at issue at the time they are rendered. Similarly, guidelines would continue to provide to persons dealing with the agency useful information about procedures or practices that the agency believes are generally desirable.

The agency notes that over the years it has issued a number of final orders as a result of formal rulemaking under sections 409, 701(e), and 706 of the act (21 U.S.C. 348, 371(e), and 376). This proposal is not intended to change in any way the legal effect of these final orders, including the findings of fact contained in these orders. These orders, and findings of fact contained in the discussion that precedes the codified text or in the codified text itself, are binding on both private persons and the Government. To make clear that the status of these orders is not affected by this proposal, FDA proposes to add § 10.85(i), to explicitly exclude these documents from the definition of an advisory opinion.

A. Estoppel

Sections 10.85 and 10.90 provide efficient mechanisms through which FDA disseminates advice and information, both formally and informally. However, these regulations appear inconsistent with the general principle that Federal agencies may not be estopped from enforcing the law. Courts have applied this principle in FDA cases, holding that the agency cannot be estopped from enforcing the act. (See e.g., *Bentex Pharmaceuticals, Inc.* v. *Richardson*, 463 F.2d 363, 368 n.17 (4th Cir. 1972), *rev'd on other grounds*, 412 U.S. 645 (1973); *United States* v. *Articles of Drug * * * Hormonin*, 498 F. Supp. 424, 435–37 (D.N.J. 1980), *aff'd*, 672 F.2d 904 (3d Cir. 1981); *AMP Inc.* v. *Gardner*, 275 F. Supp. 410, 412 n.1 (S.D.N.Y. 1967), aff'd, 389 F.2d 825 (2d Cir.), *cert. denied*, 393 U.S. 825 (1968).) To the extent that §§ 10.85 and 10.90 purport to prevent FDA from enforcing the act, these regulations appear to be inconsistent with the general principle that the Government may not be estopped from enforcing the law. Indeed, courts have been reluctant to follow § 10.85 and have read the regulation narrowly, suggesting that, despite the language of § 10.85, advisory opinions are not binding in court. (See *United States* v. *Articles of Drug * * * Promise Toothpaste*, 594 F. Supp. 211, 218 (N.D. Ill. 1984), *aff'd*, 826 F.2d 564 (7th Cir. 1987); *Mc Ilwain* v. *Hayes*, 530 F. Supp. 973, 977 n.8 (D.D.C. 1981), *aff'd*, 690 F.2d 1041 (D.C. Cir. 1982).) Thus, although §§ 10.85 and 10.90 purport to restrict the Commissioner's actions, under estoppel principles, advisory opinions and guidelines cannot have this effect.

B. Public Policy Issues

FDA is also concerned that, by purporting to obligate the Commissioner to follow advisory opinions and guidelines, §§ 10.85 and 10.90 may place inappropriate restrictions on FDA's ability to respond to specific situations in ways that best carry out its statutory responsibilities.

Under § 10.85, anomalous and unintended results might occur in the context of a proposed rule. [1] According to § 10.85(d)(1), the preamble to a proposed rule issued pursuant to section 701(a) of the act, to the extent that it is a "statement of policy or interpretation," is an advisory opinion. When FDA issues a notice of proposed rulemaking, it does so because it believes that the issuance of a proposal is required by the act or by the Administrative Procedure Act (APA) or because the agency has concluded that the issuance of a proposal is desirable. Because the preamble would generally discuss the basis for the proposed rule, current § 10.85 would arguably have the effect of requiring the agency to apply the tentative judgments reflected in the proposed rule during the pendency of the rulemaking proceeding. By virtue of its preamble, a proposed rule, under these circumstances, would have the effect of a final rule, and § 10.85 might limit the enforcement action that FDA could take. FDA believes this result would be inconsistent with the intent of the notice and comment provisions of the APA, because the purpose of a proposed rule is to provide opportunity for public comment before the tentative judgments reflected in the proposal are given binding effect. In addition, the regulations purport to limit both the situations in which FDA may take enforcement action and the range of possible enforcement action available to it. (See §§ 10.85(f) and 10.90(b)(3).)

In sum, revisions of §§ 10.85 and 10.90 are necessary because the current regulations are incorrect and misleading to the extent that courts have refrained from treating advisory opinions as binding on FDA or the courts. Revisions are also needed to eliminate the risk that, where a violation exists, a court would find the Government barred from taking enforcement action. Finally, the proposed changes to §§ 10.85 and 10.90 would remove any potential conflict between those regulations and *Community Nutrition Institute* v. *Young*, 818 F.2d 943 (D.C. Cir. 1987), which pertained to another category of regulatory action (action levels for poisonous or deleterious substances in food) but which calls into question FDA's procedures for issuing advisory opinions and guidelines that purport to be binding on FDA.

[1] See, e.g., Food labeling; health messages and label statements; reproposed rule (55 FR 5176 at 5177, February 13, 1990) ("Some manufacturers have taken advantage of the uncertainties created by the August 1987 proposal by making drug claims on health fraud products and then, when challenged by FDA, asserting that these claims are consistent with how food can be labeled under the proposal.")

II. Framework of Proposed Amended Regulations

FDA proposes to revise §§ 10.85 and 10.90 to remove the language that purports to limit FDA's enforcement authority to conform with current judicial requirements. Given the factors discussed in this document, it appears that any advisory opinion or guideline, regardless of when it was issued, cannot be construed to bind FDA legally to a particular course of action. Therefore, FDA intends that advisory opinions and guidelines currently in effect will remain in effect but will not bind the agency. (By the express terms of §§ 10.85 and 10.90 as now written, advisory opinions and guidelines are already nonbinding on others.) This change in the regulations will conform these documents to the law without undermining their usefulness as general guidance.

In proposing these revisions, FDA is sensitive to the needs of industry and consumers to know how the agency intends to proceed under the laws it administers. FDA believes that any uncertainty resulting from the proposed revision should be minimal. Like other agency statements, FDA's advisory opinions and guidelines ordinarily are, and will remain, a reliable indication of the agency's expectations. The agency encourages industry and consumers to continue to seek advisory opinions and to continue consulting both advisory opinions and guidelines. The agency will endeavor to keep advisory opinions and guidelines current, for example, by amending them as appropriate or revoking those that are no longer applicable.

The proposed amendment of § 10.85 would continue to provide for two tiers of agency advice: (1) Formal agency advisory opinions (§ 10.85(a) through (g)), and (2) informal advice from agency employees (§ 10.85(h)). The proposed amendment would leave unchanged the formal procedure for seeking advisory opinions. FDA proposes to change only the provisions that purport to give advisory opinions binding effect. Therefore, new § 10.85(e) would provide that an advisory opinion "does not bind FDA, and it does not create or confer any rights, privileges, or benefits for or on any person." In addition, that paragraph would make clear that FDA can initiate regulatory action when

consistent with the applicable statutes and regulations.

The second tier of agency advice, informal advice from agency employees, which is now codified in § 10.85(k), would not be amended but would simply be redesignated as § 10.85(h). This advice would still reflect only the considered view of the particular employee answering the inquiry and would not necessarily represent the institutional position of the agency. FDA acknowledges that there may be little difference between formal agency advisory opinions and informal advice from agency employees, but it believes that there may be instances where persons prefer a formal agency position that has undergone more clearances.

FDA is revising the criteria in § 10.85(a)(2)(ii) for concluding that an advisory opinion cannot reasonably be granted on the matter involved to explicitly state that the agency may decline to issue an advisory opinion because the relative priority of the matter does not justify FDA expenditure of resources. This clarifying change is consistent with FDA's current policy under § 10.85(a) declining to issue an advisory opinion that "does not raise a policy issue of broad applicability" or that FDA "otherwise concludes would not be in the public interest." (See 21 CFR 10.85(a)(2)(iv) and (a)(2)(v)).

Under the proposal, the examples of advisory opinions listed in § 10.85(d)(1) would be modified slightly to make clear that statements in orders issued under sections 409, 701(e), and 706 of the act have a special status as binding orders and are not advisory opinions. Their status is not changed by this proposal. For example, findings of fact in rulemaking under section 701(e) of the act would not be covered by § 10.85. These findings of fact, which may be set forth in the preamble discussion that precedes the codified text or in the codified text itself, are binding on both private persons and the Government. Proposed § 10.85(i) clarifies that this regulation does not apply to statements made in final orders issued through formal rulemaking procedures.

Other proposed amendments to § 10.85 are incidental to the major change to § 10.85(e). For example, current § 10.85(f) states that in "unusual situations involving an immediate and significant danger to health" FDA may act in a manner inconsistent with an advisory opinion; this exception to § 10.85(e) is no longer necessary. Similarly, current § 10.85(h), which discusses actions taken in conformity with a subsequently amended advisory opinion, is inappropriate. Section 10.85(j), which states that an advisory opinion may be used in administrative or court proceedings to illustrate standards but not as a legal requirement, has engendered confusion and would be deleted.

Further proposed modifications to § 10.85 fall into the category of minor editorial changes and clarifications and are not listed here in detail. For example, the introductory text of amended § 10.85(a) would be modified slightly to read, "An interested person may request an advisory opinion from FDA on a matter of general interest, such as the agency's interpretation of a regulation."

Under the proposed amendment to § 10.90, the purpose of guidelines would remain essentially the same; e.g., to provide useful information about what the agency views as important characteristics of preclinical and clinical test procedures, manufacturing practices, scientific protocols, and other matters. However, the language of § 10.90 would be modified to reflect more accurately the actual purpose and use of guidelines. Under the amended regulation, guidelines would "provide general information" and set out "procedures or practices" rather than stating "principles or practices [and] procedures or standards of general applicability." These changes would be consistent with the proposed change in the effect of guidelines and would appear in paragraphs (b)(1), (b)(2), and (b)(3) of amended § 10.90.

In other respects, the proposed amendment of § 10.90 closely parallels that of § 10.85. In order to change the effect of guidelines, § 10.90(b)(1) would be revised to make clear that, in light of the case law discussed above, FDA is not obligated to accept action taken in reliance upon a guideline. Existing § 10.90(b)(1)(i) would be revised and redesignated as § 10.90(b)(2), and existing § 10.90(b)(1)(ii) would be removed. New § 10.90(b)(2) would provide that a person may follow a guideline or may follow different procedures or practices, but it would not provide, as does existing § 10.90(b)(1)(i), that a person may rely upon a guideline with assurance that it is acceptable to FDA. Existing § 10.90(b)(2) would be revised to provide that a guideline "does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person" and would be redesignated § 10.90(b)(3). Revised § 10.90(b)(3) would also make clear that FDA can initiate regulatory action consistent with the applicable statutes and regulations. Current § 10.90(b)(3), (b)(6), and (b)(8) closely resemble current § 10.85(f), (h), and (j), and would be deleted for the same reasons. Section 10.90(b)(7) would be redesignated § 10.90(b)(6), and the number of copies of comments to be submitted by interested persons would be reduced from four to two. The amended regulation would also include several minor editorial changes, including two such changes in § 10.90(c).

The proposed changes to §§ 10.85 and 10.90 dictate a corresponding modification of § 10.45(d) (21 CFR 10.45(d)). That regulation states: "The Commissioner's final decision constitutes final agency action * * * on an advisory opinion issued under § 10.85 [and] on a guideline issued under § 10.90 * * *." Under the proposed revisions to §§ 10.85 and 10.90, advisory opinions and guidelines would "not bind the agency" and would not "create or confer any rights, privileges, or benefits for or on any person." Given the changed status of advisory opinions and guidelines, it would be inconsistent for these documents to be considered final agency action for the purpose of judicial review. Therefore, the references to advisory opinions and guidelines in § 10.45(d) would be removed. Consistent with this change, § 808.25(h) (21 CFR 808.25(h)) would also be amended to remove the statement that an advisory opinion pursuant to § 808.5 (21 CFR 808.5) constitutes final agency action.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Economic Impact

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities, including small businesses, and has determined that no significant economic impact on a substantial number of small entities would derive from this action.

V. Paperwork Reduction Act of 1980

The information collection requirements in § 10.85(b) have been reviewed by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), approved, and assigned OMB

Control Number 0910-0193 (Expiration Date: July 31, 1993). This proposal would not amend these information collection requirements.

VI. Comments

Interested persons may, on or before December 14, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 10

Administrative practice and procedure, News media.

21 CFR Part 808

Intergovernmental relations, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 10 and 808 be amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. The authority citation for 21 CFR part 10 continues to read as follows:

Authority: Secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-393); 21 U.S.C. 41-50, 141-149, 467f, 679, 821, 1034; secs. 2, 351, 354-360F, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 263b-263n, 264); secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 5 U.S.C. 551-558, 701-706; 28 U.S.C. 2112.

§ 10.45 [Amended]

2. Section 10.45 *Court review of final administrative action; exhaustion of administrative remedies* is amended in paragraph (d) introductory text by removing the phrase "on an advisory opinion issued under § 10.85, on a guideline issued under § 10.90,".

3. Section 10.85 is revised to read as follows:

§ 10.85 Advisory opinions.

(a) An interested person may request an advisory opinion from FDA on a matter of general interest, such as the agency's interpretation of a regulation.

(1) The request will be granted whenever feasible.

(2) The request may be denied if:

(i) The request contains incomplete information on which to base an informed advisory opinion;

(ii) FDA concludes that an advisory opinion cannot reasonably be given on the matter involved;

(iii) The matter is adequately covered by a prior advisory opinion or a regulation;

(iv) The request covers a particular product or ingredient or label and does not raise a policy issue of broad applicability; or

(v) FDA believes that the relative priority of the matter does not justify FDA's expenditure of resources or FDA otherwise concludes that an advisory opinion would not be in the public interest.

(b) A request for an advisory opinion is to be submitted in accordance with § 10.20, is subject to the provisions of § 10.30(c) through (c)(1), and must be in the following form:

(Date) _____

Dockets Management Branch, Food and Drug Administration, Department of Health and Human Services, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

Request for Advisory Opinion

The undersigned submits this request for an advisory opinionof the Food and Drug Administration with respect to _____ (the general nature of the matter involved).

A. Issues Involved

(A concise statement of the issues and questions on which an opinion is requested.)

B. Statement of Facts and Law

(A full statement of all facts and legal points relevant to the request.)

The undersigned certifies that, to the best of his/her knowledge and belief, this request includes all data, information, and views relevant to the matter, whether favorable or unfavorable to the position of the undersigned, which is the subject of the request.

(Signature) _____

(Person making request) _____

(Mailing address) _____

(Telephone number) _____

(c) FDA may respond to an oral or written request to the agency as a request for an advisory opinion, in which case the request will be filed with the Dockets Management Branch and be subject to this section.

(d) A statement of policy or interpretation made in the following documents will constitute an advisory opinion:

(1) Any portion of a Federal Register publication (e.g., a notice to manufacturers, a preamble to a proposed or final regulation issued pursuant to 21 U.S.C. 371(a), or the proposed codified text in a proposed rule) other than a final regulation codified in the Code of Federal Regulations or an order described in paragraph (i) of this section.

(2) Trade Correspondence (T.C. Nos. 1-431 and 1A-6A) issued by FDA between 1938 and 1946.

(3) Compliance policy guides issued by FDA beginning in 1968 and issued in the Compliance Policy Guides manual.

(4) Other documents specifically identified as advisory opinions.

(5) Guidelines issued by FDA under § 10.90(b).

(e) An advisory opinion represents the best advice of FDA on a matter at the time of its issuance. However, an advisory opinion does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person. FDA may, in its discretion, recommend or initiate legal or administrative action against a person or product with respect to an action taken in conformity with an advisory opinion, provided that the legal or administrative action is consistent with applicable statutes and regulations.

(f) An advisory opinion may be amended or revoked at any time after it has been issued. Notice of amendment or revocation will be given in the same manner as notice of the advisory opinion was originally given or in the Federal Register and will be placed on public display as part of the file on the matter in the office of the Dockets Management Branch. The Dockets Management Branch will maintain a separate chronological index of all advisory opinions filed. The index will specify the date of the request for the advisory opinion, the date of the opinion, and identification of the appropriate file.

(g) An interested person may submit written comments on an advisory opinion or modified advisory opinion. Two copies of any comments are to be sent to the Dockets Management Branch for inclusion in the public file on the advisory opinion. Individuals may submit one copy. Comments will be considered in determining whether further modification of an advisory opinion is warranted.

(h) A statement made or advice provided by an FDA employee constitutes an advisory opinion only if it is issued in writing under this section. A statement or advice given by an FDA employee orally, or given in writing but

not under this section or § 10.90, is an informal communication that represents the best judgment of that employee at that time but does not constitute an advisory opinion, does not necessarily represent the formal position of FDA, and does not bind or otherwise obligate or commit the agency to the views expressed.

(i) This regulation does not apply to final orders issued through formal rulemaking procedures. For example, statements in final orders issued under 21 U.S.C. 348, 371(e), or 376 that respond to objections or to requests for hearings or that make findings after a hearing are not advisory opinions, unless otherwise indicated. These orders are binding on both private persons and the Government.

4. Section 10.90 is revised to read as follows:

§ 10.90 Food and Drug Administration regulations, guidelines, recommendations, and agreements.

(a) *Regulations.* FDA regulations are promulgated in the **Federal Register** under § 10.40 or § 10.50 and codified in the Code of Federal Regulations. Regulations may contain provisions that will be enforced as legal requirements, or which are intended only as guidelines and recommendations, or both. The dissemination of draft notices and regulations is subject to § 10.80.

(b) *Guidelines.* FDA guidelines are included in the public file of guidelines established by the Dockets Management Branch, under this paragraph, unless they have been published as regulations under paragraph (a) of this section.

(1) Guidelines provide general information to persons dealing with FDA and do not include decisions or advice on particular situations. Guidelines relate to performance characteristics, preclinical and clinical test procedures, manufacturing practices, product standards, scientific protocols, compliance criteria, ingredient specifications, labeling, or other technical or policy criteria. Guidelines state procedures or practices that may be useful to the persons to whom they are directed but are not legal requirements.

(2) A person may follow a guideline or may follow different procedures or practices. When different procedures or practices are chosen, a person may, but is not required to, discuss the matter in advance with FDA to prevent the expenditure of money and effort on activity that may later be determined to be unacceptable.

(3) A guideline represents the position of FDA on a procedure or practice at the time of its issuance. However, a guideline does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person. FDA may, in its discretion, recommend or initiate legal or administrative action against a person or product with respect to an action taken in conformity with a guideline, provided that the legal or administrative action is consistent with applicable statutes and regulations.

(4) A guideline will be included in the public file upon its approval and publication of a notice of its availability. The notice will state:

(i) The title of the guideline;

(ii) The subject matter it covers;

(iii) The office or individual responsible for maintaining the guideline.

(5) A guideline may be amended or revoked by FDA, and a notice of the amendment or revocation will be published. The notice will state:

(i) The title of the guideline;

(ii) The subject matter it covers;

(iii) The office or individual responsible for maintaining the guideline. All original guidelines and subsequent amendments will be retained in the public file permanently so that a complete record of the development of each guideline is available.

(6) The notice of a guideline or of an amended or revoked guideline will state that an interested person may submit written comments on the guideline. Two copies of comments are to be sent to the Dockets Management Branch for inclusion in the public file on the guideline. Individuals may submit one copy. The comments will be considered in determining whether further amendments to or reinstitution of a guideline are warranted.

(7) A statement relating to acceptable procedures or standards given by an FDA employee orally, or in writing but not under § 10.85, is an informal communication that represents the best judgment of that employee at that time but does not constitute a guideline, does not necessarily represent the formal position of FDA, and does not bind or otherwise obligate the agency to the views expressed.

(8) Because of the large number of analytical methods involved in FDA activities, their length and complexity, and the volume and frequency of amendment, paragraph (b)(4) of this section does not apply to analytical methods except to the extent that FDA concludes that particular analytical methods should be included in the public file for a particular purpose. FDA analytical methods are available for public disclosure under part 20 of this chapter.

(9) The dissemination of draft guidelines is subject to the same provisions as the dissemination of draft notices and regulations under § 10.80.

(c) *Recommendations.* In addition to the guidelines subject to paragraph (b) of this section, FDA often formulates and disseminates recommendations about matters which are authorized by, but do not involve direct regulatory action under, the laws administered by FDA e.g., model State and local ordinances, or personnel practices for reducing radiation exposure, issued under 42 U.S.C. 243 and 263d(b). These recommendations may, in FDA's discretion, be handled under the procedures established in paragraph (b) of this section, except that the recommendations will be included in a separate public file of recommendations established by the Dockets Management Branch and will be separated from the guidelines in the notice of availability published in the **Federal Register**, or be published in the **Federal Register** as regulations under paragraph (a) of this section.

(d) *Agreements.* Formal agreements, memoranda of understanding, or the similar written documents executed by FDA and another person will be included in the public file on agreements established by the Freedom of Information Staff (HFI-35) under § 20.108 of this chapter. A document not included in the public file is deemed to be rescinded and has no force or effect whatever.

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

5. The authority citation for 21 CFR part 808 continues to read as follows:

Authority: Secs. 521, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k, 371).

6. Section 808.25 is amended by revising paragraph (h) to read as follows:

§ 808.25 Procedures for processing an application.

* * * * *

(h) A regulation pursuant to paragraph (g) of this section constitutes final agency action.

Dated: June 5, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-24941 Filed 10-14-92; 8:45 a.m.]

BILLING CODE 4160-01-F

21 CFR Part 101

[Docket Nos. 91N-0099, 91N-0100, and 91N-0101]

RIN 0905-AB67

Food Labeling: Health Claims; Antioxidant Vitamins and Cancer, Dietary Fiber and Cardiovascular Disease, and Folic Acid and Neural Tube Defects; Reopening of the Comment Period; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that announced the reopening of the comment period for 30 days on three proposed rules concerning health claims on certain nutrient-disease relationships that appeared in the Federal Register of July 23, 1992 (57 FR 32751). The document published with the incorrect journal listed in the reference section. This document corrects that error.

DATES: Written comments by August 24, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Linda Tollefson, Center for Food Safety and Applied Nutrition, 200 C St. SW., Washington, DC 20204, 202-205-5652.

In FR Doc. 92-17362, appearing on page 32751, in the Federal Register of Thursday, July 23, 1992, the following correction is made: on page 32752, in the 1st column, in Reference 5, in the 4th line, the name of the journal "*Epidemiologic Reviews*" is corrected to read "*Epidemiology*".

Dated: October 2, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-24998 Filed 10-14-92; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 250

[Notice No. 759; Re. Notice No. 751]

RIN 1512-AA69

Liquors and Articles From Puerto Rico and the Virgin Islands

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: This document extends the comment period for Notice No. 751, an advance notice of proposed rulemaking (ANPRM— published in the Federal Register on September 8, 1992. Notice No. 751 concerned revision and recodification of the regulations regarding liquors and articles (hereinafter "alcoholic products") which are brought into the United States from Puerto Rico or the Virgin Islands. ATF has received a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues addressed in the ANPRM.

DATES: Comments must be filed on or before December 7, 1992.

ADDRESSES: Send written comments to: Chief, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; ATTN: Notice No. 751.

FOR FURTHER INFORMATION CONTACT: Ms. Gail Hosey, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, telephone (202) 927-8210.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1992, the Bureau of Alcohol, Tobacco and Firearms (ATF— published Notice No. 751, an advance notice of proposed rulemaking, in the Federal Register (57 FR 40885). ATF is considering the revision and recodification of 27 CFR part 250. In an effort to update and simplify these regulations ATF is soliciting comments on proposals to eliminate application and transaction forms required to be submitted by persons who bring alcoholic products into the United States from Puerto Rico.

Comments are also being solicited on proposals to coordinate with the U.S. Customs Service to reduce duplicate efforts involving shipments of merchandise from Puerto Rico to the United States. ATF would also like to receive comments regarding other suggestions for reducing or eliminating unnecessary regulatory burdens on proprietors in both Puerto Rico and the U.S. while continuing to provide adequate protection to the revenue.

The comment period for Notice No. 751 was scheduled to close on October 8, 1992. Prior to the end of the comment period ATF received a request for an extension of the comment period. This request was submitted by the Distilled Spirits Council of the United States, a national trade association representing the suppliers of over 80% of the distilled spirits sold in the United States. Due to the complexity of the issues raised in Notice No. 751 and the number of concurrent notices recently published by ATF, an extension of an additional 90 days was requested.

In consideration of the request, ATF has determined that in addition to the 30 days already allowed, an extension of an additional 60 days is appropriate. Therefore, the comment period for Notice No. 751 will be extended until December 7, 1992.

Drafting Information

The principal authors of this document are Dick Langford and Gail Hosey of the Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

Lists of Subjects in 27 CFR Part 250

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Electronic fund transfers, Excise taxes, Liquors, packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

Authority: This notice is issued under the authority in 26 U.S.C. 7805.

Signed: October 7, 1992.

Stephen E. Higgins,

Director.

[FR Doc. 92-24990 Filed 10-14-92; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 251

[Notice No. 760; Re. Notice No. 753]

RIN 1512-AA72

Importation of Distilled Spirits, Wine and Beer

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Advance notice of proposed rulemaking: Extension of comment period.

SUMMARY: This document extends the comment period for an advance notice of proposed rulemaking (ANPRM), published in the **Federal Register** on September 8, 1992, concerning the importation of distilled spirits, wine and beer. ATF has received two requests to extend the comment period in order to provide sufficient time for all interested parties to respond to this notice.

DATES: Written comments must be filed on or before December 7, 1992.

ADDRESSES: Send written comments to: Chief, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; ATTN: Notice No. 753.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Reisman, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226; (202) 927-8210.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1992, ATF published Notice No. 753 in the **Federal Register** (57 FR 40886). Notice No. 753 proposed to review, update, and reissue regulations on the importation of distilled spirits, wine and beer. The importation regulations now found in 27 CFR part 251 will be revised and recodified as part 27 of the same chapter.

The comment period for Notice No. 753 was scheduled to close on October 8, 1992. Prior to the end of the comment period ATF received two requests for an extension of the comment period. One request was submitted by the Distilled Spirits Council of the United States, a national trade association representing the suppliers of over 80% of the distilled spirits sold in the United States. Due to the complexity of the issues raised in Notice No. 753 and the number of concurrent notices recently published by ATF, an extension of an additional 90 days was requested.

A second request for an additional 30 days was received from the National Association of Beverage Importers, Inc., a national trade association representing the importers of over 90% of all alcohol beverages imported into the United States. Because of the potential impact on U.S. importers, an additional period of time was requested to carefully draft and coordinate a response.

In consideration of these requests, AFT has determined that in addition to the 30 days already allowed, an extension of an additional 60 days is appropriate. Therefore, the comment period for Notice No. 753 will be extended until December 7, 1992.

Drafting Information

The principal author of this document is Edward A. Reisman, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Cosmetics, Customs duties and inspection, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting and recordkeeping requirements, Transportation, Wine.

Authority

This notice is issued under the authority in 26 U.S.C. 7805.

Signed: October 7, 1992.

Stephen E. Higgins,

Director.

[FR Doc. 92-24978 Filed 10-14-92; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 252

[Notice No. 761; Re. Notice No. 752]

RIN 1512-AA98

Exportation of Distilled Spirits, Wine, Beer, Beer Concentrate, and Specially Denatured Spirits

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Advance notice of proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for Notice No. 752, an advance notice of proposed rulemaking (ANPRM) published in the **Federal Register** on September 8, 1992. Notice No. 752 concerned revision and recodification of the regulations pertaining to the exportation of distilled spirits, wine, beer, beer concentrate, and specially denatured spirits. ATF has received a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues addressed in the ANPRM.

DATES: Comments must be filed on or before December 7, 1992.

ADDRESSES: Send written comments to: Chief, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; ATTN: Notice No. 752.

FOR FURTHER INFORMATION CONTACT: Ms. Gail Hosey, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, telephone (202) 927-8210.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1992, ATF published Notice No. 752, an advance notice of proposed rulemaking, in the **Federal Register** (57 FR 40887). ATF is soliciting comments on its proposal to review, update, and reissue the regulations pertaining to the exportation of distilled spirits, wine, beer, beer concentrate, and specially denatured spirits. The exportation regulations now found in 27 CFR part 252 will be revised and recodified as part 28 of the same chapter.

The comment period for Notice No. 752 was scheduled to close on October 8, 1992. Prior to the end of the comment period ATF received a request for an extension of the comment period. This request was submitted by the Distilled Spirits Council of the United States, a national trade association representing the suppliers of over 80% of the distilled spirits sold in the United States. Due to the complexity of the issues raised in Notice No. 752 and the number of concurrent notices recently published by ATF, an extension of an additional 90 days was requested.

In consideration of this request, ATF has determined that in addition to the 30 days already allowed, an extension of an additional 60 days is appropriate. Therefore, the comment period for Notice No. 752 will be extended until December 7, 1992.

Drafting Information

The principal authors of this document are Dick Langford and Gail Hosey of the Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 252

Aircraft, Alcohol and alcoholic beverages, Armed Forces, Authority delegations (Government agencies), Beer, Claims, Excise taxes, Exports, Fishing vessels, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

Authority: This notice is issued under the authority in 26 U.S.C. 7805.

Approved: October 7, 1992.

Stephen E. Higgins,

Director.

[FR Doc. 92-24979 Filed 10-14-92; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8-92-24]

Drawbridge Operation Regulations; Lower Grand River, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: The notice of proposed rulemaking to revise the operating regulations for the swing span bridge on LA77 across the Lower Grand River, mile 47.0 at Grosse Tete, Iberville Parish, Louisiana published in the **Federal Register** on August 26, 1992, at 57 FR 38638 contained an incorrect regulatory docket number. This notice provides the correct docket number for that rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, project officer, telephone (504) 589-2965, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

CORRECTION: On page 38638, first column, the regulatory docket number is corrected to read as follows:

[Docket No. CGD8-92-24]

Dated: September 25, 1992.

J.C. Card,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 92-24976 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 672

[Docket No. 921050-2250]

RIN 0648-AE90

Groundfish of the Gulf of Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS publishes a proposed rule that would implement Amendment 26 to the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) if the amendment is approved by the Secretary of Commerce (Secretary) after review and consideration of public comments. The proposed rule would extend the effective date of regulations implementing time/area closures around Kodiak Island on vessels using trawl gear other than pelagic trawl gear. This action is necessary to protect the habitat of depressed stocks of red king crab and Tanner crab in the Kodiak Island area. This action is intended to promote the recovery of these crab stocks and to further the goals and objectives contained in the FMP that governs GOA groundfish.

DATES: Comments are invited on or before November 23, 1992.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 or delivered to the Federal Building Annex, Suite 6, 9109 Mendenhall Mall Road, Juneau, AK. Individual copies of proposed Amendment 26 and the environmental assessment/regulatory impact analysis (EA/RIR) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907-271-2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fishery Management Biologist, Fisheries Management Division, Alaska Region, NMFS, at 907-586-7228.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the GOA are managed by the Secretary in accordance with the GOA FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The GOA FMP is implemented by regulations appearing at 50 CFR 611.92 for the foreign fishery and at 50 CFR part 672 for the U.S. fishery. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

At times, amendments to the FMP and its implementing regulations are necessary to respond to fishery conservation and management problems. The final rules implementing Amendment 15 (49 FR 7868, March 13, 1987) and Amendment 18 (54 FR 50386, December 6, 1989) to the GOA FMP established time/area closures around Kodiak Island to protect red king crab habitat. Each of these amendments was scheduled to expire after a 3-year period. During this period, the Council was required to review the status of the crab stocks and assess the need to continue the closures for an additional period of time to protect depressed crab stocks.

Amendment 18 will expire on December 31, 1992. Council staff prepared a draft EA/RIR to review and analyze the need to continue the Kodiak Island time/area closures into 1993 and beyond. The Council reviewed this document at its meeting on April 22-26, 1992, and decided to adopt the analysis for public review. At its June 23-28, 1992, meeting, the Council considered the testimony and recommendations of its Advisory Panel (AP), Scientific and Statistical Committee (SSC), Plan Teams, fishing industry representatives, and the public on the proposal to continue the Kodiak Island time/area closures into 1993 and beyond under different alternatives discussed in the EA/RIR analysis.

The Council recommended that Type I and Type II time/area closures of the EEZ, described at 50 CFR 672.24(d), should be continued for an indefinite period beyond December 31, 1992. Type I areas are closed to bottom trawling year-round. Type II areas are closed to bottom trawling from February 15 to June 15. Either of these two types of areas could be expanded by regulatory amendment to a third type of closed area, referred to as a "Type III" area. Type III areas are defined in Amendment 26 to the FMP as those geographic areas adjacent to a Type I or Type II area that have been identified as important juvenile king crab rearing or migratory areas. A regulatory amendment establishing Type II areas would be implemented as a result of a "recruitment event." A recruitment event occurs when the total number of female crab estimated for a given district equals the number of females established as a threshold criteria for opening that district to commercial crab fishing.

Type I and Type II time/area closures have been in effect since 1986 under Amendments 15 and 18 to the FMP to prohibit the use of trawls other than pelagic trawls in areas designated as important juvenile and softshell crab rearing and migratory areas for Kodiak Island are a king and Tanner crab. The reasons for a continuation of the time/area closures under Amendment 26 remain unchanged from those contained in the final rule implementing Amendments 15 and 18. These closures are intended to assist in the rebuilding of depressed crab stocks by providing protection to 85 percent of the Kodiak

Island area red king crab stocks and 7 percent of the Tanner crab stocks.

Enforcement agencies have express concern about the continued effectiveness of the Kodiak Island closures to trawl gear other than pelagic trawl gear (non-pelagic trawl gear). Fishing with pelagic trawl gear are similar activities that cannot be easily distinguished by aerial surveillance, the usual method for monitoring fishery closures. NMFS specifically requests public review and comment on these enforcement concerns.

The continued effectiveness of the Kodiak Island time/area closures under Amendment 26 would still provide trawl vessels using trawl gear other than pelagic trawls with fishing opportunities geographically close to established processing and support facilities. These Kodiak Island closures are still considered vital if the king crab stocks are to recover in this area. Insufficient information is available to determine the extent of improvement for king crab stocks since the Kodiak Island closures were first implemented in 1986, but biologists and the Kodiak area fishing industry believe that king crab stocks should improve under this measure, although improvement is expected to be slow.

The proposed rule to implement Amendment 26 is unchanged from existing regulations at § 672.24(d)(1) and (s) that govern the Kodiak Island trawl closures. The effect of the proposed rule would be to continue these regulations beyond December 31, 1992.

Classification

Section 304(a)(1)(D) of the Magnuson Act, as amended by Public Law 99-659, requires the Secretary to publish regulations proposed by a Council within 15 days of receipt of the FMP amendment and regulations. At this time, the Secretary has preliminarily determined that the FMP amendment this rule would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. The Secretary, in making final determinations, will take into account the data and comments received during the comment period.

The Council prepared an EA for this FMP amendment under the requirements of the National Environmental Policy Act that discusses the impact on the environment as a result of this rule. A copy of the EA is available from the Council (see **ADDRESSES**).

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Public Law 99-659, require the Secretary to publish this proposed rule 15 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This determination is based on the EA/RIR prepared by the Council that concludes that none of the proposed measures in this rule would cause impacts considered significant for purposes of this Executive Order. The proposed rule, if adopted, is not 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 a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. A copy of this review is available from the Council (see **ADDRESSES**).

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. In 1991, 333 vessels were issued Federal groundfish permits to fish for GOA groundfish with trawl gear, but less than 20 percent of these vessels use trawl gear other than pelagic trawl gear to fish for groundfish in the Kodiak Island area. Because the closures that would be continued under the proposed rule have been in effect since 1986, current estimates of groundfish catch within the closure zone are not possible. If the Types I and II closures had been in effect in 1985, and if the catch from these areas could not have been made up elsewhere, approximately $17,000 of gross exvessel earnings would have been foregone. Given the increase in exvessel prices that has occurred since 1985, and assuming the catch composition and amount for 1985 would be the same for 1991, the foregone value in 1991 due to the Kodiak Island time/area closures would have been approximately $27,500. This relatively small amount of foregone value distributed among the trawl vessels that may have fished in these areas, had they been open, is not expected to result in a reduction in annual gross revenues that is more than 5 percent. As a result, regulatory flexibility analysis was not prepared.

This proposed rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule does not affect the coastal zone of any state with an approved coastal management program. This determination has been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Director of the Alaska Region (Regional Director), NMFS, has determined that this rule would not affect any endangered or threatened species under the purview of NMFS. Therefore, further consultation pursuant to section 7 of the Endangered Species Act is not required for the implementation of this rule.

The Regional Director has determined that this proposed rule is not likely to have any adverse impact on marine mammals.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: October 8, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 672 is proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

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

2. In § 672.24, paragraphs (d)(1) introductory text and (d)(2) introductory text are revised to read:

§ 672.24 Gear Limitations.

* * * * *

(d)* * *

(1) No person may trawl in waters of the EEZ within the following areas in

the vicinity of Kodiak Island (see Figure 4, Area Type I) from a vessel having any trawl other than a pelagic trawl either attached or on board:

* * * * *

(2) From February 15 to June 15, no person may trawl in waters of the EEZ within the following areas in the vicinity of Kodiak Island (see Figure 4, Area Type II) from a vessel having any trawl other than a pelagic trawl either attached or on board:

* * * * *

[FR Doc. 92-24946 Filed 10-8-92; 4:32 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 200
Thursday, October 15, 1992

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

Office of the Secretary

Human Nutrition Board of Scientific Counselors; Reestablishment of Advisory Committee

The Department of Agriculture has reestablished the Human Nutrition Board of Scientific Counselors for a 2-year period. The Board was last reestablished July 20, 1990.

The purpose of the Board is to provide advice to the Secretary of Agriculture regarding program direction, priorities, scope of activities, and quality of the Department's human nutrition research and education.

The Board meets annually and reports to the Secretary of Agriculture.

The Secretary has determined that the reestablishment of this Board would be in the public interest in connection with the work of the U.S. Department of Agriculture.

Done at Washington, DC this 6th day of October 1992.

Charles Hilty,

Assistant Secretary for Administration.

[FR Doc. 92-24953 Filed 10-14-92; 8:45 am]

BILLING CODE 3410-03-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held November 4, 1992, 9:30 a.m., Herbert C. Hoover Building, room 1617M(2) 14th Street & Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

Agenda: General Session

1. Opening Remarks by the Chairman of Commerce Representative.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the public.
4. Discussion of recent revisions to the ITAR, including aircraft jurisdiction.
5. Review of recent TAC Chairmen's Meeting.
6. Discussion of requirement to elect a new chairman at the next meeting.
7. Discussion of revisions to the Export Administration Regulations including licensing of satellites.

Executive Session

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: U.S. Department of Commerce/BXA, Technical Support Staff, Office of Assistant Secretary for Export Administration, 14th & Constitution Avenue, NW., Room 1621, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 28, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call 202-482-4859.

Dated: October 9, 1992.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of the Assistant Secretary for Export Administration.

[FR Doc. 92-25037 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-583-816]

Postponement of Preliminary Antidumpting Duty Determination: Certain Welded Stainless Steel Butt-Weld Pipe Fittings from Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: October 15, 1992.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482-2778.

Postponement

On October 5, 1992, the Flowline Division of Markovitz Enterprises Inc., petitioner in this investigation, requested that the Department postpone the preliminary determination in accordance with section 733(c)(1) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(c)(1)). We find no compelling reasons to deny the request and are, accordingly, postponing the date of the preliminary determination until December 16, 1992.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: October 7, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-24970 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council (Council); Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: The Council will convene public hearings on a proposed amendment to the Federal fishing rule for reef fish. At two of the hearings, in Key West and Naples, Florida, a proposal to protect spawning aggregations of mutton snapper through spawning season fishing closures and area closures plus minimum size limits and recreational bag limits will be presented. Mutton snapper are common primarily off South Florida.

The amendment to the Federal rule includes the following proposed changes: (1) Additional regulation on the use of fish traps in the fishery, including consideration of prohibiting use of traps; (2) establishment of special management zones off Alabama where fishing gear will be restricted; (3) requirement that all reef fish be landed with heads and fins intact to facilitate enforcement of minimum size limits; (4) revision of vessel permit requirement for earned income; and (5) an increase of the minimum size limited for red snapper to 16 inches over a 7-year period.

DATES: Written comments on the proposed actions must be received in the Council's office by November 9, 1992. The public hearings will begin at 7 p.m., which are scheduled as follows:

Monday, October 19, 1992.	American Legion Hall, 5610 College Road, Key West, Florida (305) 294-7117.
Tuesday, October 20, 1992.	Naples Depot Cultural Center, 1051 5th Avenue South, Naples, Florida (813) 262-1778.
Wednesday, October 21, 1992.	Plantation Inn and Golf Resort, 9301 West Fort Island Trail Crystal River, Florida (904) 795-4211.
Thursday, October 22, 1992.	Apalachicola Bay Chamber of Commerce, Rainey House, 128 Market Street, Apalachicola, Florida (904) 653-9419.
Monday October 26, 1992.	Best Western Beach Front, Inn, 5914 Seawall Boulevard, Galveston, Texas (409) 740-1261.
Tuesday, October 27, 1992.	Howard Johnson Lodge, 201 North Canal Boulevard, Thibodaux, Louisiana (504) 447-9071.
Wednesday, October 28, 1991.	Gulf Coast Research Laboratory, J.L. Scott Marine Education Center and Aquarium Auditorium, 115 East Beach Boulevard, Biloxi, Mississippi (601) 374-5550.
Thursday, October 29, 1992.	Baldwin County Electric Membership Corporation, 19600 State Highway, 59, Summerdale, Alabama (205) 989-6247.

FOR FURTHER INFORMATION CONTACT: Please address comments and requests for additional information on the public hearings to Steven M. Atran, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, Florida 33609, 813-228-2815.

Dated: October 6, 1992.

David S. Crestin,

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

[FR Doc. 92-24800 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-22-M

Atlantic Bluefin Tuna Fishery

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

ACTION: Notice of public scoping meetings on Atlantic bluefin tuna fishery regulations; request for written suggestions/input.

SUMMARY: NMFS will hold several public scoping meetings in order to discuss options for an interim rule to amend, in the 1993 season, the regulations governing the United States western Atlantic bluefin tuna fishery. These meetings will be used to solicit input from the public to help NMFS scope problems and possible solutions on issues dealing with each of the various domestic categories (General, Harpoon, Incidental, Purse Seine and Angling). These scoping meetings will be the first step in the process toward an interim rule that would modify the current regulations that, if not amended, would govern the 1993 fishery. In addition, NMFS requests written suggestions and input into how the proposed 1993 rule should be structured.

EFFECTIVE DATES: Written suggestions and input on the issues for a proposed rulemaking must be received on or before November 13, 1992. See "SUPPLEMENTARY INFORMATION" for dates and times of the scoping meetings.

ADDRESSES: Written comments should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Bluefin Tuna Suggestions."

See "SUPPLEMENTARY INFORMATION" for the addresses of the scoping meeting locations.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301-713-2347.

SUPPLEMENTARY INFORMATION: Public scoping meetings will be held to provide an opportunity for informal discussion between the public and NMFS on Atlantic bluefin tuna management. In particular, NMFS is interested in the following topics: (1) Dealer reports via faxing; (2) Permitting the Angling category; (3) Certificates of Origin for the import and export industry; (4) Delaying the opening of the fishing categories that currently would begin June 1; (5) Mandatory data reporting by all categories; (6) Allowable level of incidental catch per trip for the Incidental Catch category; (7) Methods to reduce fishing mortality on the spawning stock in the Gulf of Mexico; (8) In-season adjustments to the Angling category bag limits; and (9) Treatment of 1992 category quota "overages" and "underages" in 1993, and allocation of the reserve.

Modifications and changes in the existing western Atlantic bluefin tuna rules, which were last modified on July 20, 1992, are being considered to further implement more efficient management policies, which were proposed by the constituency at public meetings, and in written form, during the 1992 rulemaking process. NMFS recognizes that while the last rulemaking dealt primarily with implementing the International Commission on the Conservation of Atlantic Tunas' (ICCAT) recommendations for 1992-1993, other

suggestions were presented that could provide more efficient management of the western Atlantic bluefin tuna fishery within the scope of the ICCAT recommendations. Unlike the July 20, 1992, rulemaking, NMFS will not be considering any quota changes for any categories.

Because these meetings are not public hearings, and to provide an opportunity for an in-depth discussion between NMFS and its constituency, NMFS urges that associations and groups limit their participation to one or two representatives, if possible.

The public scoping meetings are scheduled as follows:

October 26, 1992, Portland, ME, 7–10 p.m.

Sonesta Hotel, 157 High Street, Portland, Maine 04101 (207) 775–5411.

October 27, 1992, Plymouth, MA, 7–10 p.m.

Sheraton Inn, 180 Water St., Plymouth, MA 02360. (508) 747–4900.

October 28, 1992, Ronkonkoma, NY, 7–10 p.m.

Holiday Inn (Airport), 3845 Veterans Memorial Highway, Ronkonkoma, NY 11779. (516) 585–9500.

October 29, 1992, Toms River, NJ, 7–10 p.m.

Holiday Inn, 290 Highway 37 East, Tom's River, New Jersey 08753. (908) 244–4000.

November 2, 1992, Norfolk, VA, 7–10 p.m.

Quality Inn, 6280 Northampton Blvd., Norfolk, VA 23502, (804) 461–6251.

November 4, 1992, Metairie, LA, 7–10 p.m.

World Trade Center Bldg., Suite 1830, Crescent City Room, #2 Canal St., New Orleans, LA 70130. (504) 581–4888.

November 5, 1992, Panama City, FL, 7–10 p.m.

NMFS Panama City Lab, 3500 Delwood Beach Rd., Panama City, FL 32407. (904) 234–6541.

Dated: October 9, 1992.

David S. Crestin,

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

[FR Doc. 92–25036 Filed 10–14–92; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Korea

October 9, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 9, 1992.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryover, carryforward and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 63934, published on December 6, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 9, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on October 9, 1992, you are directed to amend further the directive dated December 2, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Republic of Korea:

Category	Twelve-month restraint limit [1]
Sublevels within Group I	
200	423,717 kilograms.
201	1,548,321 kilograms.
218	8,667,657 square meters.
300/301	2,828,252 kilograms.
313	42,550,312 square meters.
314	26,178,617 square meters.
315	17,967,124 square meters.
410	3,481,091 square meters.
611	3,530,100 square meters.
613/614	6,146,157 square meters.
617	4,748,313 square meters.
619/620	93,886,566 square meters.
624	7,785,132 square meters.
625/626/627/628/629.	14,658,320 square meters.
Sublevels within Group II	
333/334/335	241,119 dozen of which not more than 123,238 dozen shall be in Category 335.
336	46,695 dozen.
338/339	1,126,669 dozen.
340	644,665 dozen of which not more than 334,729 dozen shall be in Category 340-D [2].
341	166,484 dozen.
342/642	203,300 dozen.
347/348	497,576 dozen.
350	14,674 dozen.
351/651	217,564 dozen.
352	169,303 dozen.
433	14,270 dozen.
434	7,249 dozen.
435	35,844 dozen.
436	15,033 dozen.
438	59,161 dozen.
442	51,256 dozen.
443	344,601 numbers.
444	54,850 numbers.
445/446	53,531 dozen.
448	33,757 dozen.
459-W [3]	97,583 kilograms.
633/634/635	1,383,945 dozen of which not more than 150,901 dozen shall be in Category 633 and not more than 584,854 dozen shall be in Category 635.
636	267,505 dozen.
640-D [4]	2,975,442 dozen.
641	1,071,530 dozen of which not more than 40,093 dozen shall be in Category 641-Y [5].
647/648	1,248,617 dozen.
650	22,962 dozen.
659-H [6]	1,293,816 kilograms.

Category	Twelve-month restraint limit [1]
Sublevel within Group III	
835	30,323 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.
[2] Category 340-D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.
[3] Category 459-W: only HTS number 6505.90.4090.
[4] Category 640-D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030.
[5] Category 641-Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.
[6] Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-25941 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-DR-F

Establishment and Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Thailand

October 9, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing and adjusting a limit.

EFFECTIVE DATE: October 19, 1992.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6717. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated September 24, 1992, the Governments of the United States and Thailand agreed to establish a limit for wool textile products in Category 433. Also, the agreed limit for Category 433 is being increased for swing, carryforward and special carryforward.

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 56 FR 60101, published on November 27, 1991). Also see 56 FR 58559, published on November 20, 1991; and 57 FR 42554, published on September 15, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 9, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on October 19, 1992, you are directed to amend the November 15, 1991 directive to establish a limit for Category 433 at a level of 8,363 dozen [1], for the restraint period beginning on August 31, 1992 and extending through December 31, 1992, in accordance with the terms of the Memorandum of Understanding dated September 24, 1992 between the Governments of the United States and Thailand.

Textile products in Category 433 which have been exported to the United States on and after January 1, 1992 shall remain subject to the 1992 Group II limit.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-24971 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-DR-F

[1] The limit has not been adjusted to account for any imports exported after August 30, 1992.

Amendment of a Previous Directive Concerning Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Federative Republic of Brazil

October 9, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements concerning manufacturer's identification.

EFFECTIVE DATE: October 15, 1992 and November 1, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A notice and letter to the Commissioner of Customs published in the Federal Register on October 5, 1992 (57 FR 45771) announced that, effective on October 15, 1992, export visa documents covering goods produced or manufactured in Brazil and exported from Brazil on and after October 15, 1992, would require the complete name and address of a company actually involved in the manufacturing process of the textile product.

For goods exported from Brazil during the period October 15, 1992 through October 31, 1992, the importer may type this required information on the front of the original export visa document. For goods exported from Brazil on or after November 1, 1992 without the M.I.D. on the export visa document, a new visa containing this information must be obtained.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 9, 1992.

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 September 29, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive amends the existing export visa arrangement between the Governments of the United States and the Federative Republic of Brazil to require manufacturer's identification on export visa

documents covering certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Brazil and exported from Brazil on and after October 15, 1992.

Effective on October 15, 1992, for goods produced or manufactured in Brazil and exported during the period October 15, 1992 through October 31, 1992, the importer may type the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa on the front of the original textile visa document. Goods produced or manufactured in Brazil and exported from Brazil on and after November 1, 1992 which are not accompanied by an appropriate export visa which includes the identification of the manufacturer on the visa document prior to export from Brazil shall be denied entry and a new visa containing this information must be obtained.

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-25039 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-DR-F

Request for Public Comments on Bilateral Textile Consultations with the Dominican Republic on Certain Wool Textile Products

October 9, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on categories for which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On September 30, 1992, under the terms of Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as further extended on July 31, 1986, the Government of the United States requested consultations with the Government of the Dominican Republic with respect to men's and boys' wool suits in Category 443, produced or manufactured in the Dominican Republic.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of the Dominican Republic, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on September 30, 1992 and extends through September 29, 1993, at a level of not less than 114,129 numbers.

A summary market statement concerning Category 443 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 443, or to comment on domestic production or availability of products included in Category 443, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of the Dominican Republic.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 443. Should such a solution be reached in consultations with the Government of the Dominican Republic, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Dominican Republic

Category 443—Men's and Boys' Wool Suits

September 1992

Import Situation and Conclusion

U.S. imports of men's and boys' wool suits, Category 443, from the Dominican Republic reached 121,382 units (10,115 dozen) during the year ending in July 1992, 30 percent above the 93,235 units (7,770 dozen) imported during the year ending in July 1991. In the first seven months of 1992, imports of Category 443 from the Dominican Republic reached 81,872 units (6,823 dozen), an increase of 82 percent over the 44,867 units (3,739 dozen) shipped during the first seven months of 1991 and 97 percent of the Dominican Republic's total calendar year 1991 shipments.

The sharp and substantial increase of Category 443 imports from the Dominican Republic is causing disruption in the U.S. market for men's and boys' wool suits.

U.S. Production, Import Penetration and Market Share

U.S. production of men's and boys' wool suits, Category 443, declined in every year since 1988, falling from 482,000 dozen in 1988 to 315,000 dozen 1991, a 35 percent decline. U.S. production was 319,000 dozen in the year ending March 1992, three percent below the year ending March 1991 level. U.S. imports declined in 1990 and then increased again in 1991 reaching 214,000 dozen, 10 percent above the 1990 level. U.S. imports surged in 1992, increasing 25 percent in the first seven months over the January-July 1991 level and reaching 244,646 dozen in the year ending July 1992, 18 percent above the year ending July 1991 level and the highest 12 month level on record.

The ratio of imports to domestic production in Category 443 increased from 35 percent in 1988 to 68 percent in 1991. This trend continued in 1992, with the ratio of imports to domestic production rising to 71 percent during the year ending March 1992. The domestic manufacturers' share of the market for men's and boys' wool suits declined from 74 percent in 1988 to 60 percent in 1991, a decline of 14 percentage points. This decline continued in 1992 with the domestic manufacturers' share of the market

falling to 59 percent for the year ending March 1992.

Duty-Paid Value and U.S. Producers' Price

Approximately 88 percent of Category 443 imports from the Dominican Republic during the year ending July 1992 entered the U.S. under HTSUSA number 6203.11.2000—men's and boys' wool suits, other than those containing 30 percent or more by weight of silk. These suits entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable wool suits.

[FR Doc. 92-25040 Filed 10-14-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Information Collection in Support of the DoD Acquisition Process (Solicitation Requirements).

Type of Request: Revision.

Average Burden Hours/Minutes per Response: 5.91 hours.

Responses per Respondent: 1.

Number of Respondents: 12,222,000.

Annual Burden Hours: 72,240,000.

Annual Responses: 12,222,000.

Needs and Uses: This information collection requirement concerns information that is peculiar to the solicitation phase of the contracting process.

Affected Public: Businesses or other for-profit, Non-profit institutions, and Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: October 8, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-24932 Filed 10-14-92; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Medical and Dental Reimbursement Rates for Fiscal Year 1993

Notice is hereby given that the Deputy Comptroller of the Department of Defense (Management Systems), in memorandum dated September 29, 1992, established the following reimbursement rates for inpatient and outpatient medical and dental care to be provided during fiscal year 1993.

The following reimbursement rates shall be charged for inpatient, outpatient, and other medical and dental services provided during fiscal year 1993:

	International military education and training [1]	Other federal agency sponsored patients [2]	Other
Per Inpatient Day			
Burn Unit	$1,611	$2,626	$2,761
Inpatient Other than Burn Unit [3]			
Medical Care Services	304	728	777
Surgical Care Services	400	958	1,022
Obstetrical and Gynecological Care	389	931	993
Pediatric Care	314	752	802
Orthopedic Care	345	826	881
Psychiatric Care and Substance Abuse	199	476	508
Family Practice Care	280	671	716
Medical Intensive Care and Coronary Care	685	1,639	1,749
Surgical Intensive Care	692	1,657	1,767
Neonatal Intensive Care	432	1,034	1,104
Organ and Bone Marrow Transplant	710	1,700	1,814
Same Day Surgery	187	448	477
Per Outpatient Visit			
Medical Treatment Facilities	35	94 [5]	100
Primus/Navcare			62 [4]
Other Rates and Charges			
Military Dependents		9.30	–
Per FAA Air Traffic Controller Examination	N/A	94	N/A

Medication	Medication strength	Standard dose	Standard quantity	Standard days	Standard cost
High Cost Medications Requested by External Providers [4]					
Cromolyn Oral Inhaler		Use QID	4	90	$190
Cyclosporine	100 MGM	One BID	60	30	211
Diltiazenz	60 MGM	One TID	270	90	101
Gemfibrozil	600 MGM	One BID	180	90	135
Naproxen sodium	500 MGM	One BID	180	90	108
Nifedipine XL	30 MGM	One QD	100	100	114
Nifedipine XL	60 MGM	One QD	100	100	136
Nifedipine XL	90 MGM	One QD	100	100	153

High Cost Services Requested by External Providers [4]

Service provided	Cost of service
Gastrointestinal (G.I.) Studies	$201
Computerized Axial Tomography (CAT) Scan	287
Mammogran	171
Magnetic Resonance Imaging (MRI)	155
Nuclear Medicine Scan	238
Thallium Scan	688
Ultrasound	1,109

Notes on Reimbursable Rates:

[1] International Military Education and Training is referred to as "IMET" on the reimbursement rate distribution schedule, TAB I-2.

[2] Other Federal agency-sponsored patients referred to as "Interagency" on the reimbursement rate distribution schedule.

[3] Designates new inpatient multiple rates for FY 1993. These multiple rates replace the one general rate used in FY 1992. In FY 1993, multiple inpatient rates also serve as the basis for billing third parties (for comparison purposes, the FY 1993 general rate would have been $860.00 compared with the FY 1992 rate of $701.00 or increase of approximately 23 percent). The clinical services provided within each new multiple rate are contained in TAB I-3. Daily percentages are applied to the inpatient service provided when billing third party payers. Pursuant to the provisions of 10 U.S.C. 1095, the daily percentages to be used are as follows: Hospital 61 percent, physician 5 percent, and ancillary 34 percent.

[4] Charges for PRIMUS/NAVCARE high cost medications or services requested by external providers (Physicians, Dentists, etc.) are only relevant to the Third Party Collection Program. Third party payers may be billed for high cost services in those instances in which policy holders, seen by providers external to a Military Medical Treatment Facility (MTF), obtain the prescribed service or medication from an MTF. Eligible beneficiaries are not personally liable for this cost and shall not be billed. Third Party Payers shall not be billed for high cost services provided in conjunction with an admission or visit to an MTF.

[5] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

Inpatient rate	Items included
Medical Care Services	Internal Medicine, Cardiology, Dermatology, Endocrinology, Gastroenterology, Hematology, Nephrology, Neurology, Oncology, Pulmonary and Upper Respiratory Disease, Rheumatology, Physical Medicine, Clinical Immunology, HIV-III Acquired Immune Deficiency Syndrome (AIDS), Infectious Disease, Allergy, and Medical Care not elsewhere classified.
Surgical Care Services	General Surgery, and Cardiovascular and Thoracic Surgery, Neurosurgery, Ophthalmology, Oral Surgery, Otolaryngology, Pediatric Surgery, Plastic Surgery, Proctology, Urology, Peripheral Vascular, Trauma Service, Head and Neck Service, and Surgical Care not elsewhere classified.
Obstetrical and Gynecological Care	Self-Explanatory.
Pediatric Care	Pediatrics, Nursery, Adolescent Pediatrics and Pediatric Care not elsewhere classified.
Orthopedic Care	Orthopedics, Podiatry and Hand Surgery.
Psychiatric Care and Substance Abuse	Self-Explanatory.
Family Care Practice	Self-Explanatory.
Medical Intensive Care/Coronary Care	Self-Explanatory.
Surgical Intensive Care	Self-Explanatory.
Neonatal Intensive	Self-Explanatory.
Organ and Bone Marrow Transplants	Self-Explanatory.
Same Day Surgery	Simple surgical procedures involving a maximum of 2 hours operating room and 4 to 6 hours recovery room time.

Dated: October 9, 1992.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 92-25014 Filed 10-14-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Proposed Construction of a Water Supply Reservoir on Sugar Creek in Williamson and Johnson Counties, IL

AGENCY: U.S. Army Corps of Engineers, Louisville District, DoD.

ACTION: Notice.

SUMMARY: The U.S. Army Engineer District, Louisville Corps of Engineers is presently undertaking the preparation of a DEIS for a regulatory permit application, 89-IL-330, from the City of Marion, Illinois. The City of Marion, Illinois proposes to construct a dam near Creal Springs to create an impoundment with a surface area of approximately 1,172 acres and a water elevation of 496 feet mean sea level.

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the preparation of this DEIS should be addressed to Mr. Terry Siemsen, U.S. Army Engineer District, Louisville, ATTN: CEORL-PD-R, P.O. Box 59, Louisville, Kentucky 40201-0059, telephone (502) 582-5550.

SUPPLEMENTARY INFORMATION: The Louisville District prepared an Environmental Assessment, signed on June 28, 1991, for this permit application which concluded with a Findings of No Significant impact that the proposed action would not have a significant Impact that the proposed environment and the preparation of an Environmental Impact Statement was not required. However, in a subsequent lawsuit (Civil No. 91-4188-JLF) brought in the United States District Court for the Southern District of Illinois, judgment was entered that the proposed action would have a significant impact to the human environment.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-24934 Filed 10-14-92; 8:45 am]

BILLING CODE 3710-08-M

Meetings; Rifle Practice Promotion National Board

AGENCY: The National Board for the Promotion of Rifle Practice, DoD.

ACTION: Notice of open meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of Committee: The National Board for the Promotion of Rifle Practice.

Date of Meeting: December 9, 1992.

Place: Westfields International Conference Center, 14750 Conference Center Drive, Chantilly, Virginia 22021.

Time: 9 a.m.–4:30 p.m.

Proposed Agenda

1. Federal Register Notice of the Meeting.
2. Roll call.
3. Approval of previous board minutes.
4. 1992 Budget Report and Approval.
5. 1993 Financial Management Plan.
6. Program Overview.
7. New issues.

This meeting is open to the public.

Persons desiring to attend the meeting should contact Mr. Dennis W. Galoci or Mrs. Terri Cusic at (202) 272–0810 prior to November 8, 1992 to arrange admission.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–24933 Filed 10–14–92; 8:45 am]

BILLING CODE 3710–08–M

Defense Investigative Service

Privacy Act of 1974; Amend a System of Records

AGENCY: Defense Investigative Service, DOD.

ACTION: Amend a system of records.

SUMMARY: The Defense Investigative Service (DIS) proposes to amend the disposition schedule of one system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The amendment is in accordance with changes to the General Records Schedules published by the National Archives and Records Administration.

DATES: The proposed action will be effective on November 16, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Defense Investigative Service, Chief, Office of Information and Public Affairs, 1900 Half Street, SW, Room 6115, Washington, DC 20324–1700.

FOR FURTHER INFORMATION CONTACT: Mr. Date Hartig at (202) 475–1062.

SUPPLEMENTARY INFORMATION: The Defense Investigative Service compilation of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

50 FR 22943, May 29, 1985 (DOD Compilation, changes follow)
55 FR 22390, June 1, 1990
56 FR 12716, March 27, 1991
56 FR 46163, September 10, 1991
57 FR 1155, January 10, 1992
57 FR 5421, February 14, 1992
57 FR 10468, March 26, 1992
57 FR 15305, April 27, 1992
57 FR 21398, May 20, 1992

The amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of an altered systems reports. The change to the notice are outlined below followed by the notice, as amended, in its entirety.

Dated: October 9, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

V4–07

SYSTEM NAME:

Adverse Actions, Grievance Files, and Administrative Appeals, (57 FR 5421, February 14, 1992).

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

On line two, change "three" to "seven". On line four, change "four" to "seven".

* * * * *

V4–07

SYSTEM NAME:

Adverse Actions, Grievance Files, and Administrative Appeals.

SYSTEM LOCATION:

Defense Investigation Service, Deputy Director (Resources), 1900 Half Street, SW, Washington, DC 20324–1700.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All agency employees who are directly affected by grievances, complaints, and adverse actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files and related records pertaining to administrative inquiries into allegations of misconduct, statements of witnesses, employee's statements, reports of interviews and hearings, hearing notices, letters of decision, records of appeals and reconsideration requests, reversals of actions, notices of proposed action with supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Personnel Manual, Chapters 432, 751, 752, 771 and 5 U.S.C. 301, Chapter 77; and Executive Order 9397.

PURPOSE(S):

Records are used in the investigation and preparation of a case for initial disposition, and possible subsequent determinations in the event of appeal or reconsideration. Records are available for use by the examiner of the original case, or at the appellate level, both within and outside DIS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" listed at the beginning of DIS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are maintained in locked containers accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Adverse action files are destroyed seven years after the case is closed. Grievance and administrative appeals files are destroyed seven years after the case is closed. Destruction is accomplished by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Investigative Service, Deputy Director (Resources), 1900 Half Street, SW, Washington, DC 20324–1700.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324–1700.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, PO Box 1211, Baltimore, MD 21203–1211.

Individuals need to provide full name and all maiden and alias names under which files may be maintained.

Note: Social Security numbers may be necessary for positive identification of certain records.

Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Offices.

CONTESTING RECORD PROCEDURES:

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in

DIS Regulation 28-4, "Access to and Maintenance of DIS Personal Records"; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324-1700.

RECORD SOURCE CATEGORIES:

Supervisors, complainants, investigators, and appropriate law enforcement agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-25049 Filed 10-14-92; 8:45 am]

BILLING CODE 3810-01-F

DEPARTMENT OF EDUCATION

Advisory Committee on Testing in Chapter 1

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the fourth meeting of the Advisory Committee on Testing in chapter 1. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of the opportunity to attend.

DATES AND TIME: October 29, 1992—8:30 a.m.-p.m.; October 30, 1992-8:30 a.m.-p.m.

ADDRESSES: Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001; (202) 628-2100.

FOR FURTHER INFORMATION CONTACT: Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (room 2043, FOB-6), Washington, DC 20202-6132. Telephone: (202) 401-1682. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Testing in Chapter 1 was established under section 442 of the General Education Provisions Act, as amended (20 U.S.C. 1233a). The Advisory Committee was established to advise the Secretary of Education on possible improvements or alternatives to the current testing procedures for measuring the academic achievement of Chapter 1 students.

The meeting of the Committee is open to the public. The agenda will focus on the Committee's deliberations on its recommendations and reviews of draft chapters of its final report.

Records of the Committee proceedings will be available in the office of the Advisory Committee on Testing in Chapter 1, 400 Maryland Avenue, SW. (room 2043, FOB-6), Washington, DC 20202-7559, between 9 a.m. and 5 p.m., Eastern time.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 92-25055 Filed 10-14-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Savannah River Field Office (SR) Financial Assistance award; Intent to Award a Noncompetitive Grant

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive award of cooperative agreement.

SUMMARY: The DOE announces that it plans to award a cooperative agreement to the South Carolina Universities Research and Education Foundation (SCUREF). This consortium of South Carolina universities is comprised of the University of South Carolina, Clemson University, the Medical University of South Carolina, and South Carolina State College. This agreement will support a pilot center in the State of South Carolina directed toward educational outreach, training, research and technology transfer in the areas of environmental restoration and waste management. Estimated cost for the five-year project is $18.9 million; DOE will contribute $13.2 million and SCUREF will cost share approximately $5.8 million. Pursuant to § 600.7(b)(2)(i)(G) of the DOE Assistance Regulations (10 CFR part 600), the Department of Energy determines that a noncompetitive award is in the public interest.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Prime Contracts and Financial Assistance Branch, U.S. Department of Energy, Savannah River Field Office, P.O. Box A, Aiken, SC 29802. Telephone: (803) 725-2191.

SUPPLEMENTARY INFORMATION: The primary purpose of this cooperative agreement is to establish educational outreach and training initiatives directed toward environmental restoration and waste management needs that can be extended within the consortium of South Carolina Universities, into the middle and secondary schools in South Carolina and into the public sector. Under the educational initiative, the objective is to increase the number of scientists, engineers, and technologists preparing for careers in the fields of environmental restoration and waste management and to provide an innovative outreach program to improve public school science and math education. Other initiatives are planned in the areas of (1) outreach technology transfer; (2) use of the Savannah River Site (SRS) facilities to permit demonstration, evaluation, and technical qualification of environmental and waste management technologies; and (3) research activities addressing problems directly benefiting the public.

Issued in Aiken, South Carolina on September 25, 1992.

Robert E. Lynch,

DOE Savannah River Field Office, Head of Contracting Activity Designee.

[FR Doc. 92-25019 Filed 10-14-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. JD93-00008T]

Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

October 8, 1992.

Take notice that on October 5, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Spraberry (Trend Area) Formation in portions of Midland and Upton Counties, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is described in the attached appendix.

The notice of determination also contains Texas' findings that the referenced portion of the Spraberry (Trend Area) Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and

275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

The recommended Spraberry (Trend Area) Formation is located in Midland and Upton Counties, Texas, within Railroad Commission Districts 7C and 8.

Township 4 South, Block 38

Midland County
Sections 26–28—All
Sections 33–35—All
Sections 38–40—All
Sections 45–48—All

Township 5 South, Block 38

Midland County
Sections 1–3—All
Midland/Upton Counties
Sections 4–5—All
Sections 9–12—All
Upton County
Sections 8—All
Sections 13–17—All
Sections 20–21—All
Sections 22—N½, SW¼
Sections 23—N½, SW¼
Sections 24—N½

Township 5 South, Block 37

Midland County
Sections 6–7—All
Midland/Upton Counties
Sections 18—All
Upton County
Sections 19—S½ of NW¼, NE¼

[FR Doc. 92–25022 Filed 10–14–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93-00005T Texas-80]

Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

October 8, 1992.

Take notice that on October 2, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Lower Wilcox (Kaspar) Sand Formation in a portion of DeWitt County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area consists of all or portions of the following surveys:

Survey	Abstract
R. Burns	A-73 (Portion)
N.B. Williams	A-491
C. Monod	A-349
C. Longario	A-316
J. Beeson	A-88

The notice of determination also contains Texas' findings that the referenced portion of the Lower Wilcox (Kaspar) Sand Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary

[FR Doc. 92–25021 Filed 10–14–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP92-104-003 and RP92-131-004]

K N Energy, Inc.; Tariff Filing

October 8, 1992.

Take notice that on October 1, 1992, K N Energy, Inc. (K N) tendered for filing the following tariff sheets to K N's FERC Gas Tariff, with a proposed effective date of October 1, 1992:

Fourth Revised Volume No. 1:
Thirteenth Revised Sheet No. 4
Thirteenth Revised Sheet No. 4B
First Revised Volume No. 1-B:
Third Revised Sheet No. 66

K N states that Third Revised Tariff Sheet No. 66 reflects the allowance of D2 renominations for K N's wholesale customers. K N also states that Thirteenth Revised Tariff Sheet Nos. 4 and 4B are necessary to keep K N revenue neutral if the D2 renominations for K N's wholesale customers are allowed.

K N states that copies of the revised tariff sheets have been mailed to jurisdictional customers and public bodies on the service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 16, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–25025 Filed 10–14–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91-111-007]

North Penn Gas Co.; Filing

October 8, 1992.

Take notice that on October 1, 1992, North Penn Gas Company (North Penn) tendered for filing, pursuant to the June 3, 1992 and August 5, 1992 orders in the captioned docket, work papers showing the closing balance in its purchased gas adjustment (PGA) Account No. 191, and the allocation of that amount between Kane Gas Heating and Light Company (Kane) and New York State Electric & Gas Corporation (NYSEG).

North Penn states that the balance in Account No. 191 on the last day of North Penn's PGA, was $99,117. North Penn states that pursuant to the allocation proposed in Original Sheet No. 15H1B, North Penn will directly assign $96,699 to Kane and $2,418 to NYSEG, its two former FERC sales customers.

North Penn states that copies of the filing were served the parties listed in the service list, which sets forth the companies to which North Penn provided FERC services as well as the affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 16, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–25020 Filed 10–14–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92-166-003]

Panhandle Eastern Pipe Line Co; Compliance filing

October 8, 1992.

Take notice that on October 1, 1992 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing revised

tariff sheets in the above-mentioned proceeding.

Panhandle states that the revised tariff sheets to be effective November 1, 1992 reflect compliance and are consistent with the requirements of the Commission's May 29, 1992 Order in this proceeding and are without prejudice to Panhandle's rights on rehearing or judicial review in connection with the various Commission orders affecting this filing.

Panhandle states that in its June 1, 1992 Order Terminating Technical Conference Proceeding, Granting Rehearing in Part and Denying Rehearing in Part in Docket No. RP91-229-000, the Commission required Panhandle to alter the functionalization of its cost of service to reflect the current functionalization of facilities. 59 FERC at 61,893. Panhandle reflected that functionalization in its rates in Docket No. RP91-229-000 in a compliance filing submitted on July 31, 1992. The rates reflected herein have also been adjusted in a manner consistent with the Commission's Order of July 1, 1992 in Docket No. RP92-145-000.

In addition, Panhandle states that in its June 1, 1992 Order on Report Filed Pursuant to Opinion No. 369 and Motion Rate and Compliance Filing, the Commission required Panhandle's rate for certain specified backhaul services to equal one-half the forward-haul rate. This requirement also is reflected in the rates submitted herewith.

Panhandle states it has reflected the elimination, effective November 1, 1992 of costs associated with Trunkline Gas Company, consistent with the provisions of Article VII, section 6 of the July 15, 1992 Settlement in Docket Nos. RP91-229-009, *et al.*, approved by Order of the Commission issued August 28, 1992.

Panhandle states that the rates and tariffs submitted herewith also reflect PGA and ACA filings in Docket No. TQ92-5-28-000 and Docket No. TM92-4-28-000 and Docket No. TM93-1-28-000, which have been made since Panhandle's rate filing of May 1, 1992.

Panhandle states that copies of the revised tariff sheets are being served on all jurisdictional customers, interested state commissions and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 16, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-25023 Filed 10-14-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-163-002 and RP92-170-002]

Williston Basin Interstate Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 8, 1992.

Take notice that on September 30, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing a motion to place into effect certain revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff, in compliance with Commission orders issued May 29, 1992, and September 25, 1992, in this proceeding.

Williston Basin proposed an effective date of November 1, 1992 for the tariff sheets.

Williston Basin states that copies of the filing were served on Williston Basin's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 16, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-25024 Filed 10-14-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4522-2]

Science Advisory Board, Radiation Advisory Committee; Open Meeting, October 29-30, 1992

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Radiation Advisory Committee (RAC) of the Science Advisory Board will meet October 29-30, 1992 at the Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007. The Committee meeting will begin at 9 a.m. Thursday, October 29 and adjourn no later than 4 p.m. on Friday, October 30. The meeting is open to the public and seating is limited.

This meeting is for SAB members and consultants who will be participating in the SAB's Annual Membership Meeting on the afternoon of Wednesday October 28. Outgoing current and incoming members are invited to the Membership and RAC meetings. The Radiation Advisory Committee will be reviewing the High-Level Waste/Carbon-4 Release Subcommittee Report, will discuss a radon science initiative, consider a commentary on quantitative uncertainty analysis, and discuss FY 93 plans.

Members of the public who wish to make brief oral presentations to the Committee should write or fax Mrs. Conway no later than noon Thursday, October 22. Requests for time for oral comment must include the name and affiliation of the speaker and the topic(s) to be addressed. Both an overhead projector and a 35 mm slide projector will be available. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written comments.

For details concerning this meeting, including a draft agenda, please contact Mrs. Kathleen Conway or Mrs. Dorothy Clark, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone 202/260-6552. Fax 202/260-7118.

Dated: October 1, 1992.

A. Robert Flaak,

Acting Director, Science Advisory Board.

[FR Doc. 92-25033 Filed 10-14-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-45223]

Science Advisory Board/Scientific Advisory Panel, Special Joint Committee, Open Meeting

Under Public Law 92-463, notice is hereby given that a Special Joint Committee (SJC) of the Science Advisory Board and the Scientific Advisory Panel will meet on November 5 and 6, 1992 at the auditorium of the National Museum of Women in the Arts, 1250 New York Avenue, NW., Washington, DC 20005-3920. The telephone number is (202) 783-5000.

The meeting, which is open to the public, will start at 9 a.m. each day, and adjourn no later than 5 p.m. each day.

The main purpose of the meeting is to review the Agency's Risk Assessment Forum draft document *Guidance on The Use of Data on Cholinesterase Inhibition in Risk Assessment* (August, 1992) and the Office of Pesticides Program's proposed Reference Dose (RfD) for Aldicarb/Aldicarb Sulfone.

The cholinesterase review will take place on November 5. Principal issues to be discussed include the draft document's use of available data on cholinesterase inhibition; the use of clinical effects associated with cholinesterase inhibition to calculate RfDs; the use of cholinesterase inhibition in animal brain tissue to calculate RfDs; the use of cholinesterase inhibition in plasma and red blood cells as a biomarker of exposure; the recommendation that data on cholinesterase inhibition in blood not be used for risk assessment purposes; and the recommendation to evaluate on a case-by-case basis the use of any future findings of a predictive relationship between red blood cell cholinesterase and neurotoxicity for risk assessment and RfD calculation.

The Aldicarb review will take place on November 6. Principal issues to be discussed include the toxicology data base supporting the proposed RfDs for Aldicarb/Aldicarb Sulfone; and scientific issues regarding derivation of a Maximum Contaminant Level Goal (MCLG) for mixtures of Aldicarb, Aldicarb Sulfone, and Aldicarb Sulfoxide which may occur as contaminants in drinking water.

Copies of the relevant documentation for both topics, and an Agenda for the meeting can be obtained from the Field Operations Division (H70506C), Office of Pesticides Programs Docket, by calling (703) 305-5805; by writing to the Office at 401 M Street, SW., Washington, DC 20460; or by visiting the Office at room 1132, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington VA 22202.

Members of the public desiring additional information about the conduct of the meeting should contact Mr. Bruce Jaeger, Designated Federal Official, Scientific Advisory Panel, by telephone at (703) 305-5369, or by mail at U.S. Environmental Protection Agency, FIFRA Scientific Advisory Panel, Health Effects Division (H7509C), Office of Pesticides Programs, Office of Prevention, Pesticides and Toxic Substances, 401 M Street, SW., Washington, DC 20460; or Mr. Samuel Rondberg, Designated Federal Official, Science Advisory Board by telephone at (202) 260-6552, or by mail to: U.S. Environmental Protection Agency (A101F), 401 M Street, SW., Washington, DC 20560. Anyone wishing to make a presentation at the meeting should forward a written statement (35 copies) to Mr. Jaeger or Mr. Rondberg by October 26, 1992. The Science Advisory Board/Scientific Advisory Panel expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Dated: October 2, 1992.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 92-25032 Filed 10-14-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00338; FRL-4167-2]

Streptomycin and Streptomycin Sulfate, Pesticide Reregistration Eligibility Document; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of reregistration eligibility document; opening of public comment period.

SUMMARY: This Notice announces the availability of the final Reregistration Eligibility Document (RED) for Streptomycin and Streptomycin Sulfate and the start of a 60-day public comment period. The RED is the Agency's formal regulatory assessment of the health and environmental data base for streptomycin and streptomycin sulfate and presents the Agency's determination regarding which uses of streptomycin and streptomycin sulfate are eligible for reregistration.

DATES: Written comments on the RED must be submitted by December 14, 1992.

ADDRESSES: Three copies of comments identified with the docket number (OPP-00338) should be submitted by mail to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

To request a copy of the RED or a RED Fact Sheet for streptomycin and streptomycin sulfate, contact the Public Response and Program Resources Branch in rm. 1132, CM #2 at the address given above or call (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Benjamin C. Chambliss for questions concerning product-specific data requirements and labeling at (703) 305-7382. Questions on the generic data base should be directed to Theresa A. Stowe at (703) 308-8043.

SUPPLEMENTARY INFORMATION: The Agency has issued a final Reregistration Eligibility Document for streptomycin and streptomycin sulfate. Under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate most existing pesticides to make sure they meet current scientific and regulatory standards. The Agency has determined that the registered uses do not cause unreasonable adverse effects to people or the environment. EPA has determined that all products containing streptomycin and streptomycin sulfate as an active ingredient are eligible for reregistration. However, the Agency is requiring certain generic data to be submitted to

confirm the reregistration eligibility decision put forth in the RED. These data include product chemistry on the technical formulation, a hydrolysis study, and an invertebrate toxicity study. In addition, the registrant(s) must propose an appropriate tolerance for streptomycin in or on beans (succulent and dried), based on the results of the field trials. All registrants of streptomycin and streptomycin sulfate have been sent the RED and must respond to the labeling requirements and the product specific data requirements (if applicable) within 8 months of receipt.

The reregistration program is being conducted under Congressionally-mandated timeframes, and EPA is mindful of the need to make both timely reregistration decisions and involve the public. Therefore EPA is issuing the Streptomycin and Streptomycin Sulfate RED as a final document with a 60-day comment period. Although it does not affect the registrants' response due date, the 60-day public comment period provides an opportunity for public input and a mechanism for initiating any necessary amendments to the RED.

Dated: September 29, 1992.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92-24952 Filed 10-14-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-140190; FRL-4162-6]

Access to Confidential Business Information by Versar Incorporated and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Versar, Incorporated (VER), of Springfield, Virginia, and it subcontractors General Science Corporation (GSC) of Laurel, Maryland, and Syracuse Research Corporation (SRC) of Syracuse, New York, for access to information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than October 29, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D9-0166, contractor VER, of 6850 Versar Center, Springfield VA, and its subcontractors GSC, of 6100 Chevy Chase Drive, Laurel, MD, and SRC of Merrill Lane, Syracuse, NY, will assist the Office of Pollution Prevention and Toxics (OPPT) in assessing nonoccupational exposure scenarios for chemicals being considered for regulation under section 4, 5, or 6 of TSCA.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-D9-0166, VER, GSC, and SRC will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract. VER, GSC, and SRC personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of January 16, 1990 (55 FR 1513), VER, GSC, and SRC were authorized for access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA. EPA is issuing this notice to extend VER's, GSC's, and SRC's access to TSCA CBI under a contract extension.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide VER, GSC, and SRC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and VER's and SRC's facilities only.

VER and SRC will be authorized access to TSCA CBI at their facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. Before access to TSCA CBI is authorized at VER's and SRC's site, EPA will approve their security certification statements, perform the required inspections of their facilities, and ensure that the facilities are in compliance with the manual. Upon completing review of the CBI materials, VER and SRC will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until November 30, 1992.

VER, GSC, and SRC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: September 2, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-25034 Filed 10-14-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-965-DR]

Iowa; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: October 2, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA-965-DR), dated October 2, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 2, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Iowa, resulting from the severe storms and flooding during September 14-15, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a

period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Warren M. Pugh, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Iowa to have been affected adversely by this declared major disaster:

The counties of Adams, Clarke, Decatur, Lucas, Monroe, Ringgold, Union, and Wayne for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.

Wallace E. Stickney,

Director.

[FR Doc. 92-24981 Filed 10-14-92; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-964-DR]

Wisconsin; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: September 30, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Wisconsin (FEMA-964-DR), dated September 30, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 30, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Wisconsin, resulting from severe storms and flooding on September 14, 1992, to September 24, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Wisconsin.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Phil Zaferopulos of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Wisconsin to have been affected adversely by this declared major disaster:

The counties of Buffalo, Crawford, Jackson, Juneau, Pepin, Pierce, Richland, Sauk, Trempealeau, and Vernon for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director.

[FR Doc. 92-24987 Filed 10-14-92; 8:45 am]

BILLING CODE 6718-02-M

Open Meeting, Board of Visitors for the Emergency Management Institute

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

NAME: Board of Visitors for the Emergency Management Institute.

DATES OF MEETING: November 8-10, 1992.

PLACE: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, MD 21727.

TIME: November 8, 1992, 8:30 a.m.-5 p.m.; November 9, 1992, 8:30 a.m.-5 p.m.; November 10, 1992, 8:30 a.m.-12 noon.

PROPOSED AGENDA: November 8: The board will discuss their 1992 workplan with the EMI Superintendent. The three working groups established by the board will then meet individually to discuss their topics and begin formulation of reports which will be the basis for the board's 1992 annual report.

November 9: The board will be briefed on the status of various EMI/FEMA programs, and then continue with working sessions of the three groups.

November 10: The board will meet with EMI staff as necessary to support working group initiatives and each group will present their findings/recommendations to the entire board.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447-1251, on or before October 30, 1992.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Superintendent, Emergency Management Institute, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: October 6, 1992.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-24986 Filed 10-14-92; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Costa Cruise Lines N.V. and Costa Crociere S.P.A., World Trade Center, 80 SW. 8th Street, Miami, FL 33130-3097.

Vessel: COSTA ALLEGRA.

Dated: October 7, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-24935 Filed 10-14-92; 8:45 am]

BILLING CODE 6730-01-M

[Petition No. P7-92]

Motor Vehicle Manufacturers Association of the United States, Inc. et al.; Filing

Notice is hereby given that the Motor Vehicle Manufacturers Association of the United States, Inc., and Wallenius Lines, N.A. ("Petitioners") have jointly applied pursuant to section 16 of the Shipping Act of 1984 ("the Act"), 46 U.S.C. app. 1715, for an exemption of certain shipments from certain requirements in section 8(c) of the Act, 46 U.S.C. app. 1707(c). Specifically, Petitioners seek an order exempting shipments of passenger vehicles consigned for shipment by the original manufactures on roll-on/roll-off vessels, moving under contracts for the carriage of 5,000 or more vehicles in any twelve-month period, from the requirements to: (1) Publicly file and make available in tariff format the essential terms of certain service contracts, and (2) make those essential terms available to similarly situated shippers.

Interested persons are requested to submit views and arguments on the application no later than November 16, 1992. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 in an original and 15 copies. Responses shall also be served on counsel for Petitioner: Gerald Seifert, Esq., Galland, Kharasch, Morse & Garfinkle, P.C. 1054 Thirty-First Street, NW., Washington, DC 20007.

Copies of the application are available for examination at the office of the Secretary of the Commission, 800 N. Capitol Street, NW., Washington, DC 10th Floor.

Joseph C. Polking,

Secretary.

[FR Doc. 92-24936 Filed 10-14-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Union Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 2, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Union Corporation, Charlotte, North Carolina; to acquire DFSoutheastern, Inc., Decatur, Georgia, and thereby engage in owning and operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Security Richland Bancorporation, Miles City, Montana; to acquire Book of insurance business from Richey Bancorporation, Richey, Montana, and thereby engage in general insurance agency activities in Richey, Montana, a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii); acting as principal, agent, or broker for insurance that is directly related to extensions of credit by Applicant and its subsidiary, and limited to ensuring the repayment of the outstanding balance due on the extension of credit in the event of the death, disability, or involuntary unemployment of the debtor in the communities of Miles City, Glendive, Sidney, and Richey, Montana, pursuant to §§ 225.25(b)(8)(i)(A) and (b)(8)(i)(B) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-25048 Filed 10-14-92; 8:45 am]

BILLING CODE 6210-01-F

Fourth Financial Corporation, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the

reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 6, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fourth Financial Corporation, Wichita, Kansas; to merge with Fourth National Corporation, Tulsa, Oklahoma, and thereby indirectly acquire Fourth National Bank of Tulsa, Tulsa, Oklahoma.

In connection with this application, Applicant also proposes to acquire Fourth National Corporation, Tulsa, Oklahoma, and thereby indirectly acquire Fourth Mortgage and Investment Company, and thereby engage in making and servicing real estate mortgage loans pursuant to § 225.25(b)(1); to acquire Fourth Investment Advisors, Inc., and thereby engage in acting as a registered investment advisor pursuant to § 225.25(b)(4); and to acquire Roe and Cochran, Inc., and thereby engage in providing individual portfolio and other financial planning services pursuant to § 225.25(b)(4) of the Board's Regulation Y.

2. United Missouri Bancshares, Inc., Kansas City, Missouri; to acquire CNB Financial Corporation, Kansas City, Missouri, and thereby indirectly acquire Commercial National Bank of Kansas City, Kansas City, Kansas; City National Bank, Atchison, Kansas; First Bank and Trust Co., Concordia, Kansas, and Security State Bank, Fort Scott, Kansas.

In connection with this application, Applicant also proposes to engage through its proposed subsidiary, CNB Financial Corporation, Kansas City, Kansas, which is engaged in data processing activities through its 12.5 percent limited partnership interest in Monetary Transfer Systems, Inc., St. Louis, Missouri, in certain data processing activities related to an ATM network involving CNB subsidiaries and others pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-25047 Filed 10-14-92; 8:45 am]

BILLING CODE 6210-01-F

Integra Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 6, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Integra Financial Corporation, Pittsburgh, Pennsylvania; to merge with Equimark Corporation, Pittsburgh, Pennsylvania, and thereby indirectly acquire Equibank, Pittsburgh, Pennsylvania.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Easton Bancorp, Inc., Easton, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of Easton Bank & Trust, Easton, Maryland, a *de novo* bank.

C. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Alabama Bancshares, Inc., Montgomery, Alabama; to acquire 100 percent of the voting shares of First Security Bank of Tennessee, Nashville, Tennessee, a *de novo* bank.

2. SouthTrust Corporation, Birmingham, Alabama, and SouthTrust of Florida, Inc., Jacksonville, Florida; to acquire 100 percent of the voting shares of Gulf & Southern Financial Corporation, Fort Myers, Florida, and thereby indirectly acquire The National Bank of Lee County, Fort Myers, Florida, and Community National Bank of Sarasota County, Venice, Florida.

D. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Southwest Bancorp, Inc., Worth, Illinois; to acquire 100 percent of the voting shares of SC Bancorp, Inc., Worth, Illinois, and thereby indirectly acquire The Sun City Bank, Sun City, Arizona. In connection with this application, SC Bancorp, Inc., has applied to become a bank holding company by acquiring 100 percent of the voting shares of The Sun City Bank.

E. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. United Missouri Bancshares, Inc., Kansas City, Missouri, and its subsidiary, United Subsidiary, Inc., Kansas City, Kansas; to acquire 100 percent of the voting shares of Overland Park Bancshares, Inc., Overland Park, Kansas, and thereby indirectly acquire Overland Park Bank and Trust Co., Overland Park, Kansas.

F. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. LNB Financial Corporation, Austin, Texas; to acquire 100 percent of the voting shares of LNB Financial-Delaware, Inc., Wilmington, Delaware, and thereby indirectly acquire Liberty National Bank, Austin, Texas. In connection with this application, LNB Financial-Delaware, Inc. has applied to become a bank holding company by acquiring 100 percent of the voting shares of Liberty National Bank, Austin, Texas.

2. Olney Bancshares, Inc., Olney, Texas; to acquire 99.96 percent of the voting shares of First Coleman National Bank of Coleman, Coleman, Texas.

Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-25046 Filed 10-14-92; 8:45 am]

BILLING CODE 6210-01-F

George Parker Kemp; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12

CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than November 4, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. George Parker Kemp, to acquire 11.71 percent of the voting shares of Peoples Mid-Illinois Corporation, Bloomington, Illinois, and thereby indirectly acquire Lexington Bank, Lexington, Illinois.

Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-25045 Filed 10-14-92; 8:45 am]

BILLING CODE 6210-01-F

Old Kent Financial Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 6, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Old Kent Financial Corporation, Grand Rapids, Michigan; to engage *de novo* through its subsidiary, Old Kent Brokerage Services, Inc., in offering full-service brokerage services pursuant to § 225.25(b)(4) and (b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-25044 Filed 10-14-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92D-0345]

Draft Guideline on Repackaging of Solid Oral Dosage Form Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline entitled "Guideline on Repackaging of Solid Oral Dosage Form Drug Products." FDA is making the draft guideline available for public comment before developing a final guideline. The draft guideline provides information on certain practices and procedures required by the current good manufacturing practice (CGMP) regulations for the repackaging of solid oral dosage form drug products.

DATES: Written comments by December 14, 1992.

ADDRESSES: Submit written requests for single copies of the draft guideline to the CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guideline and 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: Gayle R. Dolecek, Center for Drug Evaluation and Research (HFD-323), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8089.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guideline entitled "Guideline on Repackaging of Solid Oral Dosage Form Drug Products" that informs drug manufacturing firms of certain practices and procedures for the repackaging of solid oral dosage form drug products for administration to humans or animals. In general, firms engaged in the processing, packing, or holding of a drug are subject to the CGMP regulations in 21 CFR parts 210 through 226. However, if a firm engages in only some phases of manufacturing, the firm may need to comply only with regulations applicable to those specific manufacturing operations.

The draft guideline describes ways to comply with certain CGMP requirements that pertain to the repackaging of solid oral dosage form drug products. It focuses on those sections of 21 CFR part 211 on which the agency has most frequently been questioned by firms engaged in repackaging operations. The draft guideline contains sections on the testing or examination of drug products, labeling control, stability studies and expiration dating, reserve samples, and penicillin cross-contamination. A discussion of the requirements of the regulations is presented along with practices and procedures that may be useful to firms seeking to comply with the regulations.

The draft guideline does not apply to the repackaging of any dosage form other than solid oral dosage forms, because FDA requires premarket approval of the repackaging of any other new drug dosage forms such as liquids, creams, or ointments. The draft guideline also does not apply to the repackaging of any radioactive drug product, including solid oral dosage forms.

FDA is making this draft guideline available for public comment before issuing a final guideline. If, following the receipt of comments, the agency concludes that the draft guideline will assist firms repacking solid oral dosage form drugs in complying with the CGMP regulations, FDA will prepare a final guideline and will announce its availability in the **Federal Register**.

A person may follow the guideline or may choose to use alternate procedures even though they are not provided for in the guideline. If a person chooses to use alternate procedures, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable by FDA.

Guidelines are generally issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures or standards of general applicability that are not legal requirements but that are acceptable to FDA. The agency is now in the process of considering whether to revise § 10.90(b). Therefore, this draft guideline is not being issued under the authority of § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

Interested persons may, on or before December 14, 1992, submit written comments on the draft guideline to the Dockets Management Branch (address above). FDA will consider these comments in determining whether further amendments to, or revisions of, the guideline are warranted. Two copies of any comments should be submitted, except that individuals may submit one copy.

Dated: September 30, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-24997 Filed 10-14-92; 8:45 am]

BILLING CODE 4160-01-F

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on November 4-5, 1992. The meeting will be held in Conference Room 6, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9 a.m. to recess on November 4 and 1 p.m. to adjournment on November 5 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Lawrence Friedman, Director, Division of Epidemiology and Clinical Application, Federal Building, room 212, Bethesda, Maryland 20892, (301) 496-2533, will finish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: October 5, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-24967 Filed 10-14-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Pulmonary Diseases Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, November 5-6, 1992, at the Bethesda Holiday Inn, Montgomery Room, 8120 Wisconsin Avenue, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 11:30 a.m. to 5 p.m. on Thursday, November 5 and on Friday, November 6 from 8:30 a.m. to adjournment. The Committee will discuss scientific program needs and develop recommendations for future research directions. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, room 6A16, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.838, Lung Diseases Research, National Institutes of Health.)

Dated: October 5, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-24966 Filed 10-14-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Blood Diseases and Resources Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, November 5-6, 1992, Federal Building, room B1-19, 7550 Wisconsin Avenue, Bethesda, Maryland 20814.

The entire meeting will be open to the public on November 5, from 1 p.m. to 5 p.m. and on November 6, from 9 a.m. to adjournment, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, room 5A08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistant Program No. 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: October 5, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-24965 Filed 10-14-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung and Blood Institute; Meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, November 5-6, 1992, Building 31, Conference Room 10, C-Wing, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from approximately 11 a.m. to recess on November 5, and 8:30 a.m. to adjournment on November 6, to evaluate program support in arteriosclerosis, hypertension and lipid metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4237, will provide a summary of the meeting and a roster of the committee members.

Dr. Basil M. Rifkind, Deputy Associate Director, Arteriosclerosis, Hypertension and Lipid Metabolism Program, NHLBI, room 4A14, Federal Building, National Institutes of Health, Bethesda, MD 20892, (301) 496-1681, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 5, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-24964 Filed 10-14-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the Clearinghouse Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clearinghouse Subcommittee of the National Deafness and Other Communication Disorders Advisory Board on November 17, 1992. The meeting will take place from 8:30 a.m. to 10:30 a.m. in Conference Room 7, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of a speaker phone.

The meeting, which is open to the public, will review the activities and programs of NIDCD Clearinghouse to suggest new strategies and to advise on the modification of existing strategies for the collection and dissemination of information to health professionals, industry, patients and the public. Attendance by the public will be limited to the space available.

Summaries of the Subcommittee's meeting and a roster of members may be obtained from Ms. Monica M. Davies, Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, (301) 402-1129, upon request.

(Catalog of Federal Domestic Assistance Program No. 93.173, Biological Research Related to Deafness and Other Communication Disorders)

Dated: October 5, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-24962 Filed 10-14-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Board on November 16, 1992. The meeting will take place from 10 a.m. to 12 noon in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of a speaker phone.

The meeting, which will be open to the public, is being held to discuss the Board's activities and to present special reports. Attendance by the public will be limited to the space available.

Summaries of the Board's meeting and a roster of members may be obtained from Ms. Monica Davies, Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, 301-402-1129, upon request.

(Catalog of Federal Domestic Assistance Program No. 93.173, Biological Research Related to Deafness and Other Communication Disorders.)

Dated: October 5, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-24963 Filed 10-14-92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Center for Health Statistics, the ICD-9-CM Coordination and Maintenance Committee; Meeting

AGENCY: National Center for Health Statistics, DHHS.

ACTION: Notice of meeting.

SUMMARY: The ICD-9-CM Coordination and Maintenance Committee (C&M) will be holding its third meeting of the year on December 3, 1992. The C&M is a public forum for the presentation of proposed modifications to the International Classification of Diseases, ninth-revision, clinical modification.

DATES: The meeting will be held on December 3, 1992 from 9 a.m.-4 p.m.

ADDRESS: The Hubert H. Humphrey building, rm. 703A, 200 Independence Ave., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Amy Blum, 301-436-4216.

SUPPLEMENTARY INFORMATION:

Tentative agenda:

HIV/AIDS Revision
Hemolytic Uremic Syndrome
Retroviruses
Thoracabdominal aneurysm
Babesiosis
Coccidioidomycosis
Cerebral occlusion
Addenda

Sue Meads,

R.R.A., Co-chair, ICD-9-CD Coordination and Maintenance Committee.

[FR Doc. 92-25029 Filed 10-14-92; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-92-3361; FR-3193-N-04]

Announcement of Funding Awards for HOPE for Homeownership of Multifamily Units Program (HOPE 2)

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

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of the funding decision made by the Department in a competition for funding under a Notice of Funding Availability for HOPE for Homeownership of Multifamily Units Program (HOPE 2), published on January 14, 1992 (57 FR 1585). The announcement contains the names and addresses of the award winners and the amounts of the awards.

DATES: October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Margaret Milner, Office of Resident Initiatives, Office of Housing, room 6130, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-4542. The TDD number for the hearing impaired is (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to make available funding for grants under the HOPE for Homeownership of Multifamily Units Program (HOPE 2). (HOPE is an acronym for Homeownership Opportunity for People Everywhere.) The HOPE 2 program, which was authorized by the National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990), provides planning grants and implementation grants to selected eligible applicants to assist them in developing and carrying out approved homeownership programs for eligible families.

The HOPE 2 grants, totaling $21 million, will enable 91 resident and housing-related organizations to begin the process of purchasing over 13,600 housing units in multifamily properties financed, owned, or with mortgages insured by the government. HOPE 2 awards were made in 26 states, the District of Columbia, Puerto Rico, and the Virgin Islands. Recipients were chosen in a national competition under selection criteria announced in the January 14 NOFA and described more fully in program guidelines published with the NOFA.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the names, addresses, and amounts of the awards are attached to this Notice.

Dated: October 8, 1992.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

HOPE 2 GRANT AWARDS.—FISCAL YEAR 1992

[To Accompany HUD Release 92-51]

Grant type	Applicant name	Project name	Units	Grant amount
Region I:				
Planning	NHS of Norwalk, Inc., 33 S. Main Street, Suite 204, Norwalk, CT.	25 Leonard Street, Norwalk, CT	12	$44,000
Planning	Tent City Corp., 434 Mass Ave Suite 206, Boston, MA.	The Chester, 521 Massachusetts Avenue, Boston, MA.	17	115,500
Planning	Camfield Ten Assocs., 115a Lenax St., Boston, MA.	Camfield Gardens, 80-112 Camden Street, Boston, MA.	134	93,000
Planning	Grant MNR Ten Assoc., 23 Reed St., Boston, MA.	Grant Manor, 1810-1880 Washington St., Boston, MA.	180	93,000
Planning	Coal for Btr. Acre, 450 Merrimack St., Lowell, MA.	Acre Triangle Phase II, 199-207 Broadway, Lowell, MA.	93	135,000
Planning	SM Assoc Resp Tenant, 120 Canon Circle, Springfield, MA.	Spring Meadow Apartments, 120 Canon Circle, Springfield, MA.	270	216,000
Planning	LKVW MNR Ten Ass Inc., 77 Memorial Dr., Weymouth, MA.	Lakeview Manor, 77 Memorial Drive, Weymouth, MA.	189	200,000
Planning	Jammat HSNG Com Dev., 801 Elmwood Ave Po Box 27119, Providence, RI.	Medina Village Apartments, 101 Althea St., Providence, RI.	83	183,000
Planning	Chase Wiggin Con Ten, 155 Cranston Street, Apt. G-14, Providence, RI.	Wiggin Village, 207 Cranston Street, Providence, RI.	285	228,000
Implementation	Coleman Tenant Assoc., 72 Spruce Street, #8e, Stamford, CT.	Coleman Towers, 72 Spruce Street, Stamford, CT.	89	1,700,801
			1,352	$3,008,301
Region II:				
Planning	City of Newark, Dept. Devlp, City of Nwk, 3fl., Newark, NJ.	389 Leslie Street, Newark, NJ	36	$145,000
Planning	Arbor Hill Devel Co., 269 Clinton Avenue, Albany, NY.	Dudley Park Apts., 84b Lark Drive, Albany, NY	260	210,400
Planning	Mutual Hsg Assoc NY, 845 Flatbush Ave, Brooklyn, NY.	948 Dumont Ave, Brooklyn, NY	46	36,800
Planning	Comm Serv Society NY, 105 East 22nd Street, New York, NY.	1725 Sterling Place, Brooklyn, NY	270	197,500
Planning	Bedford Throop HSG, 80 Livingston Street, Brooklyn, NY.	Bedford, Throop-Siloom House, 300 Putnam Ave., Brooklyn, NY.	52	194,000
Planning	Carroll Gardens Asso., 515 Court Street, Brooklyn, NY.	Carroll Gardens, 378-380 Columbia Str., Brooklyn, NY.	23	26,700
Planning	Lower East Side Hsg, 594 Broadway, Suite 1207, New York, NY.	Lesma II, 709 East 9th Str., New York, NY	18	85,000
Planning	East Harlem Renewal, 203 E 116th Street, New York, NY.	219-233 E. 115th Str., New York, NY	20	80,000

HOPE 2 GRANT AWARDS.—FISCAL YEAR 1992—Continued

[To Accompany HUD Release 92-51]

Grant type	Applicant name	Project name	Units	Grant amount
Planning	Consumer-Farmer Inc., 121 Sixth Avenue Suite 501, New York, NY.	1008-1012 Summit Ave., New York, NY	401	320,800
Planning	El Barrio's Fightbac, 413 East 120 Street, New York, NY.	El Barrio, 3-5 East 109th Str., New York, NY	216	200,000
Implementation	NYCDHPD, 100 Gold Street, New York, NY	Mutual Housing Assn. Program, 21 East 3rd St.-Multiple Sites, New York, NY.	231	5,000,000
			1,573	$8,496,200
Region III:				
Planning	DC HSG Finance Agny., 1275 K St. N.W., Suite 600, Washington, DC.	LaSalle Apartments, 5403 D Street, SE Etc., Washington, DC.	52	$123,000
Planning	Muscle, Inc., 900 2nd Street, N.E., Room 110, Washington, DC.	Clifton Terrace, 1308, 1312, 1350 Clifton St., NW., Washington, DC.	285	180,030
Planning	Com Pres & Dev Corp., 4345 East West Hwy, Suite 300, Bethesda, MD.	Edgewood Terrace, 601 Etc. Edgewood Street, NE., Washington, DC.	292	233,600
Planning	GRETR WAS MTL HS A, 220 I St. NE., Suite 136, Washington, DC.	Paradise at Parkside, 3598 Hayes St, NE Etc., Washington, DC.	653	472,905
Planning	BALTO HSG Partnershp, 104 East 25th Street, Baltimore, MD.	Cherrydale, 1100-1120 Cherry Hill Road, Etc, Baltimore, MD.	186	183,000
Planning	Madison SQ HSG Corp., 1004 N Caroline Street, Baltimore, MD.	Harrymills Terrace, 1400-1416 E. Eager St., Etc., Baltimore, MD.	63	176,000
Planning	VOA Chesapeake, Inc., 2809 Boston St. #107, Baltimore, MD.	Capital Hill East, 7302 Hawthorne Street, Landover, MD.	180	200,000
Planning	Action Housing Inc., 603 Stanwix Street, Pittsburgh, PA.	Charles Street, Apartments, 333 Charles Street, Turtle Creek, PA.	12	9,600
Planning	Action Housing Inc., 603 Stanwix Street, Pittburgh, PA.	Wesley Plaza Apartments, 1602-1619 Wesley Plaza, Wilkinsburg, PA.	48	38,400
Planning	CNT for Coop HSG Inc., 1614 King Street, Alexandria, VA.	Potomac Village, 3910-3918 Bruce Street, Etc., Alexandria, VA.	193	200,000
Planning	Lynchburg Covenant, 412 Madison Street, Lynchburg, VA.	Shalom Apartments, 702-716 Federal Street, Lynchburg, VA.	46	200,000
Planning	VA Mountain Housing, 4104 Holly Rd, Ste 202, Virginia Beach, VA.	Meadowview Apartments, 101-108 Hidden Valley Ct, Etc., Pulaski, VA.	100	200,000
Planning	Unity Housing, Inc., 1644 Mileground, Morgantown, WV.	Unity Terrace Apartments, Leonard Avenue, Fairmont, WV.	100	200,00
Region IV:				
Planning	City of Fort Myers, 2200 Second Street, Fort Myers, FL.	Jackson Plaza, 2250 Edison Ave., Ft Myers, FL.	60	145,000
Planning	City of Jacksonville, 220 E. Bay Street, Jacksonville, FL.	Imperial Estates, 2170 W. 13th Str. Jacksonville, FL.	182	167,000
Planning	New Century HSG Corp., 1100 Peachtree Bld, Suite 2000, Atlanta, GA.	Ansley Apartments, 1705 Monroe Drive, Atlanta, GA.	103	85,000
Planning	ATL N'hood HSG Serv., 15 James P. Brawley Drive, SW., Atlanta, GA.	Heritage Village, 1417 Pryor Road, SW., Atlanta, GA.	452	394,425
Planning	NW ATL HSG-ECO DEV., 1711 Bankhead Hwy, NW., Atlanta, GA.	Lennox Woods I, 2255 Lenox Rd, NW., Atlanta, GA.	121	198,820
Planning	Fund Desar HGR PRPIO, P.O. Box 8425, Caguas, PR.	Sierra Bayamon Apts., Calle 3, Edificio C-4, Bayamon, PR.	262	200,000
Planning	A.A.C.A. Inc., 901 Colleton Street, Columbia, SC.	Ashley Apartments, 901 Colleton St, Columbia, SC.	200	194,150
Planning	SO Central Hope 2, 2930 Sidco Drive, Nashville, TN.	Urban Manor, 919 North 12th St., Nashville, TN.	60	200,000
Planning	Govt. U.S. Virgin IS, Prop. & Procurement Bldg. #1, St Thomas, VI.	Charolette Apts., Hospital Ground, St. Thomas, VI.	28	159,000
			1,468	$1,743,395
Region V:				
Planning	City of Chicago, 318 S. Michigan Avenue, Chicago IL.	Douglas Lawndale—Phase III, 3616-18 W. Douglas, Chicago, IL.	48	$168,421
Planning	Woodlawn East Comm., 1541 East 65th Street, Chicago, IL.	Chaney Arms Homes, 6534-44 Stone Island Ave., Chicago IL.	21	105,113
Planning	Metropolitan Tenants, 3212 North Broadway, Chicago, IL.	Northwest Towers, 1170 West Erie, Chicago, IL.	150	195,000
Planning	Gary Dept. of Redevel, 100 West 4th Avenue, Gary, Indiana, IN.	Corridor Condo, 244 Filmore Street, Gary, IN	6	79,000
Planning	MSHDA, 401 S Washington Sq Po 30044, Lansing, MI.	Oak Meadows, 119 West Erie Street, Albion, MI.	100	51,000
Planning	MSHDA, 401 S Washington Sq Pl 1 4th F, Lansing, MI.	Hull's Terra, 1496 E. Britain Ave., Benton Harbor, MI.	198	137,500
Planning	W.C. Management, Inc., P.O. Box 32414, Detroit, MI.	Collingwood/Kinkwood, 1610 Collingwood, Detroit, MI.	52	120,500
Planning	MHT Housing, Inc., 24681 Northwestern Hwy., Southfield, MI.	New Center Pavilion, 666 West Bethune, Detroit, MI 666.	76	100,000
Planning	Inner City Developmt, 255 E. Liberty, Suite 291, Ann Arbor, MI.	Pingree, 2211 Pingree, Detroit, MI	80	178,500
Planning	MHT Housing Inc., 24681 Northwestern Hwy Ste 226, Southfield, MI.	Hillcrest Homes, 875 Seaway, Lansing, MI	80	100,000

HOPE 2 GRANT AWARDS.—FISCAL YEAR 1992—Continued

[To Accompany HUD Release 92-51]

Grant type	Applicant name	Project name	Units	Grant amount
Planning	MHT Housing Inc., 24681 Northwestern Hwy Ste 226, Southfield, MI.	Canterbury Commons, 4590 Seaway, Lansing, MI.	350	100,000
Planning	Woodside Sq. Coop, 35473 N. Alexander, Romulus, MI.	Woodside Square Apts., 35473n. Alexander, Romulus, MI.	85	119,500
Planning	Twin City HSG Dev Co., 400 Selby Avenue, Suite C, St. Paul, MN.	Cecil Newman CO-OP, 701-705 Emerson Ave, North, Minneapolis, MN.	64	162,575
Planning	MN Attainable HSG Co., 5407 Excelsior Blvd., Suite B, Minneapolis, MN.	Woodmere, 6940 Woodmere Road, Woodbury, MN.	160	165,000
Planning	Buckeye Comm. Hope FD, 635 Park Meadow Rd., Suite 207, Westerville, OH.	Bellefontaine Gardens,Ltd., 170 Lakewood Drive, Bellefontaine, OH.	36	84,850
Planning	Affordable Home Ownr, 4813 Deeds Road, SW., Pataskala, OH.	Ridgewood Hills, 5842 Winneste Avenue, Cincinnati, OH.	352	189,820
Planning	Hough Area Partners, 1215 East 79th Street, Cleveland, OH.	Vanguard Aprtments, East 101st And Chester Ave., Cleveland, OH.	313	225,200
Planning	Capital City C.U.R.C, 787 S. State Street, Westerville, OH.	Rosa Parks Apartments, 1170 Franklin Avenue, Etc., Columbus, OH.	55	165,000
Planning	Buckeye Comm. Hope FD, 635 Park Meadow Rd., Suite 207 Westerville, OH.	Lima Club, 1855 North Cole Street, Lima, OH	86	169,700
Planning	Marion H.A.N.D. Inc., 131 South State Street, Marion, OH.	Professional Park, 1250 Crescent Heights Road, Marion, OH.	100	137,600
Planning	Buckeye Comm. Hope FD, 635 Park Meadow Rd., Suit 207, Westerville, OH.	Lincoln Park, 400 Lincoln Park Drive, New Lexington, OH.	50	104,850
Planning	East Newark C.U.R.C., 383 Washington Street, Newark, OH.	Washington Square, 65 S. Cedar, Etc., Newark, OH.	98	136,500
Planning	Mid-OH Reg. Plan. Com., 285 E. Main Street, Columbus, OH.	Urban Hollow Apartments, 2584 Augustus Court, Urbancrest, OH.	158	150,000
			2,718	3,134,629
Region VI:				
Planning	Church PT Ministries, 3000 Tecumseh Street, Baton Route, LA.	Mall City, 6761 Harry Drive, Etc., Baton Route, LA.	24	$91,000
Planning	S.W. LA Project Asst., P.O. Box 0388, Lake Charles, LA.	Wilshire Villa Apts-SW LA Proj., 4245 5th Avenue, Lake Charles, LA.	124	200,000
Planning	Christopher Homes, 1000 Howard Avenue, Ste 100, New Orleans, LA.	Villa D'Ames Apts., 6305 Fourth St., Marreno, LA.	200	69,000
Planning	Southeast Texas Hsg., 4620 Fairmont Parkway, #201 Pasadena, TX.	Oaks of Baytown, 2001 Ward Rd & 2300 Tuft Circl, Baytown, TX.	256	199,000
Planning	Comm. Devel. Corp., 1150 E. Adams, 2d Floor, Brownsville, TX.	Candlewick Townhouses, 1155 Paredes Line Road, Brownsville, TX.	132	195,500
Planning	Dallas City Homes, 312 W. Seventh Street, Dallas, TX.	Wynnewood, 505 Wynnewood Drive, Dallas, TX.	80	184,000
Planning	Multi Family Mission, 777 South R Street, La Porte, TX.	Cedar Ridge, 17601 Cahi Drive, Houston, TX	170	65,000
Planning	Hispanic Housing, 1800 West Loop South, #1850, Houston, TX.	Las Americas, 5909 Glenmont, Houston, TX	527	441,600
Planning	Charles P. Rushing, 2323 Allen Parkway, Houston, TX.	Sebring, 105 West Tidwell, Houston, TX	240	192,000
Planning	Charles P. Rushing, 2323 Allen Parkway, Houston, TX.	South Post Oak Villas, 12945 South Post Oak Road, Houston, TX.	301	249,200
Planning	Multi-Family Mission, 1776 Woodstead Court, #218, The Woodlands, TX.	Brazos Bend, 2020 Rocky Falls, Richmond, TX	120	160,000
			2,174	$2,046,300
Region VII:				
Planning	Indian Center, Inc., 1100 Military Road, Lincoln, NE.	Shalimar Apts.-Indian Center, 2402-2418 "T" St., Etc., Lincoln, NE.	27	$124,738
			27	$124,738
Region VIII:				
Planning	Greater Denver MHA, 1776 S. Jackson Suite 810, Denver, CO.	Garden Court Homes, 1150 Syracuse, Denver, CO.	300	$240,000
Planning	Greater Denver MHA, 1776 S. Jackson, Suite 810, Denver, CO.	Heritage Estates, 8000 East 12th Avenue, Denver, CO.	330	264,000
Planning	PAAG, Inc., 2568 Washington Blvd, #101, Ogden, UT.	Harrisville Hts., 1530 N 1075 West, Harrisville, UT.	53	200,000
			683	$704,000
Region IX:				
Planning	SO Berkeley Neighbor, 1767 Alcatraz Avenue, Berkeley, CA.	Melrose Apts., 1615-1617 Russell Street, Berkeley, CA.	36	$200,000
Planning	HA City of Fresno, Post Office Box 11985, Fresno, CA.	Lakeview II, 1050 W. Griffith Way, Fresno, CA	97	100,000
Planning	Springdale Res., Inc., 2095 West Spring Street, Long Beach, CA.	Springdale West Apartments, 2095 West Spring Street, Long Beach, CA.	410	130,000
Planning	Morh I Tenant Assoc., 1207 8th Street, Oakland, CA.	MORH I, 1207 8th Street, Oakland, CA	126	156,181
Planning	SAC Mutual HSG Assn., 2125 19th Street, Suite 101, Sacramento, CA.	American River Village Apts, 2201 Northview Drive, Sacramento, CA.	126	222,010

HOPE 2 GRANT AWARDS.—FISCAL YEAR 1992—Continued

[To Accompany HUD Release 92-51]

Grant type	Applicant name	Project name	Units	Grant amount
Planning	HSNG Preservtn Fund, 1917 Morena Blvd., San Diego, CA.	Euclid Avenue Apts., 4115 Euclid Avenue, San Diego, CA.	12	70,500
Planning	Geneva Towers Res., 1001 Sunnydale Avenue, San Francisco, CA.	Geneva Towers, 1001 Sunnydale Ave., San Francisco, CA.	530	289,725
			1,337	$1,079,416
Region X:				
Planning	AMHA, 3700 Woodland Drive ;400, Anchorage, AK.	Boniface Plaza, 5301 East 26th Avenue, Anchorage, AK.	32	$100,828
Planning	Common Ground, 107 Cherry Street, Suite 410, Seattle, WA.	Burke Gilman Apts., 5020 40th Ave, NE., Seattle, WA.	12	52,033
Planning	Central Area P.D.A., 1401 E. Jefferson Suite #503, Seattle, WA.	Hazel Plaza II, 1625 Martin Luther King Way, Seattle, WA.	15	113,450
			59	$266,311
Grand Total			13,601	$21,030,825

[FR Doc. 92-24968 Filed 10-14-92; 8:45 am]

BILLING CODE 4210-27-M

Office of the Assistant Secretary for Policy Development and Research

[Docket number D-92-1009; FR-3320-D-01]

Redelegation of Authority for the Section 233 Experimental Housing Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: In this notice, the Assistant Secretary for Policy Development and Research redelegates to HUD Regional Administrators the authority to make determinations concerning whether defects or failures in dwellings with mortgage insurance under Section 233 are caused by or related to advanced housing technology utilized in their design or construction or experimental property standards and, to determine under Section 233 whether it is necessary to correct defects or failures to protect the occupants of dwellings and, to review and determine the acceptability of proposals to correct defects or failures in dwellings with mortgage insurance under section 233.

EFFECTIVE DATE: October 7, 1992.

FOR FURTHER INFORMATION CONTACT: William E. Freeborne, Senior Engineer, Division of Innovative Technology and Special Projects, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., room 8136, Washington, DC 20410, telephone (202) 708-1528. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 233 of the National Housing Act, as amended, 12 U.S.C. 1715x, authorizes the Secretary to insure or make commitments to insure mortgages "to assist in lowering housing costs and improving housing standards, quality, livability, or durability or neighborhood design through the utilization of advanced housing technology, or experimental property standards." Under section 233(c), subsequent to the insurance of the mortgage, the Secretary is authorized to

" * * * enter into such contracts, agreements and financial undertakings with the mortgagor and others as he deems necessary or desirable to carry out the purposes of [Sec. 233] and * * * expend available funds for such purposes including the correction (when he determines it necessary to protect the occupants) * * * of defects or failures in the dwellings which the Secretary finds are caused by or related to the advanced housing technology utilized in their design or construction or experimental property standards."

The Assistant Secretary for Policy Development and Research has all the power and authority of the Secretary of Housing and Urban Development concerning "technological aspects of experimental housing including determination of the technical acceptability of proposals, evaluation and dissemination of results" under the Consolidated Delegations of Authority for Policy Development and Research, published in the Federal Register on December 12, 1988, 52 FR 48730.

The Secretary, in recent years, has not insured many properties under section 233. However, in cases where existing properties have mortgages insured under Section 233 and have defects or failures which are caused by or related to advanced housing technology in their design or construction or experimental property standards, the Assistant Secretary for Policy Development and Research, pursuant to the delegation at 52 FR 48730, det4ermines whether such defects or failures are related to experimental technology and eligible for correction under section 233 and, reviews and determines the acceptability of proposals concerning actions to correct defects or failures under section 233.

Pursuant to this redelegation of authority, the Assistant Secretary for Policy Development and Research redelegates to HUD Regional Administrators the authority to make determinations concerning whether defects or failures in dwellings with mortgage insurance under section 233 are caused by or related to advanced housing technology utilized in their design or construction or experimental property standards and, to determine under section 233 whether it is necessary to correct defects or failures to protect the occupants of dwellings and, to review and determine the acceptability of proposals to correct defects or failures in dwellings with mortgage insurance under section 233. This delegation does not include the authority to determine the technological aspects of whether dwellings should be eligible for mortgage insurance under the section 233 program; that authority is reserved to the Assistant Secretary for Policy Development and Research. Under section 233, any necessary contracting by the Department to correct defects is conducted by HUD contracting officers and, therefore, this redelegation does not include that function.

Accordingly, the Assistant Secretary for Policy Development and Research redelegates the following authority:

Section A. Authority Redelegated

The Assistant Secretary for Policy Development and Research redelegates to HUD Regional Administrators the authority under the section 233 experimental housing program to determine whether defects or failures in dwellings with mortgage insurance under section 233 of the National Housing Act, as amended (12 U.S. C. 1715x), are caused by or related to the advanced housing technology utilized in their design or construction or experimental property standards and, to determine under section 233 whether it is necessary to correct defects or failures to protect the occupants of dwellings and, to review and determine the acceptability of proposals to correct defects or failures in dwellings with mortgage insurance under section 233.

Section B. Authority Excepted

The Assistant Secretary for Policy Development and Research retains the authority to evaluate the technological aspects of whether dwellings should be eligible for mortgage insurance under the section 233 program.

Section C. Further Redelegiation

The Regional administrators may redelegate to Directors of Housing and Field Office Managers of the Department of Housing and Urban Development the authority redelegated to them in section A.

Authority: Section 233, National Housing Act, as amended (12 U.S. C. 1715x); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 7, 1992.

John C. Weicher,

Assistant Secretary for Policy Development and Research.

[FR Doc. 92-24969 Filed 10-14-92; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-065-03-4130-09]

Final Environmental Impact Statement and Report (EIS/EIR) for the Baltic Mine Plan of Operation, Kern County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of a joint federal and state Final Environmental Impact Statement and Report (EIS/EIR) for the Baltic Mine Plan of Operation.

SUMMARY: Pursuant to section 102(2)C of the National Environmental Policy Act of 1969, as amended, a Final Environmental Impact Statement has been prepared for the Baltic Mine Plan of Operation, an amendment to an approved heap-leach, open pit mining operation in the California Desert Conservation Area, Kern County, California. The proposed action is located in the Stringer Mining District, approximately one mile south of Randsburg, California. This document has been prepared as joint Environment Impact Statement/Environmental Impact Report in cooperation with the County of Kern, to meet the requirements of the National Environmental Policy Act and the California Environmental Quality Act.

Reading copies will be available at Kern County Planning Department, Kern County Library (Ridgecrest Branch) and at the following locations:

Bureau of Land Management, California Desert District, 6221 Box Springs Road, Riverside, CA 92507.

Bureau of Land Management, Ridgecrest Resource Area, 300 South Richmond Road, Ridgecrest, CA 93555.

DATES: Written comments on the Final EIS/EIR must be delivered or postmarked no later than November 16, 1992.

ADDRESSES: Written comments should be addressed to: Lee Delaney, Area Manager, Bureau of Land Management, 300 South Richmond Road, Ridgecrest, CA 93555. Written comments submitted to Kern County by November 16, 1992, need not be resubmitted.

FOR FURTHER INFORMATION CONTACT: Linn Gum, Supervisory Geologist, 619-375-7125.

SUPPLEMENTARY INFORMATION: The Final EIS/EIR analyzes the direct, indirect, and cumulative impact to the human environment stemming from a mining plan of operation amendment proposing to conduct open pit mining and cyanide heap leach processing. The proposed action is surface mining and cyanide heap leach processing of up to 15 million tons of ore and 9 million tons of waste on 200 acres of combined public and private lands within a 532 acre project area. Alternatives include the processing of ore in a closed vat leach circuit, reduction in size of the operation, and no action. Issues addressed in the Final EIS/EIR include threatened and endangered species, air and water quality, socio-economics, cultural resources, and others.

Public participation has occurred throughout the analysis process. A Notice of Intent was published in the **Federal Register** in January, 1992. A public scoping meeting was held, and coordination among involved agencies has been ongoing. All comments received has been evaluated and considered and are included as an Appendix to the FEIS/EIR.

Joseph L. Gum,

Acting Area Manager.

[FR Doc. 92-25054 Filed 10-14-92; 8:45 am]

BILLING CODE 4130-40-M

[CA-010-03-4333-08]

Sierra Management Framework Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Amend the Sierra Planning Area Management Framework Plan.

SUMMARY: Pursuant to 43 CFR 1610.5-5(a), the Folsom Resource Area, as part of the Bakerfield District, California, proposes to amend the Sierra Management Framework Plan decisions for the Red Hills Management Area.

SUPPLEMENTARY INFORMATION: The Red Hills Management Area contains 7,100 acres in western Tuolumne County. The existing land-use plan for the Sierra Planning Area was completed in 1983 and amended in 1988. The Red Hills Management Plan was completed in 1985.

The Red Hills are environmentally sensitive. The endangered bald eagle is a winter visitor, and five species of plants are candidates for listing under the Endangered Species Act. In addition, a cyprinid fish with very limited distribution only in the Red Hills, the Red Hills roach, is suspected of harboring unique characteristics which may result in it being given taxonomic recognition. In February, 1991, an Emergency Closure Order prohibited the recreational activities of casual target shooting and off-road vehicle use in the Red Hills because of adverse environmental impacts and threats to public safety.

The Folsom Resource Area has completed an extension public review and coordination effort with the public on the Red Hills Management Area and Area of Critical Environmental Concern. An Environmental Assessment has been completed and is available for review at the Bureau of Land Management, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

The Bureau of Land Management proposes to amend the Sierra Management Framework Plan as it pertains to the Red Hills Management Area in the following manner:

1. Permanently prohibit casual target shooting in the Red Hills Management Area.

2. Permanently prohibit the use of motorized vehicles in an offroad capacity in the Red Hills Management Area.

3. Establish environmental education and interpretation as major public uses of the Red Hills Management Area.

4. Designate the entire Red Hills Management Area as an Area of Critical Environmental Concern. The inclusion of the following lands into ACEC status will occur as a result of this amendment:

T1S, R13E, MDB&M
Sec. 1, SW¼SW¼, S½ SE¼;
Sec. 12, E½NW¼, N½NE¼.
T1S, R14E, MDB&M
Sec. 6, Lot 7, S½ SE¼;
Sec. 7, Lot 1, E½;
Sec. 8, W½, SW¼ NE¼, W½ SE¼;
Sec. 17, W½, NW¼ NE¼, W½ SE¼;
Sec. 18, Lots 3, 4, SE¼;
Sec. 19, NE¼, E½ SE¼;
Sec. 20, W½, W½ NE¼.

DATES: Pursuant to 43 CFR 1610.3, this proposed amendment is scheduled for a 60-day review period by the public and by the State of California Clearinghouse. This review period will be followed by a 60-day review period by the Governor's Office. The amendment is scheduled for completion January 31, 1992.

FOR FURTHER INFORMATION CONTACT: John S. Scull, Outdoor Recreation Planner, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630. All documents relevant to the BLM's planning effort in the Red Hills as well as planning criteria used for the Sierra Management Framework Plan are available for public review at the above address.

Dated: October 6, 1992.

D.K. Swickard,

Authorized Officer.

[FR Doc. 92-24975 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-40-M

[CO-010-02-4320-02]

Craig Colorado Advisory Council; Meeting

Time and Date: 10 a.m., November 10, 1992.

Place: Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

Status: Open to public; interested persons may make oral statements at 10:30 a.m. Summary minutes of the meeting will be maintained in the Craig District Office.

Matters to be Considered: 1. Coal Royalties; 2. Ecosystem Management.

Contact Person for More Information: Mary Pressley, Craig District Office, 455 Emerson Street, Craig, Colorado 81625-1129, Phone: (303) 824-8261.

Dated: October 6, 1992.

Robert W. Schneider,

Associate District Manager.

[FR Doc. 92-24938 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-JB-M

[UT-060-03-1520-01]

Moab District Advisory Council Meeting and Field Trip

Dated: October 6, 1992.

AGENCY: Bureau of Land Management, Moab District, Moab, Utah, DOI.

ACTION: Notice of District Advisory Council meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Moab District Advisory Council is being held Monday and Tuesday, November 9 and 10, 1992. On November 9 the meeting will take place at the John Wesley River History Museum in Green River, Utah. On November 10 a field trip will be conducted regarding the Proposed Ouray to Cisco Highway. The meeting will reconvene at the John Wesley Powell Museum in Green River at 4 p.m. for finalization of resolutions prior to adjournment.

Monday, November 9, 1992

10 a.m. Introductions, housekeeping.
10:15 a.m. Approval of previous meeting's minutes.
10:30 a.m. Draft Cedar Mesa Management Plan.
11 a.m. Public Compliance with Emergency Closures (San Rafael, Grand Resource Areas).
11:30 a.m. User Fees.
11:50 a.m. Lunch.
1 p.m Coalbed Methane Development Final Environmental Impact Statement.
1:30 p.m. Sagers Wash Watershed Salinity Plan.
1:50 p.m. Grand Resource Management Plan (RMP) Issues.
2:30 p.m. Break.
2:45 p.m. Ouray to Cisco Highway Draft Environmental Impact Statement.
4 p.m. Public Comment period.
4:30 p.m. Housekeeping for next morning, adjourn for evening.

Tuesday, November 10, 1992

8 a.m. Reconvene John Wesley Powell Museum for introduction to field trip of proposed Ouray to Cisco Highway.
8:30 a.m. Depart for field trip.
4 p.m. Reconvene John Wesley Powell Museum for finalization of Advisory Council recommendations.
4:30 p.m. Date and agenda for next meeting.
5 p.m. Adjourn.

The Advisory Council meeting is open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Any person wishing to make an oral statement must notify the District Manager by close of business November 5, 1992. Depending on the number of persons wishing to make oral statements, a per person time limit may be established so that all may be heard. Members of the public are welcome to attend the field trip portion of the meeting. However, they will need to provide their own transportation and lunch. Summary minutes for the Council meeting will be maintained in the Moab District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information, contact Public Affairs Officer Mary Plumb, Bureau of Land Management, Moab District Office, 82 E. Dogwood, Moab, Utah 84532; (801) 259-6111.

Roger Zortman,

District Manager.

[FR Doc. 92-25098 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-060-43-7122 08 1016; CACA 28548]

California Desert District; Realty Actions; Partial Terminations of Small Tract Classifications and Public Use Classification, Exchange of Public and Private Lands in San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action CACA 28548, classification terminations and exchange of Public and Private Lands.

SUMMARY: Bureau of Land Management (BLM) Order of Classification Small Tract 117, dated January 21, 1949, is hereby terminated as to public lands in Section 2, T.6 N., R.5 W., SBM. BLM Order of Classification Small Tract 428, dated September 28, 1954 is hereby terminated as to public lands in Section 10, T.9 N., R.2 W., SBM. BLM Order of Classification Small Tract 511, dated January 23, 1957, is hereby terminated as to public lands in Sections 30, 31 and 32, T.7 N., R.4 W., SBM. BLM Order of

Classification Public Use CARI 06309, dated February 5, 1965, which carried no segregative effect, is hereby terminated as to affected public lands in Section 2, T.6 N., R.5 W., SBM, and Sections 30, 31 and 32, T.7 N., R.4 W., SBM.

The following described public lands in San Bernardino County were determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, by the June 6, 1991 **Federal Register** publication of the exchange base segregation notice for the Western Mojave Land Tenure Adjustment (LTA) Project (56 FR 109; pp. 26137–26139). This determination applies to all public lands within the sections listed below. Tract Numbers correspond to those listed in the June 6, 1991 **Federal Register** publication.

SAN BERNARDINO MERIDIAN, CALIFORNIA

	Tract No.
T.6 N., R. 5 W.	
Sec. 2	48
T. 7 N., R. 4 W.	
Sec. 30	93
Sec. 31	94
Sec. 32	95
T. 8 N., R. 2 W.	
Sec. 6	129
T. 8 N., R. 3 W.	
Sec. 2	133
Sec. 11	137
Sec. 12	138
Sec. 28	149
Sec. 32	150
T. 9 N., R. 2 W.	
Sec. 10	169
Sec. 31	174
Sec. 32	175
T. 9 N., R. 3 W.	
Sec. 10	178
Sec. 26	185
Sec. 35	190

Containing 6,168.54 acres, more or less.

In exchange for these lands, Bank of A. Levy, a California Corporation, in trust for P&V Enterprises of Sherman Oaks, California (the exchange proponent), as final beneficiary under Trust Agreement 80307 dated August 1, 1979 (Antelope Park Trust), has offered the following non-Federal lands in San Bernardino County. As an option to conveyance of the offered non-Federal lands by the trustee, the proponent may obtain and vest title in the offered non-Federal lands and complete the conveyance of the offered non-Federal lands directly from P&V Enterprises, a California Corporation, to the United States.

Mount Diablo Meridian, California

T. 31 S., R 41 E.

Sec. 1, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, and S½ (All);

Sec. 3, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, and S½ (All);

Sec. 5, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, and S½ (All);

EXCEPTING therefrom those portions conveyed to Randsburg Railway Company, a corporation, by deed recorded August 12, 1898, in Book 252, Page 145, Official Records, County of San Bernardino.

Sec. 11, All;

Sec. 13, All;

Sec. 15, All;

Sec. 23, All;

Sec. 25, All;

Sec. 27, All;

Sec. 31, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, and E½ (All);

Sec. 35, All;

T. 32 S., R 41 E.

Sec. 1, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, and S½ (All);

Sec. 3, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, and S½ (All);

EXCEPTING therefrom those portions conveyed to Randsburg Railway Company, a corporation, by deed recorded August 12, 1898, in Book 252, Page 145, Official Records, County of San Bernardino.

Sec. 7, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, and E½ (All);

Sec. 25, All;

Sec. 33, All;

Containing 10,329.10 acres, more or less.

The purpose of this exchange is to acquire and consolidate public land ownership and achieve the multi-agency objectives of the Western Mojave LTA Project. Disposal of the isolated selected public land tracts is consistent with the Western Mojave LTA Project and the California Desert Conservation Area Plan (1980), as amended.

The public lands to be conveyed from the United States will be subject to the following terms and conditions:

A. Reservations to the United States.

1. A right-of way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. The right to itself, its permittees or licensees, to enter upon, occupy and use any part or all of the SE¼NW¼NE¼ SW¼, Sec. 10, T9N., R.2W., SBM, lying within a 40 foot wide strip of land 20 feet from the centerline of the transmission line of Southern California Edison Company (CALA 030913), as defined by Power Site Classification No. 241 established by Secretarial Order approved November 11, 1929, for the purposes set forth in and subject to the conditions and limitations of section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818). Affects a portion of Tract No. 169.

3. A right-of-way for public highway purposes granted to the State of California Division of Highways, by Serial No. CARI 01735, pursuant to the Act of November 9, 1921 (23 U.S.C. 18). Affects a portion of Tract No. 185.

B. Third Party Rights. The public lands will be conveyed subject to valid existing rights, including the following:

1. A right-of-way for railroad purposes CARI 01540 (affects Tract No. 185).

2. Those rights for the construction, operation and maintenance of electric transmission lines CALA 030913 (affects Tracts Nos. 169, 185 and 190) and CALA 0152805 (affects Tract No. 169).

3. Those rights for the construction, operation and maintenance of underground natural gas lines CALA 0146303 (affects Tract No. 94), CALA 0118349 (affects Tract No. 169), CALA 0162199 (affects Tract No. 169), CALA 0168999 (affects Tract Nos. 48, 94, 95, 129, 137, 138, 149, 150, 174 and 175), and CARI 2537 (affects Tract Nos. 48, 94, 95, 129, 137, 138, 149, 150, 174 and 175).

4. Those rights for the construction, operation and maintenance of underground telephone and communications lines CACA 17304 (affects Tract No. 48), CALA 028932 (affects Tract No.185) and CACA 20105 (affects Tract No. 185).

5. Those rights for construction, operation and maintenance of underground water pipeline CACA 17644 (affects Tract No. 185).

6. Such rights as I and M Sheep Company and Inyo Sheep Company have to graze the land until October 30, 1994, in accordance with section 15 Taylor Grazing Act lease Nos. CA–060–6807 and CA–060–6810 (applies to all selected public lands except Tract Nos. 48, 93, 94, 95, 169 and 178).

As provided in 43 CFR 2201.1(b), the publication of this exchange notice in the **Federal Register** shall segregate all of the public lands described herein from all other forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws. The segregative effect will terminate upon issuance of a conveyance document, upon publication in the **Federal Register** of a termination of the segregation, or two years from the date of this publication, whichever occurs first.

The value of the lands to be exchanged is in approximate balance. Equalization of value will be achieved by acreage adjustment, a payment to the United States by the proponent in an amount not to exceed 25 percent of the value of the public lands to be conveyed, a waiver by the proponent of any excess value owed by the United States, or by a waiver under the amendment to subsection 206(b) Federal Land Policy and Management Act of

1976 provided by section 9 Federal Land Exchange Facilitation Act of 1988.

Additional information, including specific legal descriptions of the selected public lands, is available at the Barstow Resource Area Office, 150 Coolwater Lane, Barstow, CA 92311 (619-256-3591), and the California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507-0714.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments by Tract No. To the District Manager at the above address.

Dated: October 6, 1992.

Jean Rivers-Council,

Acting District Manager.

[FR Doc. 92-25026 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-40-M

[NM-030-02-4410-08]

Availability of Proposed Mimbres Resource Management Plan/Final Environmental Impact Statement (RMP/EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Proposed Mimbres RMP/Final EIS for public review. This document identifies and analyzes the Proposed Plan and continuing management guidance for managing the 3,053,820 acres of public land and 4,126,780 acres of Federal mineral estate administered by BLM's Mimbres Resource Area in the Las Cruces District. The Mimbres Resource Area covers Dona Ana, Luna, Hidalgo, and Grant Counties in southwest New Mexico.

Under the Proposed Plan, 21 Areas of Critical Environmental Concern (ACECs) (including 4 existing ACECs) would be designated. The Proposed Plan would also designate four Research Natural Areas (RNAs) and one existing National Natural Landmark (NNL). Some changes in these proposed designations were made as a result of public comments on the Draft RMP/EIS.

The Proposed Plan would designate corridors for the Butterfield Trail and the Continental Divide National Scenic Trail. Also, four new wilderness study areas would be designated, and two segments of the Gila River would be designated as wild and scenic river study areas. Under the Proposed Plan, vehicle designations of open, closed, or limited use would be made for the entire Resource Area.

The Proposed Plan is a modified version of the Prepared Alternative presented in the Draft RMP/EIS. Comments received on the Draft were incorporated in the preparation of the Proposed Plan/Final EIS. The Proposed Plan/Final EIS is available for public review. A 30-day protest period is provided as required by BLM planning regulations (43 CFR 1610.5-2).

DATES: Protests on the Proposed Plan must be postmarked no later than November 16, 1992.

ADDRESSES: Protests must be sent to the Director (760), BLM, room 407, 1620 L Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Jon Joseph, Area Manager or Scott Florence, RMP Team Leader at 1800 Marquess, Las Cruces, New Mexico 88005 or telephone (505) 525-8228.

SUPPLEMENTARY INFORMATION: Four alternatives for managing the public land in the Mimbres Resource Area were analyzed in the Draft RMP/EIS. Each alternative discussed the following issues: (1) Land Ownership Adjustment, (2) ACECs and Special Management Areas, (3) Vehicle Management, and (4) Access. In addition, nine management concerns were addressed for each alternative: Rights-of-way; minerals; recreation; cultural/paleontological resources; wildlife habitat; soil-air-water; vegetation; riparian and arroyo habitat; and special status species. The Preferred Alternative presented in the Draft RMP/EIS was modified by public concerns and is now the Proposed Plan in the Proposed RMP/Final EIS.

The Proposed Plan would designate 21 ACECs totalling 183,180 acres (including 4 existing ACECs). The Proposed Plan would also designate four RNAs totalling 17,870 acres (including one existing RNA). These are Antelope Pass (new), Paleozoic Trackways (new), Lordsburg Playa (new), and Aden Lava Flow (existing). The Proposed Plan would maintain one existing NNL, Kilbourne Hole (5,480 acres). Some changes in these proposed designations were made as a result of public comments to the Draft RMP/EIS. The Draft/EIS preferred alternative recommended the designation of 27 ACECs. This was changed to 21 ACECs, 4 RNAs, and 1 NNL. One ACEC (Box Canyon) was dropped. Acreages were reduced for six ACECs (Alamo Hueco Mountains, Big Hatchet Mountains, Cooke's Range, Florida Mountains, Robledo Mountains, and Uvas Valley).

The Proposed Plan would designate the Butterfield Trail Corridor (15,690 acres), the Continental Divide National Scenic Trail Corridor (48,450 acres), and four new wilderness study areas (Peña Blanca, Organ Needles, Gray Peak, and Apache Box (33,280 acres)). The Gila Lower Box (2,480 acres) and the Gila Middle Box (760 acres) would be designated as wild and scenic river study areas.

Under the Proposed Plan, vehicle designations would be made for the entire Resource Area as follows: 16,190 acres open, 2,371,630 acres limited to existing roads and trails, 532,530 acres limited to designated roads and trails, and 133,470 acres closed.

Any person who is on record for participating in the planning process and has an interest that may be adversely affected may protest approval of the Proposed Plan. Protests should be made to the BLM Director with the following information: (1) Name, mailing address, telephone number, and interests of the person filing the protest; (2) a statement of the issue/concern or issues/concerns being protested; (3) a statement of the part or parts being protested; (4) a copy of all documents addressing the issue/concern or issues/concerns that were submitted during the planning process by the protesting party or an indication of the date the issue/concern or issues/concerns were discussed for the records; and (5) a concise statement explaining why the BLM New Mexico State Director's decision is wrong.

At the end of the 30-day protest period, the Proposed Plan, excluding any portions under protest, will become final. Approval will be withheld on any portion of the Plan under protest until final action has been completed on such protest. The Approved Plan will be published following the Record of Decision (ROD). Individuals not wishing to protest the Plan, but wanting to comment, may send comments to the BLM, Las Cruces District, Mimbres Resource Area, 1800 Marquess, Las Cruces, New Mexico 88005. All comments received will be considered in preparation of the ROD.

Copies of the Proposed Plan/Final EIS have been distributed to a mailing list of identified interested parties. Single copies of the Proposed Plan/Final EIS may be obtained from the BLM Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico. Public reading copies are available for review at the BLM New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico; public libraries in Las Cruces, Santa Fe, Albuquerque, Silver City, Lordsburg and Deming, New Mexico and El Paso, Texas; and in University libraries in Las

Cruces, Albuquerque and Silver City, New Mexico and El Paso, Texas.

Dated: October 8, 1992.

Larry L. Woodard

State Director.

[FR Doc. 92-24989 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

Gettysburg National Military Park Advisory Commission; Meeting

AGENCY: Gettysburg National Military Park Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the fifth meeting of the Gettysburg National Military Park Advisory Commission.

DATES: November 5, 1992.

TIME: 2 p.m.—4 p.m.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESSES: Holiday Inn, 516 Baltimore Street, Gettysburg, Pennsylvania 17325.

AGENDA: Sub-Committee Reports, report on the Natural Lands Trust Workshops, review of the Federal Consistency Program Regulations, briefing on the draft Land Protection Plan, briefing on the proposed legislation to regulate organized activities and special events in the park, and an operational update on the park.

FOR FURTHER INFORMATION CONTACT: Jose A. Cisneros, Superintendent, Gettysburg National Military Park, P.O. Box 1080, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, P.O. Box 1080, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 95 Taneytown Road, Gettysburg, Pennsylvania 17325.

Joseph W. Gorrell,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92-24951 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-70-M

Jimmy Carter National Historic Site Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Advisory Commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 4 p.m., at the following location and date.

DATES: October 23, 1992.

LOCATION: The Windsor Hotel, 125 West Lamar Street, Americus, Georgia 31709, (912) 924-0343.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, Route 1 Box 800, Andersonville, Georgia 31711, (912) 924-0343.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advice the Secretary of the Interior or his designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site.

The members of the Advisory Commission are as follows:

- Dr. Steven Hochman
- Dr. James Sterling Young
- Dr. Donald B. Schewe
- Dr. Henry King Stanford
- Dr. Barbara Fields
- Director, National Park Service, Ex-Officio member

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 7, 1992.

C. W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 92-24949 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Waiver of Commenting Period for Pending Nomination

A nomination for the following property being considered for listing in the National Register was received by the National Park Service on September 29, 1992. In order to assist in its preservation, the commenting period is being waived.

Patrick Andrus,

Acting, Chief of Registration, National Register.

Ohio

Montgomery County

Schantz Park Historic District
Roughly bounded by Far Hills, Irving, Mahart and Schenck Aves., Oakwood, 92001492

[FR Doc. 92-24913 Filed 10-14-92; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-338]

Certain Bulk Bags and Process for Making Same; Designation of Additional Commission Investigative Attorney

Notice is hereby given that, as of this date, James M. Gould, Esq. and Alesia M. Woodworth, Esq. of the Office of Unfair Import Investigations are designated as the Commission investigative attorneys in the above-cited investigation instead of James M. Gould, Esq.

The Secretary is requested to publish this Notice in the Federal Register.

Dated: October 9, 1992.

Lynn I. Levine,

Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

[FR Doc. 92-25028 Filed 10-14-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-527 (Final)]

Extruded Rubber Thread From Malaysia

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Malaysia of extruded rubber thread,[2, 3] provided for in heading

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The merchandise covered by this investigation is vulcanized rubber thread obtained by extrusion, of stable or concentrated natural rubber latex, of any cross-sectional shape, measuring from 0.18 millimeter (0.007 inch or 140 gauge) to 1.42 millimeters (0.056 inch or 18 gauge), inclusive, in diameter.

[3] Vice Chairman Watson, Commissioner Brunsdale, and Commissioner Crawford dissent with respect to food grade extruded rubber thread.

4007.00.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission also determines, pursuant to section 735(b)(4)(A) of the Act (19 U.S.C. 1673d(b)(4)(A)) that critical circumstances do not exist with respect to imports of such merchandise; thus, the retroactive imposition of antidumping duties is not necessary.

Background

The Commission instituted this investigation effective April 1, 1992, following a preliminary determination by the Department of Commerce that imports of extruded rubber thread from Malaysia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 29, 1992 (57 FR 18164). The hearing was held in Washington, DC, on August 18, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on September 30, 1992. The views of the Commission are contained in USITC Publication 2559 (September 1992), entitled "Extruded Rubber Thread from Malaysia: Determination of the Commission in Investigation No. 731-TA-527 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: October 5, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-25027 Filed 10-14-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-448 Through 450 (Court Remand)]

Sweaters Wholly or in Chief Weight of Manmade Fibers From Hong Kong, the Republic of Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Notice and scheduling of remand proceedings.

SUMMARY: The Commission hereby gives notice of the Court-ordered remand of its final antidumping investigations Nos. 731-TA-448 through 450 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Hong Kong, the Republic of Korea, and Taiwan of sweaters wholly or in chief weight of manmade fibers that are sold at less than fair value.

EFFECTIVE DATE: September 25, 1992.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-205-3198), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

In September 1990, the Commission determined that an industry in the United States was materially injured by reason of imports from Hong Kong, the Republic of Korea, and Taiwan of sweaters wholly or in chief weight of manmade fibers, provided for in specified subheadings of the Harmonized Tariff Schedule of the United States, that were found by the U.S. Department of Commerce to be sold in the United States at less than fair value. The Commission's determinations were appealed to the Court of International Trade ("CIT"), and on July 28, 1992, the CIT remanded the Commission's determinations. On August 24, 1992, the Commission requested that the CIT certify its decision for interlocutory appeal and the Commission sought a concurrent stay of the remand proceedings. The CIT issued a temporary stay of the remand proceedings on August 28, 1992. On September 25, 1992, the CIT rejected the Commission's motion for certification for interlocutory appeal of the court's decision and instructed the Commission to transmit its new determinations and report on remand by November 23, 1992.

Participation in the Proceedings

Only those persons who were interested parties to the original administrative proceedings (i.e., persons listed on the Commission Secretary's service list) may participate in these remand proceedings. Eligible persons wishing to participate in the remand proceedings must file an entry of appearance with the Secretary to the Commission not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who were interested parties and parties to the Commission's initial investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these proceedings available to authorized applicants under APO, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Written Submissions

All legal arguments, economic analyses, and factual information relevant to the remand proceedings should be included in briefs, limited to twenty-five pages in length, and must be submitted no later than October 28, 1992.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules. Any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.3 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to these proceedings must be served on all other parties to the proceedings (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Authority: These proceedings are being conducted under authority of the Tariff Act of 1930, title VII.

Issued: October 9, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-25060 Filed 10-14-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-167 (Sub-No. 1106X)]

Consolidated Rail Corp. Abandonment Exemption; Between Kent and Akron, OH

Consolidated Rail Corporation has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonment* to abandon its 9.84 mile line of railroad, extending from approximately milepost 192.0, in Kent, OH, to approximately milepost 201.84, in Akron, OH.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period, and (4) that the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial renovation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective on November 14, 1992, unless stayed or a formal expression of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 [3] must be filed by October 26, 1992. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 4, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Robert S. Natalini, Consolidated Rail Corporation, Two Commerce Square, 2001 Market St., Philadelphia, PA 19101-1416.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEE will issue an environmental assessment (EA) by October 20, 1992. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 8, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-25053 Filed 10-14-92; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be issued routinely where an informed decision on environmental issues, whether raised by a party or by the Commission's Section of Energy and Environment (SEE), cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Line*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 1, 1992, a proposed Consent Decree in *United States* v. *N.E. Walsh Construction Co., Inc.*, Case No. 5:89CV1592, was lodged with the United States District Court for the Northern District of Ohio. The Complaint in this case alleged violations of certain notification and work practice standards of the National Emissions Standards for Hazardous Air Pollutants ("NESHAPs") for asbestos, promulgated under sections 112 and 114 of the Clean Air Act, 42 U.S.C. 7412 and 7414, codified at 40 CFR part 61, subpart M, which relate to the renovation of buildings containing asbestos materials.

The proposed Consent Decree requires that N.E. Walsh Construction Co., Inc. ("N.E. Walsh") comply with the NESHAPs, and submit quarterly reports regarding its compliance during the period. Under the proposed Decree, N.E. Walsh will be subject to stipulated penalties for failures to comply with the NESHAPs or the reporting requirement. The proposed Decree also provides that N.E. Walsh will play the United States a civil penalty of $30,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *N.E. Walsh Construction Co., Inc.*, DOJ Ref. No. 90-5-2-1-1402.

The proposed Consent Decree may be examined at the Offices of the United States Attorney, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44114, at the Region V Office of the United States Environmental Protection Agency, 111 West Jackson Street, 3rd Floor, Chicago, Illinois 60604, and at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $3.50 (25 cents per page reproduction costs) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-24937 Filed 10-14-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 92-80; Exemption Application No. D-9090, et al.]

Grant of Individual Exemptions; Master Water Conditioning Corp. Money Purchase Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the

Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Master Waster Conditioning Corp. Money Purchase Pension Plan (the Plan), Located in Pottstown, Pennsylvania

[Prohibited Transaction Application 92-80; Exemption Application No. D-9090].

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale of certain vacant land (the Property) by the Plan to Master Water Conditioning Corp. (the Employer), a party in interest with respect to the Plan; provided that the following conditions are satisfied:

(a) The Plan in this transaction will receive the greater of: (1) $60,000; or (2) the fair market value of the Property as determined at the time of sale by an independent, qualified appraiser plus $5,000, which represents a premium due to the adjacency factor described in the notice of proposed exemption;

(b) The proposed sale will be a one-time cash transaction; and

(c) The Plan will pay no costs or commissions as a result of this transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of purposed exemption published on August 4, 1992 at 57 FR 34313/34314.

For Further Information Contact: Ekaterina A. Uzlyan of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

Visalia Medical Clinic Inc. Money Purchase Plan (the M/P Plan) and Visalia Medical Clinic Profit Sharing Plan (the P/S Plan; collectively, the Plans, Located in Visalia, California

[Prohibited Transaction Application 92-81; Exemption Application Nos. D-8886 and D-8887].

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of $3,000,000 (the Loan) by the Plans to Visalia Medical Clinic Inc. (the Employer), the Plans' sponsor and a party in interest with respect to the Plans, provided the following conditions are satisfied:

(1) The terms of the Loan will be at least as favorable to the Plans as those obtainable in an arm's-length transaction with an unrelated party;

(2) The Loan will be structured such that each Plan will lend $1,500,000 to the Employer;

(3) The outstanding balance on the Loan will at no time exceed 25% of each of the Plan's net assets;[1]

(4) The outstanding balance on the Loan will at no time exceed 25% of the Plans' aggregate net assets;

(5) The proposed terms of the Loan were evaluated by an independent fiduciary who deemed the transaction to be in the best interest and protective of the Plans, and who will also monitor the terms of the Loan, including the value of the collateral (the Collateral),[2] over its duration;

(6) The independent fiduciary is independent of other parties involved in the transaction and the fees received by the independent fiduciary for serving in such capacity, combined with any other fees derived from the Employer or related parties, will not exceed 1% of his gross annual income for each fiscal year that he continues to serve in the independent fiduciary capacity with respect to the transaction described herein;

(7) The Plans will bear no costs or expenses with respect to the proposed transaction;

(8) The Loan will be adequately secured by the Collateral, the loan to value ratio of which will always remain at least 200% of the Loan amount for the duration of the Loan;

(9) If, at the time the Loan is entered into, or any time thereafter, the fair market value of the Accounts Receivable, discounted as described herein, is below the 200% loan to value ratio, the Employer will pledge the CDs as additional Collateral in order to meet the 200% requirement; and

(10) A U.C.C. financial statement will be filed with the State of California upon the Department's grant of the proposed exemption, which will perfect the Plan's first security interest in the Collateral.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 4, 1992 at 57 FR 34314/34317.

For Further Information Contact: Ekaterina A. Uzlyan of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

Spreitzer, Inc. Profit Sharing Trust (the Plan), Located In Cedar Rapids, Iowa

[Prohibited Transaction Exemption 92-82; Exemption Application No. D-9069].

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of five

[1] The term "net assets" for the purpose of this final grant means, the Plans' assets from which the amount of outstanding participant loan balances made by the Plans to the Employer's shareholders and officers (ESOs) has been deducted.

[2] For purposes of this final exemption, Collateral includes accounts receivable (the Accounts Receivable) of the Employer and certificates of deposit (CDs) in certain banks.

years to loans of money from the Plan to Spreitzer, Inc. (the Employer), a party in interest with respect to the Plan, and to a personal guarantee of the loans by a party in interest, provided that the following conditions are met:

1. The terms of the loans are at least as favorable as the Plan could obtain in arm's-length transactions with an unrelated party;

2. The loans in the aggregate, including loans outstanding, if any, under a previous exemption granted by the Department, do not at any time account for more than 25 percent of the assets of the Plan;

3. A fiduciary independent of the Employer will approve and monitor each loan on behalf of the Plan;

4. Each loan will have a maturity of 90 days or less;

5. The interest rate on each loan will be one percent above the rate for similar loans charged by Firstar Bank Cedar Rapids but in no event less than eight percent;

6. Each loan will be secured by a first lien on insured construction and mining equipment owned by the Employer, and such security will be maintained at no less than 200 percent of the outstanding loan balances; and

7. A shareholder of the Employer will personally guarantee each loan made by the Plan to the Employer.

Temporary Nature of Exemption

The exemption is temporary and will expire five years after the date of grant. However, any loan made to the Employer pursuant to the exemption may continue to its maturity date provided the loan was entered into during the five-year period.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 4, 1992, at 57 FR 34310.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 9th day of October 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92-25003 Filed 10-14-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Health Care of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 12 noon, Monday, November 9, 1992, in suite N-3437 AB, U.S. Department of Labor Building, Third and Constitution, Avenue NW., Washington, DC 20210.

This Health Care Working Group was formed by the Advisory Council to study issues relating to Health Care for employee benefit plans covered by ERISA.

The purpose of the November 9 meeting is to review drafts of, and finalize, reports of the Health Care Benefits Work Group to the Advisory Council on: (1) Reducing the Medicare eligibility from 65 to 60, (2) funding health care benefits and (3) the Urban Institute analysis of play-or-pay legislation. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before November 4, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 4, 1992.

Signed at Washington, DC this 8th day of October, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-24984 Filed 10-14-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Coverage and Adequacy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 2:30 p.m., Monday, November 9, 1992, in Suite N-3437 AB, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

This Pension Coverage and Adequacy Working Group was formed by the Advisory Council to study issues relating to Pension Coverage and Adequacy for employee benefit plan covered by ERISA.

The purpose of the November 9 meeting is to discuss and finalize the Group's report and recommendations to the Council regarding the trend in decline in participation in defined benefit pension plans and a shift by employers towards defined contribution pension plans as primary pension plans for their employees. The Working Group will also take testimony and/or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before November 4, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 4, 1992.

Signed at Washington, DC this 8th day of October, 1992

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-24983 Filed 10-14-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Investment Activity of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9 a.m., Tuesday, November 10, 1992, in suite N-3437 AB, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

This Pension Investment Activity Working Group was formed by the Advisory Council to study issues relating to Pension Investment Activity for employee benefit plans covered by ERISA.

The purpose of the November 10 Work Group meeting is to conclude its review and analysis of the policy issues pertinent to economically targeted investing by pension funds. It will also determine whether to make any recommendation to the Secretary of Labor. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before November 4, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 4, 1992.

Signed at Washington, DC, this 8th day of October 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-25001 Filed 10-14-92; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Date and Time: November 4, 5, and 6, 1992; 8:30 a.m. to 6 p.m.

Place: St. James Hotel, 950 24th Street NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Dr. Maryanna Henkart, Program Director for Cell Biology Program (Signal Transduction and Regulation), room 325, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357-7474.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Cell Biology Program of the Division of Molecular & Cellular Biosciences at NSF for financial support.

Agenda: To review and evaluate research proposals in the area of Cell Biology (Signal Transduction and Regulation) as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 9, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-24991 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Cross Disciplinary Activities; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: November 5, 1992; 8:30 a.m. to 5 p.m.

Place: State Plaza Hotel, 2117 E. Street NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Gerald Engel, Program Director, CISE/CDA, room 436, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357-7349.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Graduate Research Traineeship proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 9, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-24999 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Genetic Biology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Date and Time: Monday and Tuesday, November 2 and 3, 1992; 8: 30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, DC 20550, room 1243.

Type of Meeting: Closed.

Contact Person: Todd Martensen, Program Director for Biochemical Approaches, Room 325, Division of Molecular & Cellular Biosciences, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-7945.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Genetics Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning

individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 9, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-24980 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Human Cognition & Perception; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: November 4-6, 1992.

Place: National Science Foundation, 1800 G Street N.W, room 523, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Joseph L. Young, Program Director, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-9898.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Human Cognition and Perception proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 9, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-24992 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: November 2-3, 1992 9 a.m. til 5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 543 Washington, DC 20550.

Type of Meeting: Closed

Contact Person: Dr. John Ryff, National Science Foundation, 1800 G Street, NW., room 543, Washington, DC 20550. Telephone: (202) 357-3455.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Experiences for Undergraduates (REU) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 9, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-25000 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

Annual Principal Investigators

The National Science Foundation (NSF) will hold the Annual Principal Investigators Meeting for the Curriculum Development in Mathematics: Calculus and the Bridge to Calculus Program, October 24-25, 1992 at the Vista Hotel, 1400 M Street, NW., Washington, DC 20005. The sessions will be held 9 a.m. to 6 p.m. on October 24 and 8 a.m. to 12 noon on October 25.

This meeting provides a forum in which Principal Investigators on projects currently funded through this program may address issues of common interest. In particular, (1) information about the projects is exchanged among participants, (2) sessions are held addressing issues faced in the individual projects, and (3) issues related to the program and the calculus reform effort in general are discussed.

The meeting will be open to the public. Participants will include about 40 principal investigators.

For additional information, please contact James Lightbourne, Program Director, Division of Undergraduate Education, 1800 G Street, room 1210, Washington, DC 20550, (202) 357-7892.

Dated: September 10, 1992.

Robert F. Watson,

Director, Division of Undergraduate Education.

[FR Doc. 92-24972 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physical Anthropology; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: November 4 & 5, 1992, 9 a.m.

Place: St. James Hotel, 950 24th Street, NW., room 118, Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Jonathan Friedlaender, Program Director Physical Anthropology. National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone (202) 357-7804, room 320.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Physical Anthropology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 9, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-25002 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

Teacher Preparation Workshop

The National Science Foundation (NSF) will hold a two-day workshop on Teacher Preparation on November 5, 1992, 8:00 a.m. to 5:00 p.m. and November 6, 1992, 8:30 a.m. to 5 p.m. at The Vista Hotel, 1400 M Street, NW., Washington, DC 20005.

The goal of the workshop will be to provide a forum for science, engineering, and mathematics faculty to share ideas and experience concerning effective ways of improving the undergraduate education of science and mathematics teachers; to encourage faculty in sciences disciplines to share responsibility with Education School faculty in addressing the needs of students considering careers in teaching and to alert academic communities to NSF's programs that support efforts to improve the undergraduate education of mathematics and science teachers.

The workshop will not operate as an advisory committee. It will be open to the public. Participants will include approximately 72 national leaders in mathematics and science education.

For additional information, contact Dr. William Haver, Program Director, 1800 G Street, NW., room 1210, Washington, DC 20550 (202) 357-7892.

Dated: August 7, 1992.

Robert F. Watson,

Division Director, Undergraduate Education.

[FR Doc. 92-24974 Filed 10-14-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting; Location change

Pursuant to its authority under section 5051 of Public Law 100-203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board's (the Board) Panel on Structural Geology & Geoengineering has changed the location of its November 4-5, 1992, two-day workshop on alternative design and construction strategies for the ESF. All interested parties should be aware that the original meeting location in Denver, Colorado, has been changed to Las Vegas, Nevada.

The workshop, which is open to the public, will be held at the Plaza-Suite Hotel, 4255 South Paradise Road, Las Vegas, Nevada 89109; (702) 369-4400. However, a block of sleeping rooms has been reserved at the Sheffield Inn, 3970 Paradise Road, Las Vegas, Nevada 89109; (702) 796-9000. The Wednesday, November 4, and Thursday, November 5, sessions will begin at 8 a.m. and end at approximately 6 p.m.

For further information, contact Paula N. Alford, Director, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, Suite 910, Arlington, Virginia 22209; (703) 235-4473.

Dated: October 9, 1992.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 92-25004 Filed 10-14-92; 8:45 am]

BILLING CODE 6820-AM-M

POSTAL RATE COMMISSION

[Docket No. A93-2; Order No. 939]

Bavon, Virginia 23013: (Marion C. Trusch, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued October 8, 1992.

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.

Docket Number: A93-2.

Name of Affected Post Office: Bavon, Virginia 23013.

Name(s) of Petitioner(s); Marion C. Trusch.

Type of Determination: Closing.

Date of Filing of Appeal Papers: October 5, 1992.

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).
2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before October 20, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.** By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A93-2, Bavon, Virginia 23013

October 5, 1992—Filing of Petition
October 8, 1992—Notice and Order of Filing of Appeal
October 30, 1992—Last day of filing of petitions to intervene see 39 CFR 3001.111(b)
November 9, 1992—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115(a) and (b))
November 30, 1992—Postal Service Answering Brief (see 39 CFR 3001.115(c))
December 15, 1992—Petitioner's Reply Brief should Petitioners choose to file one (see CFR 3001.115(d))
December 22, 1992—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)
February 2, 1993—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

[FR Doc. 92-24959 Filed 10-14-92; 8:45 am]

BILLING CODE 7710-FW-M

[Docket No. A93-4; Order No. 940]

Hertel, Wisconsin 54845 (Don Saros and Janelle Golden, Petitioners; Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued October 8, 1992.

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.

Docket Number: A93-4

Name of Affected Post Office: Hertel, Wisconsin 54845

Name(s) of Petitioner(s): Don Saros and Janelle Golden

Type of Determination: Closing

Date of Filing of Appeal Papers: October 5, 1992

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).
2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before October 20, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A93-4, Hertel, Wisconsin 54845

October 5, 1992—Filing of Petition
October 8, 1992—Notice and Order of Filing of Appeal
October 30, 1992—Last day of filing of petitions to intervene (see 39 CFR 3001.111(b))
November 9, 1992—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115(a) and (b))
November 30, 1992—Postal Service Answering Brief (see 39 CFR 3001.115(c))
December 15, 1992—Petitioner's Reply Brief should Petitioners choose to file one (see CFR 3001.115(d))
December 22, 1992—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)

February 2, 1993—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

[FR Doc. 92-24960 Filed 10-14-92; 8:45 am]

BILLING CODE 7710-FW-M

POSTAL RATE COMMISSION

[Docket No. A93-1; Order No. 937]

West Rushville, Ohio 43163 (Mary R. Defenbaugh, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued October 8, 1992.

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.

Docket Number: A93-1.

Name of Affected Post Office: West Rushville, Ohio 43163.

Name(s) of Petitioner(s): Mary R. Defenbaugh.

Type of Determination: Closing.

Date of Filing of Appeal Papers: September 28, 1992.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. 404(b)(2)(A)).
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before October 13, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register. By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A93-1, West Rushville, Ohio 43163

September 28, 1992—Filing of Petition

October 8, 1992—Notice and Order of Filing of Appeal

October 23, 1992—Last day of filing of petitions to intervene (see 39 CFR 3001.111(b))

November 2, 1992—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115 (a) and (b))

November 23, 1992—Postal Service Answering Brief (see 39 CFR 3001.115(c))

December 8, 1992—Petitioner's Reply Brief should Petitioners choose to file one (see CFR 3001.115(d))

December 15, 1992—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)

January 25, 1993—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

[FR Doc. 92-24957 Filed 10-14-92; 8:45 am]

BILLING CODE 7710-FW-M

[Docket No. A93-3; Order No. 930]

Wolf Run, Ohio 43970 (Vera and Frank Ondusko, Petitioners; Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued October 8, 1992.

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.

Docket Number: A93-3.

Name of Affected Post Office: Wolf Run, Ohio 43970.

Name(s) of Petitioner(s): Vera and Frank Ondusko.

Type of Determination: Closing.

Date of Filing of Appeal Papers: October 5, 1992.

Catgories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).
2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before October 20, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register. By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A93-3, Wolf Run, Ohio 43970

October 5, 1992—Filing of Petition.

October 8, 1992—Notice and Order Filing of Appeal

October 30, 1992—Last day of filing of petitions to intervene (see 39 CFR 3001.111(b))

November 9, 1992—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115 (a) and (b))

November 30, 1992—Postal Service Answering Brief (see 39 CFR 3001.115(c))

December 15, 1992—Petitioner's Reply Brief should Petitioners choose to file one (see CFR 3001.115(d))

December 22, 1992—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)

February 2, 1993—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

[FR Doc. 92-24958 Filed 10-14-92; 8:45 am]

BILLING CODE 7710-FW-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meetings

Notice is hereby given of the meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, October 27-28, 1992, at the Madison Hotel, 15th & M Streets, NW., Washington, DC.

The Full Commission will convene on Tuesday at 9 a.m. until 5 p.m., and on Wednesday from 9 a.m. to 12 noon, in Executive Chambers 1, 2 and 3.

All meetings are open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 92-25010 Filed 10-14-92; 8:45 am]

BILLING CODE 4810-13-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 19009; International Series Rel. No. 471; 812-8096]

Anchor Series Trust, et al.; Application

October 8, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Anchor Series Trust, SunAmerica Capital Appreciation Fund, Inc., SunAmerica Cash Fund, SunAmerica Equity Portfolios, SunAmerica Fund Group, SunAmerica Income Portfolios, SunAmerica Money Market Securities, Inc., and SunAmerica Multi-Asset Portfolios, Inc. (collectively, "Applicants").

RELEVANT ACT SECTION: Exemption requested under section 6(c) from the provisions of section 12(d)(3) of the Act and rule 12d3-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order to permit them to acquire equity and/or convertible debt securities (either directly or through the use of American Depositary Receipts ("ADRs") or European Depositary Receipts ("EDRs")) of foreign issuers who derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser in their most recent fiscal year, in accordance with the conditions of the proposed amendments to rule 12d3-1 under the Act.

FILING DATE: The application was filed on September 21, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 2, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Robert M. Zackem, Vice President and Associate General Counsel, SunAmerica Asset Management Corp., 733 Third Avenue, 3d Floor, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 272-3023, or Barry D. Miller, Senior Special Counsel, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each Applicant is registered under the Act as an open-end management investment company. SunAmerica Asset Management Corp. ("SunAmerica") serves as sponsor and investment adviser or manager to all of the Applicant funds. Wellington Management Company serves as investment subadviser to Anchor Series Trust (other than the Cash Reserve Portfolio, for which SunAmerica serves as investment adviser); the SunAmerica U.S. Government Securities Fund series of SunAmerica Fund Group; and the Global Short-Term Income Fund series of SunAmerica Multi-Asset Portfolios, Inc. SunAmerica Capital Services, Inc. ("SACS") serves as distributor of Applicants' shares.

2. Applicants request that any exemptive order issued pursuant to this application also apply to any other registered investment company, or separate investment series thereof, which may in the future be advised by SunAmerica or an affiliate thereof, or whose shares may be distributed by SACS, or an affiliate thereof, and which may become a member of the SunAmerica "group of investment companies" as the quoted phrase is defined in Rule 11a-3(A)(5) under the Act.[1]

3. Applicants seek relief from section 12(d)(3) of the Act and rule 12d3-1 thereunder to invest in the equity and/or convertible debt securities (either directly or through ADRs, or EDRs, or other similar securities representing interests in the securities of such issuers) of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser ("Foreign Securities Companies") to the extent permitted in the proposed amendments to rule 12d3-1. See Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989), ("Release No. 17096"). The proposed amendments to rule 12d3-1 would, among other things, facilitate the acquisition by registered investment companies of equity securities issued by foreign issuers engaged in securities-related activities. The proposed acquisitions of securities issued by Foreign Securities Companies will satisfy each of the requirements of the proposed amendments to rule 12d3-1.

Applicants' Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 provides an exemption from section 13(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided such acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3-1 provides that "at the time of acquisition, any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." "Margin security" status under Regulation T is available only to certain securities traded in the United States on a national security exchange or in the over-the-counter market and to a limited number of foreign stocks. The Board of Governors of the Federal Reserve System amended Regulation T in 1990 to include "foreign margin stocks." However, because the requirements of inclusion on the list of "foreign margin stocks" are generally more restrictive than the requirements for inclusion on the list of "over-the-counter margin stocks," many securities issued outside the United States will not be margin securities for purposes of rule 12d3-1. Accordingly, Applicants seek an exemption from the "margin security" requirements of rule 12d3-1.

2. Proposed amended rule 12d3-1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of Foreign Securities Companies that meet criteria comparable to those applicable to equity securities of United States securities-related business.

[1] The SunAmerica "group of investment companies" is currently comprised of the Applicant funds, as well as SunAmerica Tax Free Portfolios and Home Investors Government Guaranteed Income Fund, Inc. (d/b/a SunAmerica Federal Securites Fund). SunAmerica Tax Free Portfolio and Home Investors Government Guaranteed Income Fund, Inc. are not seeking exemptive relief pursuant to this application.

Applicants' Condition

Applicants agree to the following condition in connection with the relief requested:

Applicants will comply with the provisions of the proposed amendments to Rule 12d3-1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), and as such amendments may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24993 Filed 10-14-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19008; 812-7421]

The Flex-Funds; Application

October 8, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Flex-funds.

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of rule 24f-2 under the Act.

SUMMARY OF APPLICATION: Applicant seeks an order exempting it from the filing deadline of rule 24f-2(c) under the Act in order to treat a notice filed under the rule as if it were filed within two months after the end of applicant's fiscal year 1987. The relief sought would permit applicant to recover the difference between the filing fee previously paid for that notice and a fee calculated on the basis of net sales for fiscal year 1987.

FILING DATE: The application was filed on October 30, 1989 and amended on September 16, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested parties may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 6000 Memorial Drive, Dublin, Ohio 43017; att'n: Donald F. Meeder.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 273-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a registered open-end management investment company, was organized in 1982 as a Pennsylvania business trust.

2. Pursuant to rule 24f-2 under the Act, applicant is permitted to pay share registration fees annually based upon the net dollar amount of securities sold during the preceding fiscal year. If the fee and the prescribed notice under rule 24f-2 ("24f-2 Notice") are filed within two months after the close of the fiscal year, the amount of the fee is based on net sales (gross sales minus redemptions) in the year in question ("Net Fee"). If the report and fee are not filed within two months, the fee is based on gross sales (with no credit for redemptions) ("Gross Fee"). At the latest, the 24f-2 Notice and registration fee must be filed within six months after the end of the fiscal year. Applicant's fiscal year ends on December 31.

3. For its 1987 fiscal year, applicant attempted to comply with the two-month deadline of February 29, 1988. A 24f-2 Notice and a $363.09 Net Fee payment were mailed to the Commission by applicant's former SEC counsel ("SEC Counsel") on February 10, 1988, 19 days before the due date. However, the filing was not received in the Commission's mail room until March 11, 1988, and was rejected as having been too late to be eligible for a Net Fee. Applicant therefore was obligated to pay a Gross Fee of $94,611.88, which is $94.248.79 more then the Net Fee.

4. Applicant believes that SEC Counsel acted reasonably and in good faith in mailing the 24f-2 Notice 19 days before the February 29 filing deadline. Applicant states that the delay in receipt of its filing was caused by the fact that the United States Post Office in Washington, DC, was experiencing extreme difficulties with respect to mail deliveries during this period, a circumstance of which neither applicant nor SEC Counsel was aware. The United States Postal Service has refused to accept any responsibility for any tardiness in delivery. Applicant believes unduly harsh consequences would result if the requested relief is not granted. Thus, applicant requests an exemption from rule 24f-2 permitting a refund to applicant of $52,352.36, which represents the difference between the Gross Fee previously paid and the Net Fee for its fiscal year 1987, less credits taken by the Flex-funds.

5. These credits have been taken by using the $94,248.79 in fees paid in 1988 to offset registration fees that otherwise would have been payable in subsequent years when sales have exceeded redemptions during the calculation period, i.e., the previous year. The mechanics of the procedure consist of filing a notice under rule 24e-2 which claims as a credit the fee attributable to the prior year's net sales, offset by the amount of such sales covered by the $100 minimum fee. These calculations are then carried through to a subsequent notice under rule 24f-2, for which the fee payable is zero, since sales and redemptions net each other out.

Applicant's Legal Analysis

1. Section 6(c) empowers the Commission to exempt any person, security, or transaction from any provisions of the Act if and to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicant contends that it is appropriate in the public interest not to burden applicant and its shareholders with the Gross Fee in circumstances where, through no fault of applicant or SEC Counsel, an additional filing fee was paid without producing any corresponding benefit to the Commission or investors. Applicant states that relief is proper if only to remove the undue hardship caused by payment of the Gross Fee.

3. In proposing to adopt rule 24f-2, the Commission stated as one of its purposes that "the proposed rule might relieve certain investment companies and indirectly their security holders of certain costs associated with the monitoring of the amounts of securities sold and the triple filing fee presently required for retroactive registration of shares." (Investment Company Act Release No. 9347 (July 8, 1976).) In addition, it appears that one of the purposes of the Net Fee was to encourage early filings of 24f-2 Notices and payment of the related fees. Applicant states that granting the

requested exemption would be consistent with rule 24f-2's encouragement of early filing efforts.

4. Applicant asserts that the requested relief is consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act as embodied in section 24 and rule 24f-2 thereunder. Applicant states that the requested relief would only permit to occur that which rule 24f-2 expressly contemplates and which, but for unforeseen circumstances beyond applicant's control, would have occurred, i.e., payment of the Net Fee rather than the Gross Fee. Applicant further states that imposition of the Gross Fee in these circumstances would produce a harsh result without additional benefits to its shareholders.[1]

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24994 Filed 10-14-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19010, File No. 812-7974]

New York Life MFA Series Fund, Inc., et al., Application

October 8, 1992.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: New York Life MFA Series Fund, Inc. (the "MFA Fund") and New York Life VLI Series Fund, Inc. (the "VLI Fund") (collectively, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Orders requested under section 17(b) of the 1940 Act for an exemption from section 17(a) of the 1940 Act, and under section 6(c) of the 1940 Act for exemptions from sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants request an order of the Commission pursuant to section 17(b) of the 1940 Act granting an exemption from the provisions of section 17(a) of the 1940 Act to permit the MFA Fund to acquire all of the assets of the VLI Fund in exchange for shares of the MFA Fund (the "Reorganization"). In addition, the MFA Fund requests an order of the Commission pursuant to section 6(c) of the 1940 Act for exemptions from sections 9(a), 13(a), 15(a), 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder to the extent necessary to permit the New York Life Insurance and Annuity Corporation VLI Separate Account (the "VLI Account") and certain other registered separate accounts to purchase and hold shares of the MFA Fund after the proposed Reorganization and in the event that the MFA Fund in the future offers and sells its shares to any flexible premium variable life insurance separate account that New York Life Insurance and Annuity Corporation ("NYLIAC") or any affiliate thereof (collectively, the "Participating Companies") may establish.

FILING DATE: July 6, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving the Applicants with copies of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on October 30, 1992, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, and reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, New York Life Insurance Company, 51 Madison Avenue, New York, NY 10010.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, or Michael V. Wible, Special Counsel, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available, for a fee, from the SEC's Public Reference Branch.

Applicants' Representations

1. Both the MFA Fund and the VLI Fund are registered under the 1940 Act as open-end, diversified, management investment companies. The MFA Fund and the VLI Fund are each comprised of three investment portfolios: The Common Stock Portfolio, the Bond Portfolio, and the Money Market Portfolio. The MFA Fund and the VLI Fund each issued a separate series of shares of stock in connection with each of its respective portfolios, and has registered those shares under the Securities Act of 1933 (the "1933 Act").

2. NYLIAC, a stock life insurance and annuity company incorporated in Delaware on November 3, 1980, is a wholly-owned subsidiary of New York Life Insurance Company ("New York Life"), a mutual life insurance company founded in New York in 1845. New York Life also is the investment adviser to the Applicants and to other open-end management investment companies.

3. The investment objectives, policies and restrictions of the corresponding portfolios of the MFA Fund and the VLI Fund are identical. The Common Stock Portfolio pursues long-term growth of capital, with income as a secondary objective. This portfolio invests principally in common stocks and securities convertible into or with rights to purchase common stock of well-established, well-managed companies which appear to have better than average growth potential. By investing primarily in marketable investment grade debt securites, the Bond Portfolio seeks the highest income over the long term consistent with preservation of principal. The investmnet objective of the Money Market Portfolio is to seek maximum current income consistent with preservation of capital and maintenance of liquidity.

4. To date, the MFA Fund has sold shares only to NYLIAC (as seed money investments) and to New York Life Insurance and Annuity Corporation MFA Separate Account I and New York Life Insurance and Annuity Corporation MFA Separate Account II (collectively, the "MFA Accounts"). The MFA Fund sells each series of shares to corresponding subaccounts of each of the MFA Accounts to support variable annuity contracts (the "annuity contracts") issued by NYLIAC. As of May 31, 1992, NYLIAC owned directly (i.e., not attributable to reserves for the annuity contracts) approximately the following percentages of the outstanding voting securities of each portfolio of the

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[1] On July 24, 1992, the Comptroller General of the United States issued a decision authorizing the Commission to refund all amounts determined as a result of the exercise of the Commission's exemptive authority to have been erroneously paid by Flex-funds. (Decision of the Comptroller General of the United States, File No. B-239768.2 (July 24, 1992)). The Comptroller General's decision states, in part:

Pursuant to its determination that Flex-funds was not at fault for the late filing, the Commission proposes to exercise its discretion under section 6(c) of the Act to exempt the company from the filing deadline of February 19, 1988. The intended effect of the exemption is to alter the substantive right of the Commission to require Flex-funds to pay a "gross fee" for the sale of its securities during fiscal year 1987. As a result, the difference between the "gross fee" payment that flex-funds made and the "net fee" payment, i.e., $94,248.79, may be viewed as erroneously received and covered into the Treasury, and Flex-funds would thus be entitled to a refund in the amount of the overpayment.

MFA Fund: Common Stock Portfolio .47%, Bond Portfolio .63%, and Money Market Portfolio 1.52%. Under its investment advisory agreement with the MFA Fund, New York Life must pay certain MFA fund expenses including, but not limited to, custody and transfer agency fees, accounting and auditing fees, legal fees, and printing costs. Under the investment advisory agreement, the MFA Fund pays New York Life an annual investment advisory fee of .25% of average daily net assets.

5. To date, the VLI Fund has sold shares only to NYLIAC (as seed money investments) and to the VLI Account. The VLI Fund sells each series of shares to subaccounts of the VLI Account to support certain variable life insurance contracts (the "life contracts") issued by NYLIAC. As of May 31, 1992, NYLIAC owned directly approximately the following percentages of the outstanding voting securities of each portfolio of the VLI Fund: Common Stock Portfolio 7.70%, Bond Portfolio 14.93%, and Money Market Portfolio 35.30%. Under its investment advisory agreement with the VLI Fund, New York is obligated to pay certain VLI fund expenses including, but not limited to, custody and transfer agency fees, accounting and auditing fees, legal fees, and printing costs. Under the investment advisory agreement, the VLI Fund pays New York Life an annual investment advisory fee of .25% of average daily net assets.

6. The MFA Accounts are separate investment accounts of NYLIAC established pursuant to the Delaware Insurance Code on May 27, 1983, and registered under the 1940 Act as unit investment trusts. MFA Separate Account I supports the anuity contracts offered in the "qualified" market, and MFA Separate Account II supports the annuity contracts offered in the "non-qualified" market. Each MFA Account consists of six subaccounts; two subaccounts of each MFA Account are invested in the shares of each of the three series of the MFA Fund. In each MFA Account, the assets of three subaccounts support cash values for certain flexible premium annuity contracts; the assets of the three other subaccounts support cash values for certain single premium annuity contracts. Interests in the MFA Accounts offered through the annuity contracts have been registered under the 1933 Act.

7. The VLI Account is a separate investment account of NYLIAC established pursuant to the Delaware Insurance Code on May 27, 1983, and registered under the 1940 Act as a unit investment trust. The VLI Account consists of three subaccounts; each subaccount currently invests in the shares of a single series of the VLI Fund. The subaccount assets support cash values for the life contracts. Interests in the VLI Account offered through the life contracts have been registered under the 1933 Act.

8. At meetings held on August 4, 1992, the respective boards of directors of the Applicants, including a majority of those directors who are not "interested persons," as defined in the 1940 Act, of each Applicant or of NYLIAC (the "disinterested directors") voted on an Agreement and Plan of Reorganization (the "Plan"). Pursuant to the Plan, at 4:05 p.m. on the day of the Reorganization (the "effective time"), the MFA Fund will acquire all of the assets of the VLI Fund, subject to the VLI Fund's liabilities, in exchange for shares of MFA Fund's stock having an aggregate net asset value equal to the aggregate value of the net assets of the VLI Fund exchanged therefor.

9. The VLI Fund will then distribute such MFA Fund shares to the VLI Fund shareholders, on a pro-rata basis, in complete liquidation and dissolution. This acquisition of assets and exchange of shares will be performed in such a manner that the assets and liabilities of the Common Stock Portfolio of the VLI Fund become the assets and liabilities of the Common Stock Portfolio of the MFA Fund, the assets and liabilities of the Bond Portfolio of the VLI Fund become those of the Bond Portfolio of the MFA Fund, and the assets and liabilities of the Money Market Portfolio of the VLI Fund become those of the Money Market Portfolio of the MFA Fund. The number of full and fractional shares of each class of MFA Fund stock will be determined by dividing the value of the assets of the appropriate VLI Fund portfolio, less any liabilities of that portfolio, by the net asset value of one share of such stock at the effective time. The value of the portfolio assets will be computed as of 4 p.m. on the day of the Reorganization. The share exchange shall be effected by the issue of shares of the MFA Fund in open account form by book entry without the issue of certificates, and by book entry cancellation of shares of the VLI Fund. The MFA Fund registered the shares to be issued in the Reorganization under the 1933 Act of Form N-14.

10. In this manner, VLI Fund shareholders will have each class of their VLI Fund Shares exchanged for the number of full and fractional shares of the corresponding class of the MFA Fund which, when multiplied by the net asset value per share of that class of MFA Fund shares, will have an aggregate net-asset value equal to the aggregate net asset value of the shares in the corresponding class of the VLI Fund immediately prior to the effective time. Consequently, owners of the life contracts ("life owners") with cash values invested in the VLI Account will have their indirect investment in portfolios of the VLI Fund exchanged for an indirect investment of equal value in the MFA Fund.

11. At the effective time, shares of the VLI Fund that NYLIAC holds directly will be exchanged for those of the MFA Fund.

12. In accordance with Maryland law, the VLI Fund will submit the proposed Plan to the shareholders of each of its classes of stock for their approval at a meeting called for that purpose on October, 30, 1992. A two-thirds majority of the outstanding shares of each class is necessary to approve the Plan. Although NYLIAC is the only shareholder of the VLI Fund, life owners are entitled to instruct NYLIAC how to vote those shares held in the VLI Account that support their contracts. MYLIAC will vote its own shares in the VLI Fund, as well as those held in the VLI Account as to which it does not receive properly executed voting instructions, in proportion to the instructions it does receive from life owners.

13. New York Life will pay all of the costs of the proposed Reorganization. The Applicants do not expect that the proposed Reorganization will entail any liquidation expenses because the portfolios of the VLI Fund and the MFA Fund have identical investment objectives. In the event that, as investment adviser, it considers any portfolio securities of the VLI Fund unsuitable for the appropriate portfolios of the MFA Fund, New York Life will pay any liquidation expenses.

14. The proposed Reorganization will have no economic impact on cash values, fees or charges under the life contracts or the rights or interests of life owners. The proposed Reorganization also will have no economic impact on owners of the annuity contracts ("annuity owners") having cash values in the subaccounts of the MFA Accounts currently holding shares of the MFA Fund other than the possible indirect effect on the MFA Fund's investment performance and expenses resulting from an increase in the size of its assets.

Applicants' Legal Analysis Under Section 17

1. Because NYLIAC owns more than 25% of the outstanding voting securities

of each portfolio of the Funds and section 2(a)(9) of the 1940 Act establishes a presumption that a person owning 25% or more of another person's outstanding voting securities controls the latter person, each Fund and each portfolio thereof is under the common control of NYLIAC and is therefore an affiliated person of the others. Because of these relationships, the proposed Reorganization would be prohibited under section 17(a) of the 1940 Act.

2. The proposed Reorganization involves the purchase and sale of securities or other property by affiliated persons, acting as principals. Section 17(a) of the 1940 Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from knowingly selling any security or other property to, or purchasing any security or other property from, the registered investment company.

3. Applicants seek an order of the Commission, under section 17(b) of the 1940 Act, exempting them from the provisions of section 17(a). Section 17(b) provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of section 17(a), if the terms of the proposed transaction are reasonable and fair and do not involve overreaching, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general purposes of the 1940 Act.

4. The Applicants maintain that the terms of the proposed Reorganization, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. In this regard, the Applicants submit that their respective boards of directors, a majority of whom are disinterested, will review and approve the terms of the proposed Reorganization as set forth in the Plan, including the consideration to be paid or received by all parties. The boards of directors of the VLI Fund and the MFA Fund will independently determine for each portfolio of their respective Fund that the proposed Reorganization will be in the best interests of the shareholders of each portfolio and the life owners (VLI Fund) or the annuity owners (MFA Fund) indirectly invested in each portfolio, and that the consummation of the proposed Reorganization will not result in the dilution of the current interests of any such shareholder or contract owner. The minutes of the meetings of each Applicant's board of directors will fully record the board's determinations and the bases upon which those determinations were made.

5. In evaluating whether to adopt the Plan (and, in the case of the board of directors of the VLI Fund only, to recommend approval of the Plan by the shareholders and life owners), the board of directors of each Applicant will consider the following factors: (i) The potential benefits of the Reorganization to the shareholders, life owners, or annuity owners (as appropriate); (ii) the compatibility of investment objectives, policies, restrictions and investment holdings of each corresponding VLI Fund portfolio and MFA Fund portfolio; (iii) the terms and conditions of the Plan which might affect the price of shares (or contract owner interests) to be exchanged; and (iv) direct or indirect costs to be incurred by each of the Applicants' portfolios, or the shareholder, life owner, or annuity owner (as appropriate) invested in either.

6. In addition, the Applicants submit that, if effectuated according to the Plan, the proposed Reorganization would result in a substantial increase in the asset size of each portfolio supporting the subaccounts of the VLI Account, and a small increase in the size of the MFA Fund portfolios. The Applicants expect that, to the extent that certain expenses remain relatively fixed and do not vary with asset size, an increase in the size of MFA Fund portfolios will result in modest economies of scale over those currently existing for the MFA Fund portfolios and would represent a significant increase in economies of scale over those currently available for the portfolios of the VLI Fund.

7. The Applicants represent that VLI Fund investors may expect a significant decrease in relative expense levels as a result of the proposed Reorganization, while MFA Fund investors may expect some modest decrease in relative expense levels. For the fiscal years ended December 31, 1990 and 1991, the table below shows expense ratios (net of reimbursements) for the six portfolios:

Year	Fund	Portfolio		
		Common stock [percent]	Bond [percent]	Money market [percent]
1990	VLI	.33	.33	.47
	MFA	.29	.25	.26
1991	VLI	.32	.32	.45
	MFA	.29	.25	.26

However, the Applicants represent that because New York Life is responsible for paying most of these expenses under the investment advisory agreements it has with each Applicant, New York Life will be the primary beneficiary of the decrease in relative expenses expected to result from the proposed Reorganization.

Nevertheless, the Applicants also maintain that shareholders, life owners, and annuity owners would benefit from decreased expense levels resulting from the proposed Reorganization in two respects. First, those expenses paid out of the Applicants' assets rather than by New York Life (i.e., brokerage commissions and other portfolio transaction expenses) would diminish somewhat as a result of increased economics of scale. Second, the decrease in expenses paid by New York Life can be expected to help keep the investment advisory fees paid by the Funds to New York Life at the current low level of .25% of average daily net assets per year.

8. The proposed Reorganization will impose no tax liability upon either Fund's shareholders, life owners or annuity owners, or either Fund. The share exchange will not dilute the interests of shareholders, life owners, or annuity owners currently invested in the VLI Fund or the MFA Fund.

9. The Applicants maintain that the proposed Reorganization is consistent with the policies of the Applicants and their respective portfolios. In this regard, the Applicants submit that if the proposed Reorganization occurs, neither investors in the MFA Fund nor life owners invested in the VLI Fund will experience any change in their portfolios' objectives. In addition, the Applicants represent that, if any investments of VLI Fund portfolio are not compatible with the investment objectives, policies or restrictions of its MFA Fund counterpart, NYLIAC will pay the costs of liquidating such investments.

10. In addition, the proposed Reorganization is consistent with the general purposes of the 1940 Act. In this regard, the Applicants submit that under the Plan, the transfer of the VLI Fund's assets to MFA Fund portfolios and the issuance of shares in those portfolios

will be made on the basis of the aggregate value of the net assets of the appropriate VLI Fund portfolio and the aggregate net asset value of those shares at the effective time, in conformity with section 22(c) of the 1940 Act and Rule 22c-1 thereunder.

11. The Applicants represent, however, that they may not be able to rely on Rule 17a-8 because they are affiliated for a reason other than their being under the common control of a single record shareholder. Nevertheless, the Applicants submit that the policy considerations that support exempting the types of transactions contemplated by Rule 17a-8 from the provisions of section 17(a) are equally applicable to the proposed Reorganization. Therefore, Applicants submit that the proposed Reorganization will comply with all of the conditions that Rule 17a-8 requires for the protection of investment companies and their shareholders and agrees to the grant of the order requested herein being specifically conditioned on each Fund's board of directors having made the requisite determinations that the participation of its Fund and each portfolio in the proposed Reorganization is in the best interests of each such Fund and portfolio, and that such participation will not dilute the interests of shareholders, life owners, or annuity owners invested therein.

Applicants' Legal Analysis Under Section 6(c)

1. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a life insurance company or any of its affiliated life insurance companies is referred to as "mixed funding." Rule 6e-2(b)(15) under the 1940 Act precludes mixed funding. However, the VLI Account relies on Rule 6e-2 for certain exemptions from the 1940 Act necessary to offer scheduled premium variable life insurance contracts. Therefore, the Applicants request an exemption, under section 6(c) of the 1940 Act for exemptions from sections 9(a), 13(a), 15(a), 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder to the extent necessary to permit the VLI Account and certain other registered separate accounts to purchase and hold shares of the MFA Fund after the proposed Reorganization and in the event that the MFA Fund in the future offers and sells its shares to any flexible premium variable life insurance separate account that the Participating Companies may establish.

2. Section 9(a) makes it unlawful for any company to serve as investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a) (1) or (2). Rules 6e-2(b)(15) (i) and (ii) provide exemptions that limit the application of the eligibility restrictions of section 9(a) to affiliated individuals or companies that directly participate in the management of the underlying management company.

3. The Applicants maintain that Rules 6e-2(b)(15) (i) and (ii) recognize that it is unnecessary to apply the provisions of section 9(a) to many individuals of an insurance complex, most of whom typically will have no involvement in matters pertaining to investment companies in that organization.

4. Rule 6e-2 permits an insurance company to disregard the voting instructions of its contract owners in certain limited circumstances. Rule 6e-2(b)(15)(iii) provides partial exemptions from sections 13(a), 15(a), and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require "pass-through" voting with respect to underlying fund shares held by a separate account. The Applicants maintain that the limits on "pass through" voting privileges contained in Rule 6e-2(b)(15)(iii) also should apply under mixed funding.

5. The Applicants maintain that Rule 6e-2 recognizes that a variable life insurance contract is subject to extensive state regulation of insurance. In adopting Rule 6e-2(b)(15)(iii), the Commission expressly recognized that state insurance regulators have authority: (i) Pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters; and (ii) to require an insurer to draw from its general account to cover costs imposed upon the insurer by a change approved by contract owners over the insurer's objection.

6. The Applicants maintain that the right, under Rule 6e-2(b)(15), of the insurance company to disregard contract owners' voting instructions does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Under Rule 6e-2(b)(15) an insurer may disregard contract owner voting instructions only with respect to certain specified items and under certain specified conditions. The potential for disagreement is limited by the requirement in Rule 6e-2 that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

7. The Applicants note that the rights of an insurance company to disregard contract owners' voting instructions are not inconsistent with mixed funding. The Applicants assert that the NAIC Model Regulation permits the use of a single underlying fund for different separate accounts, and suggests that it is unlikely that insurance regulators would find an investment policy, principal underwriter, or investment adviser inappropriate for one insurance product, but not for another.

8. The Applicants maintain that mixed funding would benefit shareholders of both the VLI Fund and the MFA Fund as well as life owners and annuity owners. Mixed funding should benefit all life owners and annuity owners by eliminating some portion of the costs of operating and administering two separate underlying funds. Furthermore, granting the requested relief should result in an increased amount of assets available for investment by the MFA Fund. This may benefit all contract owners by promoting economies of scale, by permitting increased safety through greater diversification, or by making the addition of new portfolios more feasible.

9. The Applicants maintain that the insurance products offered through the MFA Accounts and the VLI Account are designed as long-term investment programs, and that there is no reason why the investment policies of any portfolio of the MFA Fund would or should be materially different from what it would or should be if it funded only the annuity contracts or the life contracts or any new variable contract, including flexible premium variable life insurance contracts.

Applicants' Conditions for Section 6(c) Relief

If the requested order is granted, the Applicants consent to the following conditions:

1. The board of directors of the MFA Fund (the "Board of Directors"), which shall consist of a majority of disinterested directors, will monitor the MFA Fund for the existence of any material irreconcilable conflict between the interests of the life owners, annuity owners, and any future owners in the MFA Fund. A material irreconcilable conflict may arise for a variety of reasons, including: (i) An action by any state insurance regulatory; authority; (ii) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative

letter, or any similar action by insurance, tax, or securities regulatory authorities; (iii) an administrative or judicial decision in any relevant proceeding; (iv) the manner in which the investments of any portfolio are being managed; (v) a difference in voting instructions given by life owners, annuity owners or any future owners; (vi) a decision by the Participating Companies to disregard the voting instructions of contract owners.

2. The Participating Companies will report any potential or existing conflicts to the Board of Directors. The Participating Companies will assist the Board of Directors in carrying out its responsibilities by providing all information reasonably necessary for the Board of Directors to consider any issues raised, including, but not limited to, information concerning an insurer's decision to disregard contract owners' voting instructions. The responsibility to report existing or potential conflicts to the Board of Directors shall be a contractual obligation of all Participating Companies under their agreements governing participation in the Funds.[1]

3. If it is determined by a majority of the Board of Directors, or a majority of its distinguished directors, that a material irreconcilable conflict exists, then the Participating Companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested Directors), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (i) Establishing a new registered management investment company or managed separate account; or (ii) withdrawing the assets allocable to some or all of the separate accounts from the MFA Fund or any portfolio therein and reinvesting such assets in a different investment medium (including another MFA Fund portfolio), or submitting the question of whether such withdrawal should be implemented to a vote of all affected life owners, annuity owners, or future contract owners and, as appropriate, segregating the assets of any appropriate group or class (i.e., annuity contract owners, contract owners, or future contract owners) that votes in favor of such withdrawal. If a material irreconcilable conflict arises because of a Participating Company's decision to disregard voting instructions, and that decision represents a minority position or would preclude a majority vote, the Participating Company may be required, at the MFA Fund's election, to withdraw the investment of any of its separate accounts from the MFA Fund; no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a determination by the Board of Directors that a material irreconcilable material conflict exists will be a contractual obligation of all Participating Companies under their agreements governing participation in the Funds.[2]

For the purpose of this condition (3), a majority of the disinterested Directors shall determine whether any proposed action adequately remedies any irreconcilable material conflict, but in no event will the MFA Fund be required to establish a new funding medium for any variable contract. This condition (3) shall not be construed to require a Participating Company to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of life owners, annuity owners, or future contract owners affected in a materially adverse manner by the irreconcilable material conflict.

4. The Board of Director's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly, in writing, to the appropriate Participating Company or Companies.

5. The Participating Companies will provide pass-through voting privileges to all variable life owners, annuity owners, or future contract owners as long as the Commission continues to interpret the 1940 Act to require pass-through voting privileges for variable contract owners. Each Participating Company must assure that its separate accounts participating in the MFA Fund calculate voting privileges in a manner consistent with the separate accounts of the other Participating Companies; this obligation shall be a contractual obligation of the Participating Companies under their respective agreements governing participation in the MFA Fund.

6. The minutes of the meetings or other appropriate records of the Board of Directors shall record all reports of potential or existing conflicts received by the Board of Directors, and all action by the Board of Directors regarding the determination of the existence of a conflict, notification of the Participating Companies of any conflict, and determination of whether any proposed action adequately remedies a conflict. Such minutes or other records shall be made available to the Commission upon request.

7. If and to the extent Rule 6e-2 is amended to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the MFA Fund and/or the Participating Companies shall take such steps as may be necessary to comply with Rule 6e-2, as amended, to the extent such rules are applicable.

Conclusion

1. Applicants request an order of the Commission pursuant to section 17(b) of the Act exempting the proposed Reorganization from the provisions of section 17(a) of the Act. Applicants submit that, for reasons stated above, the terms of the proposed Reorganization including the consideration to be paid and received are reasonable and fair to each Fund, to each portfolio of each Fund and to shareholders and life owners or annuity owners invested in each and do not involve overreaching on the part of any person concerned. Furthermore, the proposed Reorganization will be consistent with the policies of each Fund and each portfolio thereof.

2. In addition, the MFA Fund requests an order of the Commission pursuant to section 6(c) of the 1940 Act for exemptions from sections 9(a), 13(a), 15(a), 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder to the extent necessary to permit the VLI Account and certain other registered separate accounts to purchase and hold shares of the MFA Fund after the proposed Reorganization and in the event that the MFA Fund in the future offers and sells its shares to any flexible premium variable life insurance separate account that the Participating Companies may establish.

3. For all the reasons stated above, the MFA Fund submits that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24996 Filed 10-14-92; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicants represent that the application will be amended during the notice period to expressly refer to this contractual obligation of the Participating Companies.

[2] Applicants represent that the application will be amended during the notice period to expressly refer to this contractual obligation of the Participating Companies.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 92-20]

Aviation Proceedings, Murtala Muhammed International Airport

Under subsections 1115 (d) and (e) of the Federal Aviation Act, on October 8, 1992, I found that Murtala Muhammed International Airport, Lagos, Nigeria, does not maintain and administer effective security measures. This determination is based on a Federal Aviation Administration assessment that reveals that security measures used at the airport do not meet the standards established by the International Civil Aviation Organization. I also found, based on such assessment, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from such airport. Accordingly, pursuant to subparagraph 1115(e)(1)(B) of the Act, I have ordered the immediate implementation of certain measures required by statute.

Pursuant to section 1115 of the Federal Aviation Act, (49 U.S.C. 1515), I have directed that a copy of this notice be published in the Federal Register, that my determination be displayed prominently in all U.S. airports regularly being served by scheduled air carrier operations, and that the news media be notified of my determination. In addition, as a result of this determination, all air carriers and foreign air carriers (and their agents) providing service between the United States and Murtala Muhammed International Airport must provide notice of my determination to any passenger purchasing a ticket for transportation between the United States and Murtala Muhammed International Airport, with such notice to be made by written material included on or with the ticket.

Dated: October 8, 1992.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 92-24961 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Airworthiness Standards; New Rotorcraft Research and Development Initiative, Program Identification

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting that will define the Federal Aviation Administration (FAA), Aircraft Certification Service Rotorcraft Directorate Research and Development (RE&D) initiative and will discuss, define, and document specific, potential RE&D requirements. The meeting will focus on Aircraft Certification RE&D programs that support activity related to FAR Parts 27, 29, and associated operations Parts. Other FAA requirements such as flight standards, air traffic, or airway facilities will not be addressed. The FAA is soliciting public sector assistance to determine if proposed RE&D requirements will have relevant, practical applications and will be cost effective.

DATES: The two-day public meeting will begin at 9 a.m. on November 4, 1992.

ADDRESSES: The meeting will be held at the Holiday Inn North Conference Center, 2540 Meacham Boulevard, Fort Worth, Texas 76106; telephone (817) 625-9911.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Mathias, Rotorcraft Standards Staff, ASW-110, FAA, Fort Worth, Texas 76193-0110; telephone (817) 624-5123.

SUPPLEMENTARY INFORMATION: In early 1991, FAA management decided to improve the quality and relevancy of the FAA's overall RE&D effort. A team was created to recommend an improved process that met the research needs of the modern FAA and its external customers—foreign authorities, industry, and the public. The overall goal was to develop and implement a single process with success criteria that results in efficient resource utilization and timely, supported, and usable RE&D products. The FAA team has established generic approval methods for individual RE&D proposed requirements.

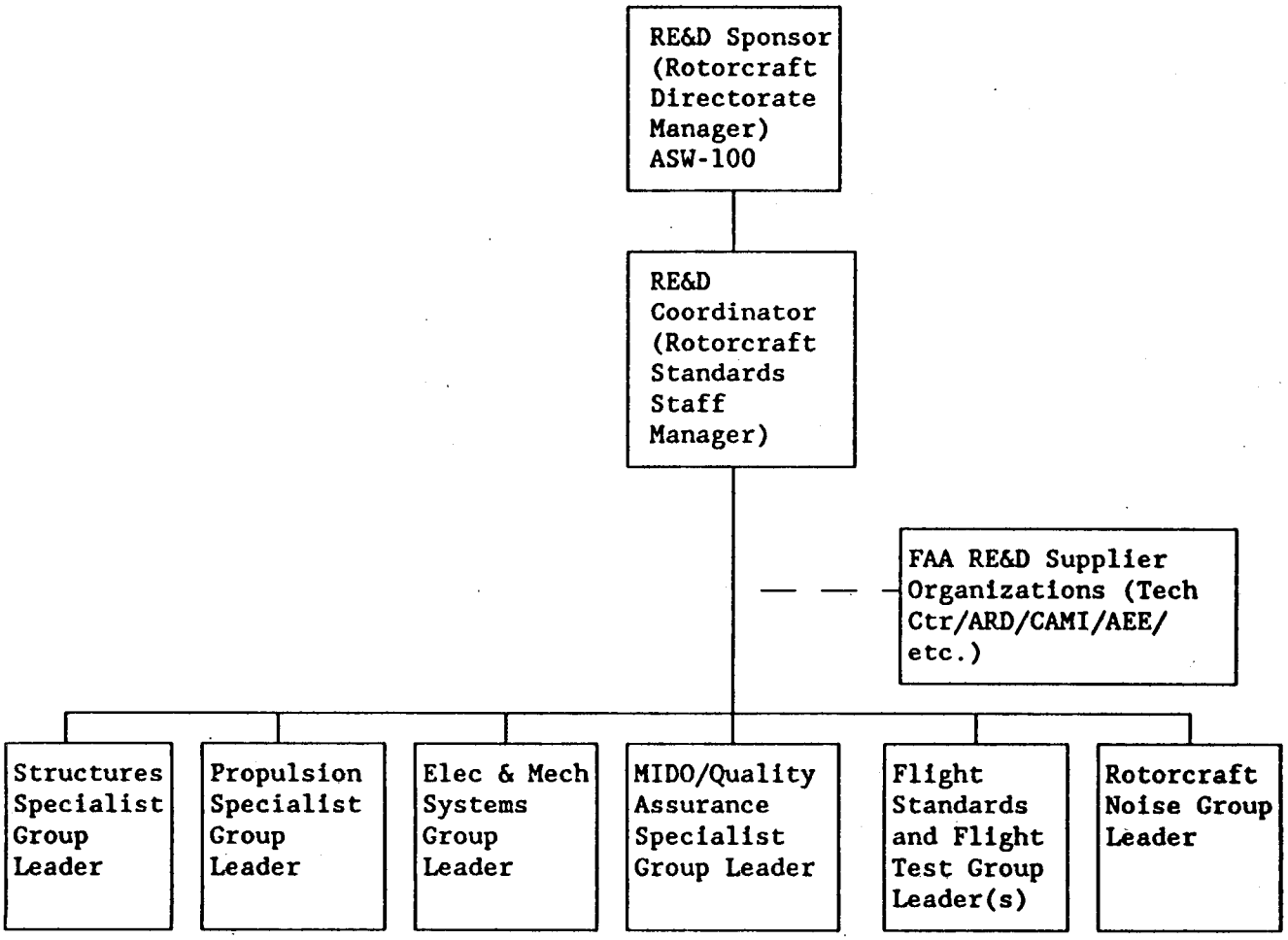
The philosophy of the new RE&D process is to create an atmosphere that will promote the identification of requirements by any person or organization in the government or private sector. Thus the new process is more responsive to public sector needs. Within the Aircraft Certification Service, the new process places increased emphasis on FAA Aircraft Certification Directorate and Division level participation in identifying new requirements and in sponsoring and monitoring the resulting RE&D projects.

As part of the overall aircraft Certification initiative, the FAA's Rotorcraft Directorate is undertaking a directly related initiative specifically for the rotorcraft community. It has the same basic mission, goals, and procedures as the agency-wide initiative.

A Rotorcraft Directorate RE&D team (Figure 1) will implement this RE&D initiative. Implementation will be accomplished by identifying, describing, evaluating, and cataloging potential RE&D requirements for sponsorship and submittal into the overall RE&D process. This will result in a coordinated annual rotorcraft requirements package that will be assigned to the appropriate FAA RE&D provider organizations when funds are allocated for them.

Additionally, the requirements identified in the rotorcraft requirements package will be considered for inclusion in the next FAA "Plan for Research, Engineering, and Development." This plan is published annually and includes all the planned research and development activities of the FAA. The plan will serve as the basis for allocating available agency resources in the fiscal year beginning two (2) years after the plan is issued (1995). It should be stressed that requirements identified at the conference will not be funded until at least two (2) years after the plan is issued and that reprogramming of limited RE&D resources before then is highly unlikely. Also, the identified requirements will have to compete for resources with other requirements identified for RE&D in other FAA activities. Nonetheless, the need clearly exists to identify rotorcraft identification to compete for the agency's RE&D resources.

There are four primary RE&D supplier organizations: (1) The Technical Center (ACD) in Atlantic City, New Jersey; (2) the Research and Development Center (ACD) in Washington, DC; (3) the Office of Environment and Energy (AEE) in Washington, DC; and (4) the Office of Aviation Medicine's Civil Aeromedical Institute (AAM/CAMI) in Oklahoma City, Oklahoma. These organizations perform the RE&D on requirements that receive funding through the process discussed above. They will cosponsor the public meeting with the Rotorcraft Directorate and the Rotorcraft Aircraft Evaluation Group (AEG).



Note: Special RE&D areas/topics, such as service history issues, will be assigned to appropriate panels.

FIGURE 1
ROTORCRAFT DIRECTORATE RE&D ORGANIZATION

Specialist groups will enhance the discussion, definition, and initial evaluation of individual RE&D requirements for each specialty. Accepted requirements will be placed in the annual Rotorcraft Directorate RE&D plan that will then be integrated with other Directorate plans. The Rotorcraft Directorate plan will be updated each year. RE&D program requirements that are identical between annual updates will be integrated in the next annual review process. An RE&D Research Project Initiative form has been created to aid in identifying and documenting new requirements. Forms and related instructions are available from the Rotorcraft Standards Staff office. The team members will work with each originator to develop the supporting data to aid in properly judging the requirement's validity.

Interested attendees are requested to propose RE&D requirements and to be available to participate as group members in one or more of the specialist groups that are formed after the general session. Attendees are individuals from other Federal agencies, other aviation authorities, the FAA RE&D provider organizations, FAA designees, other directorates, the general public, industry, industry groups, National Resource Specialists, Academia, and other sources. They are welcome to attend the public meeting, propose RE&D requirements, and participate as specialist group members.

Copies of this notice are being mailed to all known interested parties. Any interested party who desires but has not received a copy of this notice by October 1, 1992, should request a copy from Linda Williams, FAA Rotorcraft Standards Staff, ASW-110, Fort Worth, TX 76193-0110, telephone (817) 624-5110.

Issued in Forth Worth, Texas, on October 10, 1992.

James D. Erickson,

Manager, Aircraft Certification Service, Rotorcraft Directorate.

[FR Doc. 92-25012 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-13-M

INTENT TO RULE ON APPLICATION TO IMPOSE AND USE THE REVENUE FROM A PASSENGER FACILITY CHARGE (PFC) AT HELENA REGIONAL AIRPORT, HELENA, MT.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Helena Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before November 16, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Dave Gabbert, Manager, Helena Airports District Office, FAA Building, room 2, Helena Regional Airport, Helena, Montana 59603.

In addition, one copy of any comment submitted to the FAA must be mailed or delivered to: Mr. Ronald S. Mercer, Airport Manager for the Helena Regional Airport Authority at: 2850 Skyway Drive, Helena, Montana 59603.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Helena Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: David P. Gabbert, Manager, Helena Airports District Office, FAA Building, room 2, Helena Regional Airport, Helena, Montana 59603, (406) 449-5271. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Helena Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 6, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Helena Regional Airport Authority, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later then January 15, 1993.

The following is a brief overview of the application.

Level of the Proposed PFC: $3.
Proposed charge effective date: March 1, 1993.
Proposed charge effective date: July 31, 2000.
Total estimated PFC revenue: $1,113,055.

Brief description of proposed projects: Airport signing and lighting; land acquisition; auto parking; passenger lift; parallel taxiway; snow removal equipment; fire training facility; terminal modifications; and runway overlay.

Class of classes of air carriers which the public agency has requested not be required to collect PFCs: Charter carriers.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA Regional Airports office located at: Federal Aviation Administration, Airports Division, 1601 Lind Avenue, SW., suite 540, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Helena Regional Airport Authority, Helena, Montana.

Issued in Renton, Washington on October 6, 1992.

Cecil C. Wagner,

Assistant Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 92-25011 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Clackamas County, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a corridor environmental impact statement (CEIS) will be prepared for a proposed highway project on the Mount Hood Highway (U.S. 26) between Rhododendron, Oregon and U.S. Highway 35 in Clackamas County, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Engineer, Federal Highway Administration, Equitable Center, suite 100, 530 Center NE, Salem, Oregon 97301. Telephone (503) 399-5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare a corridor environmental impact statement (CEIS) on a proposal to define alternative means for accommodating present and projected increases in travel demand through the year 2015 within the 14-mile Mt. Hood corridor in Clackamas County, Oregon.

U.S. Highway 26 has been designated by the Oregon Transportation Commission as an "Access Oregon Highway" corridor, in which a series of projects intended to promote economic development are proposed. These highways augment the Interstate system and have statewide importance. They link major economic and geographic activity centers in Oregon with other high-level highway, major ports and other states.

Improvements to this corridor are considered necessary to provide for the existing and projected traffic demand. Alternatives under consideration include:

a. *Demand Management/Transit Alternative:* Would use a combination of several demand management techniques. The primary goal would be to reduce peak period single-occupant and total vehicle trips by such means as enhanced transit services, high-occupancy vehicle incentives, parking lot metering, route diversion and peak period user fees. Potential changes in land use would be analyzed as a possible means to mitigate highway impacts.

b. *Four-Lane Widening Alternative:* Would construct two traffic lanes in each direction through the entire corridor.

c. *Three-Lane Widening Alternative:* Would construct three traffic lanes on the existing right-of-way from U.S. Highway 35 to Rhododendron. The middle lane would be reversible to meet peak directional demands or would be used as a passing lane.

d. *TSM Element:* Would provide safety improvements and minor operational improvements which would increase the operating efficiency of the existing travel lanes.

e. *No-Build Alternatives:* Would maintain the existing highway under its current configuration and operations, without major improvements. Users would have to adjust to changes in levels of service as traffic increases.

Information describing the proposed action and soliciting comments will be sent to the appropriate federal, state and local agencies. Public meetings will be held during project development, and a public hearing will be held. Scoping meetings will be conducted as needed.

Among the issues and concerns central to this project are Native American cultural resources, special status species, historic resources (Barlow Trail), water quality, visual resources, recreational access, peak period travel and capacity, economic development, wetlands and riparian zones, land use intensity and patterns.

To ensure that the full range of issues related to the proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: October 6, 1992.

Elton H. Chang,

Environmental Engineer, Oregon Division Office, FHWA.

[FR Doc. 92-24973 Filed 10-14-92; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 200
Thursday, October 15, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 20, 1992, 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, October 22, 1992, 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Title 26 Certification Matters
Gephardt—Repayment Determination
Fiscal 1993 Management Plan
Administrative Matters
Federal Election Commission
Sunshine Act Notices for the Meetings of October 20, 22, 28, and December 2, 1992

DATE AND TIME: Wednesday, October 28, 1992 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This oral presentation will be open to the public.

MATTER BEFORE THE COMMISSION: Jackson for President '88 Committee.

* * * * *

"FEDERAL REGISTER" NUMBER: 92-22001.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, October 21, 1992, 10 a.m.; Hearing Open to the Public.

Americans for Robertson Committee's Oral Presentation is being postponed to Wednesday, December 2, 1992, at 10 a.m.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone (202) 219-4155.

Delores Hardy,
Administrative Assistant.

[FR Doc. 92-25194 Filed 10-13-92; 3:26 am]
BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, October 19, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. 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: October 9, 1992.

William W. Wiles,
Secretary of the Board.

[FR Doc. 92-25090 Filed 10-13-92; 9:28 am]
BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

USITC SE-92-28

TIME AND DATE: October 20, 1992 at 3:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Invs. Nos. 731-TA-532-537 (Final) (Circular, Welded, Non-Alloy, Steel Pipes and Tubes from Brazil, Republic of Korea, Mexico, Romania, Taiwan, and Venezuela)—briefing and vote.
5. Invs. Nos. 731-TA-624-625 (Preliminary) (Helical Spring Lockwashers from People's Republic of China and Taiwan)—briefing and vote.
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205-2000.

Issued: October 9, 1992.

Paul R. Bardos,
Acting Secretary.

[FR Doc. 92-25093 Filed 10-13-92; 9:29 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Public Announcement; Pursuant to the Government in the Sunshine Act (Public Law 94-409) (5 U.S.C. Section 552b)

DATE AND TIME: Tuesday, October 20, 1992, 9:30 a.m., Eastern Daylight Time.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTER CONSIDERED: Appeals to the Commission involving eleven cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Jeffrey Kostbar, Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5968.

Dated: October 13, 1992.

Michael A. Stover,
General Counsel, U.S. Parole Commission.

[FR Doc. 92-25207 Filed 10-13-92; 3:51 pm]
BILLING CODE 4410-1-M

DEPARTMENT OF JUSTICE

Public Announcement; Pursuant to the Government In the Sunshine Act (Public Law 94-409) [5 U.S.C. Section 552b]

TIME AND DATE: 1:00 p.m., Tuesday, October 20, 1992.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.

2. Reports from the Chairman, Commissioners, Legal, Case Operations, Program Coordinator, and Administrative Sections.
3. Discussion on Response to Congressional Inquiries.
4. Staff Reports from Conferences Attended.
5. Amendment to 28 C.F.R. § 2.40(b), Granting Permission to Travel to Puerto Rico, Hawaii and the Virgin Islands without Commissioner Approval.
6. Republication of the Commission's Interpretative Rule on Transfer Treaty Prisoners.
7. Street Time Forfeiture for Old Law Treaty Cases.
8. Proposed Rule Concerning HIV-Positive Parolees.
9. Request for Approval of Two Staff Training Manuals on (1) the Preponderance of the Evidence Test and (2) Due Process at Revocation Hearings.
10. Discussion of Enhanced Supervision Task Force.
11. Discussion of Habitual Offender Sanction.
12. Discussion of Proposal that Releasee Be Required To Pay Costs of Aftercare Services.
13. Discussion of Community Confinement Program: Policies and Procedures.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492-5962.

Dated: October 13, 1992.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 92-25208 Filed 10-13-92; 3:51 pm]

BILLING CODE 4410-01-M

Corrections

Federal Register
Vol. 57, No. 200
Thursday, October 15, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 30

[FAC 90-12; FAR Case 92-18]

Federal Acquisition Regulation; Cost Accounting Standards

Correction

The correction document appearing in the issue of October 1, 1992, on page 45422 was incorrect and should read as follows:

In correction document 92-20667 appearing on page 43495 in the issue of Monday, September 21, 1992, in the second column, "30.602-1" should read "30.602-2" and in amendatory instruction 9., in the second line, "30-602-1" should read "30-602-2".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-103-90]

RIN 1545-AP23

Election Out of Subchapter K for Producers of Natural Gas

Correction

In proposed rule document 92-22000 beginning on page 42712 in the issue of Wednesday, September 16, 1992, make the following corrections:

1. On page 42712, in the third column, in the **SUMMARY**, in the sixth line, "form" should read "from".

2. On the same page, in the same column, under **DATES**, in the fifth line, "November 16, 1992" should read "November 17, 1992".

3. On page 42715, in the third column, in the third full paragraph, in the fifth line, the second "or" should read "of"; and in the fourth line from the bottom of the paragraph, "§ 1.76-2(d)(6)" should read "§ 1.761-2(d)(6)".

§ 1.761-2 [Corrected]

4. On page 42717, in the first column, in § 1.761-2(d)(4)(i), in the sixth line, 'such" should read "each".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 5c, 5f, 5h, 6, 7, 7a, 10, 13, 14, 18, 19, 301, and 602

[T.D. 8435]
RIN 1545-AN09

Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988 and the Redesignation of Certain Other Temporary Elections Regulations

Correction

In rule document 92-22685 beginning on page 43893 in the issue of Wednesday, September 23, 1992, make the following corrections:

1. On page 43893, in the second column, under **EFFECTIVE DATES**, the second line should read "relating to § 301.9100-8 (formerly § 5h.6)".

2. On the same page, in the third column, under **EXPLANATION OF PROVISIONS**, in the third line, "301.9100.8" should read "301.9100-8".

3. On page 43894, in the second column, in the List of Subjects for 26 CFR Part 14a, the second line should read "recordkeeping requirements, Securities".

§ 301.9100-8 [Corrected]

4. On page 43895, in the second column, in amendatory instruction 2. of Par. 9. to § 301.9100-8, in the sixth line, insert a period after "Code".

5. On page 43896, in the second column, in the heading for Part 14, "[REMOVED]" the first time it appears should read "TEMPORARY".

§ 1.856-9 [Corrected]

6. On the same page, in the third column, in amendatory instruction 36. to § 1.856-9, in the third line, insert "of this chapter" after "(1)"

BILLING CODE 1505-01-D

federal register

Thursday
October 15, 1992

Part II

Environmental Protection Agency

40 CFR Parts 261 et al.

Hazardous Waste Management System: Identification and Listing of Hazardous Waste and CERCLA Hazardous Substance Designation; Reportable Quantity Adjustment, Chlorinated Toluenes Production Wastes; Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 271, and 302

[SWH-FRL-4194-3]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste and CERCLA Hazardous Substance Designation; Reportable Quantity Adjustment, Chlorinated Toluenes Production Wastes

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is amending the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) by adding three wastes generated during the production of the alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups, collectively referred to in this document as "chlorinated toluenes," to the list of hazardous wastes from specific sources. EPA is also amending appendix VII of 40 CFR part 261 to add the constituents for which these wastes are being listed. The effect of this regulation is that these three wastes will be subject to regulation as hazardous wastes. In addition, EPA is amending regulations promulgated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that are related to today's waste listings. In particular, EPA is amending CERCLA regulations by designating the listed wastes as CERCLA hazardous substances and establishing the reportable quantities applicable to these wastes.

DATES: Today's final rule will become effective on April 15, 1993. See section VII of the Supplementary Information section concerning compliance dates.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F-92-LCTF-FFFFF and is located in the EPA RCRA Docket, room M2427, 401 M Street, SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. The public may copy 100 pages from the docket at no charge; additional copies are $0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, toll-free at (800) 424-9346 or locally at (703) 920-9810. For technical information on the RCRA hazardous waste listings, contact Dr. Ambika Bathija, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-4770.

For technical information on the CERCLA portion of the rule, contact Ms. Gerain Perry, Response Standards and Criteria Branch, Emergency Response Division (OS-210), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-2190.

SUPPLEMENTARY INFORMATION:

I. Authority
II. Background
A. Proposed Rule
B. HSWA and *EDF* v. *Reilly*
III. Summary of the Regulation
A. Overview of the Final Rule
B. Basis for Listing
C. Agency Response to Public Comments
IV. Impact of Future Land Disposal Restrictions (LDR) Determinations
V. State Authority
A. Applicability of Final Rule in Authorized States
B. Effect on State Authorizations
VI. CERCLA Designation and Reportable Quantities
A. Reporting Requirements
B. Adjustment of RQs
VII. Compliance Dates
A. Notification
B. Interim Status
C. Permitting Requirements
VIII. Economic Analysis
IX. Regulatory Flexibility Act
X. Paperwork Reduction Act

I. Authority

These regulations are being promulgated under the authority of sections 2002(a) and 3001(b) and (e)(1) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a) and 6921(b) and (e)(1) (commonly referred to as RCRA), and section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) 42 U.S.C. 9602(a).

II. Background

EPA proposed to list as hazardous three wastes from chlorinated toluenes production on October 11, 1991. Today's notice promulgates these listings, presented in Section II.C. of the proposed rule, with no substantive modification.

A. Proposed Rule

Pursuant to section 3001 of subtitle C of the Resource Conservation and Recovery Act (RCRA), EPA proposed to list three wastes as hazardous in a notice published in the **Federal Register** on October 11, 1991 (see 56 FR 51592). At that time, EPA also proposed a no-list decision for three other wastes from chlorinated toluenes production. One other waste from chlorinated toluenes production is already regulated as a hazardous waste under RCRA: EPA Hazardous Waste Number K015-still bottoms from the distillation of benzyl chloride (promulgated on November 12, 1980; see 45 FR 74884). The Agency noted, in the proposal, that the scope of K015 was not affected by the proposed rule.

EPA proposed to add three waste streams generated from the production of the alpha- (or methyl-)chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups, collectively referred to in the proposed rule as "chlorinated toluenes," to the list of hazardous wastes from specific sources found at 40 CFR 261.32. These wastes, which were fully described in the preamble to the proposed rule, are distillation bottoms generated from the production of chlorinated toluenes (K149); the organic residuals generated in the recovery of byproduct hydrochloric acid (HCl) associated with the manufacture of chlorinated toluenes (K150); and wastewater treatment sludges, excluding neutralization sludges and biological sludges, generated during the treatment of wastewaters from the manufacture of chlorinated toluenes (K151).

The basis for this proposed regulation was a determination by the Agency that these wastes frequently contain significant concentrations of benzene, benzotrichloride, benzyl chloride, carbon tetrachloride, chlorobenzene, chloroform, chloromethane, 1,4-dichlorobenzene, hexachlorobenzene, pentachlorobenzene, 1,2,4,5-tetrachlorobenzene, 1,1,2,2-tetrachloroethane, tetrachloroethylene, toluene, and/or 1,2,4-trichlorobenzene. These compounds, at the concentrations found in chlorinated toluenes wastes, present a threat to human health and the environment when the wastes are mismanaged because of their toxicity, mobility, and persistence. These constituents may be carcinogenic, mutagenic, and/or exhibit other chronic systemic effects at certain concentrations. Based on their physical properties and the evidence from damage incidents, EPA has found that most of these constituents are highly persistent and are mobile in the environment. EPA fully described the data documenting the hazards posed by these wastes in the preamble to the proposed rule. See 56 FR 51596-51602. Because these wastes are capable of posing a threat to human health and the environment when they are improperly

treated, stored, transported, disposed of, or otherwise managed, EPA proposed to list them as hazardous. Consequently, as stated in the proposed rule, these wastes would be subject to the applicable requirements of 40 CFR parts 124, 262–266, 268, 270, and 271.

In addition to the Agency's decision to list three wastes from chlorinated toluenes production, the Agency proposed a decision not to list three other wastes from chlorinated toluenes production: wastewaters, spent carbon, and neutralization and biological treatment sludges. Based on information collected by the Agency, these wastes do not meet the criteria for listing as hazardous wastes. The rationale for these no-list determinations was described in detail in the preamble to the proposed rule and is summarized below.

Wastewaters, which are generated throughout the manufacturing processes, contain low concentrations of the constituents of concern. In addition, the production wastewaters at the four chlorinated toluenes manufacturing facilities are treated prior to off-site discharge, thus further reducing the risks these wastes present to human health and the environment.

Spent carbon wastes, generated during the recovery and purification of byproduct hydrochloric acid, also were proposed not to be listed. Most constituents in these residuals are present at relatively low levels. The organic constituents in the spent carbon waste matrix are expected to adhere strongly to the carbon matrix by adsorption, and thus be significantly less mobile than in other matrices such as distillation bottoms. Therefore, spent carbon is not expected to present a significant risk to human health and the environment if mismanaged and therefore does not warrant listing as a hazardous waste.

The composition of wastewater treatment sludges has been found to vary significantly depending on treatment process. The Agency has made a diligent effort to determine the specific wastes from wastewater treatment operations that contain high levels of toxic constituents and to list only those waste streams. Specifically, neutralization and biological sludges have been found to contain contaminants at low levels, if they are detected at all. The levels in these wastes are significantly less than constituent levels found in those gravity separation sludges proposed for listing.

B. HSWA and EDF v. Reilly

On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (HSWA), which amended RCRA, were enacted. These amendments had far-reaching ramifications for EPA's hazardous waste regulatory program. Section 3001(e)(2), which was one of the many provisions added by HSWA, directed EPA to make a determination whether to list under section 3001(b)(1) several wastes, including chlorinated aromatics wastes. As discussed in the preamble to the proposed rule, the chlorinated aromatics industry can be divided into three major segments: Chlorinated benzenes, chlorinated phenols, and chlorinated toluenes. Wastes produced by the first two segments of the industry are currently listed as hazardous. See 56 FR 51594 (October 11, 1991). On June 19, 1991, EPA entered into a proposed consent decree which resolved issues raised in *EDF* v. *Reilly*, Civ. No. 89–0598 (D.D.C.). Under this decree, EPA was required, in part, to propose a decision regarding the listing of chlorinated toluenes production wastes by September 1991 and to finalize the decision by September 1992. Today's regulation fulfills this latter requirement of the proposed consent decree and completes the investigations that were underway to study wastes from the chlorinated aromatics industry when HSWA was enacted.

The proposed rule (56 FR 51592) specifically addressed, and today's rule finalizes, the determinations for each of the wastes listed in the proposed consent decree (see Table 1).

In its study of the industry, the Agency sampled wastes and gathered information on specific wastes generated from the production of the various types of chlorinated toluene compounds enumerated in the consent decree. Based on this information, the Agency concluded that wastes from the production of alpha-chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups are very similar and that it is therefore reasonable to identify wastes from these processes as a group. For example, EPA proposed that organic condensates and decantates from the production of all types of chlorinated toluenes be identified as a group and listed as K150 regardless of product identification. Therefore, today's regulation characterizes the wastes at issue differently than the proposed consent decree, which specifies exactly which production wastes are to be the subject of a listing determination. It should be emphasized, however, that the scope of today's rulemaking encompasses all those wastes discussed in the proposed consent decree. The regulatory decisions concerning the wastes presented in the proposed consent decree, as finalized in today's rule, are presented in Table 1.

TABLE 1.—REGULATORY STATUS OF WASTE STREAMS IDENTIFIED IN THE EDF v. REILLY PROPOSED CONSENT DECREE

Decree waste	Regulatory status
Still bottoms from p-chlorobenzoyl chloride production via catalytic steam hydrolysis.	K149
Still bottoms from production of trichlorotoluene via Lewis acid catalysts.	K149
Still bottoms from production of dichlorotoluene via Lewis acid catalysts.	K149
Spent carbon, filter media, filter cartridges and filtered solids from production of benzotrichloride and benzyl chloride via HCl recovery.	No-list
Spent carbon, filter media, filter cartridges and filtered solids from production of benzoyl chloride, p-chlorobenzotrichloride and benzotrichloride via HCl recovery.	No-list
Spent H_2SO_4 from production of benzoyl chloride, benzotrichloride, and p-chlorobenzotrichloride via HCl recovery.	No-list
Still bottoms from benzoylchloride production via catalytic steam hydrolysis.	K149
Still bottoms from production of o-chlorotoluene, p-chlorotoluene, and dichlorotoluene.	K149
Still bottoms from production of dichlorobenzoyl chloride.	K149
Organic liquids (condensates and decantates) from production of benzotrichloride/benzoyl chloride.	K150
Organic liquids (condensates and decantates) from production of dichlorobenzoyl chloride, benzotrichloride, and p-chlorobenzyltrichloride.	K150
Organic liquids (condensates and decantates) from production of benzoyl chloride, benzotrichloride, and p-chlorobenzotrichloride.	K150
Wastewaters from production of one or more chlorinated toluenes.	No-list
Wastewater treatment sludges from production of one or more chlorinated toluenes.	Separation sludges: K151 Neutralization and biological sludges: No-list

III. Summary of the Regulation

A. Overview of the Final Rule

As proposed on October 11, 1991, this rule adds to the list of hazardous wastes from specific sources found at 40 CFR 261.32 three wastes generated during the production of chlorinated toluenes:

K149 Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. [This waste does not include still bottoms from the distillation of benzyl chloride.]

K150 Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.

K151 Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.

These wastes are therefore subject to the applicable requirements of 40 CFR parts 124, 262–266, 268, 270, and 271. EPA is also amending appendix VII at 40 CFR part 261 to add the constituents for which these wastes are being listed. In addition, for the reasons explained in the preamble to the proposed rule and summarized above, EPA is finalizing its determination not to list wastewaters, spent carbon, and neutralization and biological treatment sludges from chlorinated toluenes production.

Finally, as proposed, EPA is amending the CERCLA regulations at 40 CFR part 302 by designating hazardous wastes K149, K150, and K151 as hazardous substances and finalizing RQs of 10 pounds for each of these waste streams.

The listings being finalized today will reduce the risks posed by these wastes to human health and the environment. These listings will prevent the uncontrolled entrance of toxic constituents into the ground water, surface water, soil, and air by requiring environmentally sound management of these wastes. In order to further reduce the potential risk posed by these and other wastes, the Agency encourages the implementation of cost effective pollution prevention programs, source controls, and other efforts to reduce the volume of generated wastes. Such programs may be economically advantageous to generators due to the reduced management costs that accompany a reduction in the amount of wastes generated.

The Agency has determined that the industry-wide economic effect of this listing will be annualized incremental costs of approximately $12,000, which represents an insignificant cost to society. A principal reason for this anticipated low additional cost is that the subject wastes are presently being managed as hazardous by industry.

B. Basis for Listing

After considering the relevant factors outlined in 40 CFR § 261.11(a)(3), the Agency has determined that the wastes being listed as hazardous today are capable of presenting a substantial risk to human health and the environment when mismanaged. In particular, the Agency has found that these wastes frequently contain significant concentrations of toxic constituents which are highly mobile and persistent in the environment.

In general, the information presented in the preamble and in support of the proposed rule remains the best and most current available to EPA and serves as the basis for today's listing determinations (56 FR 57592, October 11, 1992). The Agency has, however, updated Tables 3, 4, and 5 of the preamble to the proposed rule (denoted as Tables 2, 3, and 4 of today's preamble) to reflect the most current information available to the Agency regarding the toxicity of the constituents of concern present in the wastes being listed today. Table 2 presents the constituents of concern and their concentrations in the wastes and concentrations that may reach potential human and environmental receptors and compares these levels with oral HBLs of concern. Tables 3 and 4 provide information on oral and inhalation HBL toxicity sources. The Agency notes that the changes reflected in these tables have had no effect on the Agency's listing determinations.

TABLE 2.—BASIS FOR LISTING: HAZARDOUS CONSTITUENTS AND LEVELS OF CONCERN (ORAL ROUTE)

	Median waste concentration (mg/kg)	Health-based levels (HBL) [1] (mg/L)	Waste level to HBL ratio	100×HBL (mg/L)	Waste level to 100×HBL ratio
Distillation or fractionation bottoms from the production of chlorinated toluenes (K149):					
Benzotrichloride	70,000	3×10^{-6}	2×10^{10}	3×10^{-4}	2×10^{8}
Benzyl Chloride	>750	2×10^{-4}	4×10^{6}	2×10^{-2}	4×10^{4}
Chlorobenzene	>300	1×10^{-1}	3×10^{3}	1×10^{1}	3×10^{1}
Chloroform	50	6×10^{-3}	8×10^{3}	6×10^{-1}	8×10^{1}
Chloromethane	7,000	3×10^{-3}	2×10^{6}	3×10^{-1}	2×10^{4}
1,4-Dichlorobenzene	>700	7.5×10^{-3}	9×10^{3}	7.5	9×10^{1}
Hexachlorobenzene	3,500	1×10^{-3}	4×10^{6}	1×10^{-1}	4×10^{4}
Pentachlorobenzene	1,500	3×10^{-2}	5×10^{4}	3	5×10^{2}
1,2,4,5-Tetrachlorobenzene	250	1×10^{-2}	3×10^{4}	1	3×10^{2}
Toluene	3,000	1	3×10^{3}	1×10^{2}	3×10^{1}
Organic residuals from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of chlorinated toluenes (K150):					
Carbon Tetrachloride	550	5×10^{-3}	1×10^{5}	5×10^{-1}	1×10^{3}
Chloroform	45	6×10^{-3}	8×10^{3}	6×10^{-1}	8×10^{1}
Chloromethane	13,500	3×10^{-3}	5×10^{6}	3×10^{-1}	5×10^{4}
1,4-Dichlorobenzene	3,200	7.5×10^{-3}	4×10^{4}	7.5	4×10^{2}
Hexachlorobenzene	2,000	1×10^{-3}	2×10^{6}	1×10^{-1}	2×10^{4}
Pentachlorobenzene	2,100	3×10^{-2}	7×10^{4}	3	7×10^{2}
1,2,4,5-Tetrachlorobenzene	7,000	1×10^{-2}	7×10^{5}	1	7×10^{3}
1,1,2,2-Tetrachloroethane	>125	2×10^{-4}	6×10^{5}	2×10^{-2}	6×10^{2}
Tetrachloroethylene	150	5×10^{-3}	3×10^{4}	5×10^{-1}	3×10^{2}
1,2,4-Trichlorobenzene	12,000	7×10^{-2} *	2×10^{5}	7	2×10^{3}
Wastewater treatment sludges, excluding neutralization and biological sludges (K151):					
Benzene	>100	5×10^{-3}	2×10^{4}	5×10^{-1}	2×10^{2}
Carbon tetrachloride	75	5×10^{-3}	2×10^{4}	5×10^{-1}	2×10^{2}

TABLE 2.—BASIS FOR LISTING: HAZARDOUS CONSTITUENTS AND LEVELS OF CONCERN (ORAL ROUTE)—Continued

	Median waste concentration (mg/kg)	Health-based levels (HBL) [1] (mg/L)	Waste level to HBL ratio	100×HBL (mg/L)	Waste level to 100×HBL ratio
Chloroform	190	6×10^{-3}	3×10^{4}	6×10^{-1}	3×10^{2}
Hexachlorobenzene	>500	1×10^{-3}	5×10^{5}	1×10^{-1}	5×10^{3}
Pentachlorobenzene	>200	3×10^{-2}	7×10^{3}	3	7×10^{1}
1,2,4,5-Tetrachlorobenzene	>150	1×10^{-2}	2×10^{4}	1	2×10^{2}
Tetrachloroethylene	>250	5×10^{-3}	5×10^{4}	5×10^{-1}	5×10^{2}
Toluene	34,000	1	3×10^{4}	1×10^{2}	3×10^{2}

[1] Health-based levels (HBLs) are based on either MCLs, RSDs, or RfDs as described in the October 11, 1991 proposed rule.
* The HBL for this constituent is the new MCL (see 57 FR 31778 (July 7, 1992)) and differs from the proposed MCL (see 56 FR 51598 (October 11, 1991)) because of a change in the RfD. However, the concentration of this constituent in K150, as well as the levels that may reach potential human or environmental receptors, exceed both the proposed level and the one used in today's rule.

TABLE 3.—ORAL HBL TOXICITY SOURCES

Constituent	Class	Slope factor (mg/kg/day) [1]	Carcin HBL (mg/L)	RfD(mg/kg/day)	Toxicity HBL (mg/L)	MCL (mg/L)	HBL leachate (mg/L)	Interim HBL
Benzene	A	2.9×10^{-2}	1×10^{-3}	*		5×10^{-3}	5×10^{-3}	
Benzotrichloride	B2	1.3×10^{1}	3×10^{-6}				3×10^{-6}	
Benzyl Chloride	B2	1.7×10^{-1}	2×10^{-4}				2×10^{-4}	
Carbon Tetrachloride	B2/S	1.3×10^{-1}	3×10^{-4}	7×10^{-4}	2×10^{-2}	5×10^{-3}	5×10^{-3}	
Chlorobenzene	D/S			2×10^{-2}	7×10^{-1}	1×10^{-1}	1×10^{-1}	
Chloroform	B2/S	6.1×10^{-3}	6×10^{-3}	1×10^{-2}	4×10^{-1}		6×10^{-3}	
Chloromethane	C	1.3×10^{-2}**	3×10^{-3}				3×10^{-3}	X
1,4-Dichlorobenzene	C	2.4×10^{-2}**	1×10^{-3}			7.5×10^{-2}	7.5×10^{-2}	
Hexachlorobenzene	B2/S	1.6	2×10^{-5}	8×10^{-4}	3×10^{-2}	1×10^{-3}	1×10^{-3}	
Pentachlorobenzene	S			8×10^{-4}	3×10^{-2}		3×10^{-2}	
1,2,4,5-Tetrachlorobenzene.	S			3×10^{-4}	1×10^{-2}		1×10^{-2}	
1,1,2,2-Tetrachloroethane.	C	2×10^{-1}	2×10^{-4}				2×10^{-4}	
Tetrachloroethylene	*	5.1×10^{-2}	7×10^{-4}	1×10^{-2}	4×10^{-1}	5×10^{-3}	5×10^{-3}	
Toluene	D/S			2×10^{-1}**	7	1	1	
1,2,4-Trichlorobenzene	D/S			1×10^{-2}**	4×10^{-1}	7×10^{-2}	7×10^{-2}	

A, B2, C, and D refer to carcinogenic classes, S refers to systemic toxicants.
* EPA is currently deliberating concerning this classification. For more information, see the discussion in Section III.C.4 of this notice.
** Compound is currently under review, and RfD or CSF values are not considered verified.
RfDs and CSFs obtained from: Integrated Risk Information System, 1991; Health Effects Assessment Summary Tables, FY 1991, OERR 9200.6-303 (91-1), January 1991; Health Effects Assessment Summary Tables, OHEA ECAO-CIN-821, March 1992.

TABLE 4.—INHALATION HBL TOXICITY SOURCES

Constituent	Class	Slope factor $(mg/kg/day)^{-1}$	Carcin HBL (μg/m³)	RfC (mg/kg/day)	Toxicity HBL (μg/m³)	Status
Benzene	A	2.9×10^{-2}	0.1			a
Benzotrichloride	B2	ND				b
Benzyl chloride	B2	ND				
Carbon tetrachloride	B2	5.3×10^{-2}	0.07			a,b,c
Chlorobenzene	D/S			5×10^{-3}	20	d,f
Chloroform	B2	8.1×10^{-2}	0.04			a
Chloromethane	C	6.3×10^{-3}**	0.6	*		b
1,4-Dichlorobenzene	B2/S	ND		0.2	700	d
Hexachlorobenzene	B2	1.6	0.002			a,c
Pentachlorobenzene				ND		
1,2,4,5-Tetrachlorobenzene				ND		
1,1,2,2-Tetrachloroethane	C	2×10^{-1}	0.02			a
Tetrachloroethylene	*	2×10^{-3}	2	ND		g
Toluene	D/S			0.11	400	d
1,2,4-Trichlorobenzene	S			2.6×10^{-3}	9	f

A, B2, C, and D refer to carcinogenic classes, S refers to systemic toxicants.
a Verified; b Under CRAVE review; c Based upon route-to-route extrapolation; d Under work group review
f Derived from methodology that is not current with the interim inhalation methodology used by the RfD/RfC work group
g Under review
ND—Values not derived in the source document
* EPA is currently deliberating concerning this classification. For more information, see the discussion in Section III.C.4 of this notice.
** Compound is currently under review, and RfD or CSF values are not considered verified.
HBLs calculated from RfD, RfC, or slope factors from the Integrated Risk Information System (IRIS), 1991; Health Effects Assessment Summary Tables (HEAST), OHEA ECAO-CIN-821, March 1992; Health Effects Assessment Summary Tables (HEAST), OERR 9200.6-303 (9-91), January 1991.

C. Agency Response to Public Comments

Four commenters responded to the Agency's October 11, 1991, proposed rule. The Agency has carefully considered all the comments in preparation of this final rule. The comments the Agency received can be summarized as follows:

1. Listing wastes that are currently managed as characteristically hazardous precludes the successful completion of waste reduction/waste minimization and pollution prevention efforts.

2. Because of current management practices, a small percentage of a listed waste will cause a large volume of characteristic waste to be listed as the result of the mixture rule. Segregation of the two streams is economically prohibitive.

3. The Agency has overlooked the inclusion of one facility's waste in calculating the volume of K151 generated.

4. The weight-of-evidence carcinogenicity classification for chloromethane and perchloroethylene should be corrected, and other minor technical and typographical corrections should be made.

5. A typographical error appears in the way K149 is defined in the proposed rule.

6. The Agency's listing action should be accompanied by an "automatic delisting" provision that would remove a generator's waste from regulation as a listed waste when the waste no longer exhibits any RCRA hazardous waste criteria.

In this preamble, the Agency is providing analyses of and responses to all comments.

1. Effect of Listing on Waste Reduction Efforts

One commenter, a chlorinated toluenes manufacturer, stated that it generates all three subject waste streams and presently manages all as characteristically hazardous (K149 as corrosive and K150 and K151 as ignitable). The commenter objected to the proposed listing because such an action reduces the benefit of the facility's waste minimization efforts to decrease the corrosivity and ignitability of the subject wastes to below characteristic levels.

The Agency has decided to list these wastes because they frequently contain a number of toxic constituents (at levels several-fold higher than the HBLs) that are persistent and mobile in the environment. These wastes, therefore, could impact adversely human health and the environment if improperly managed. The elimination of the hazardous waste characteristics from these wastes (i.e., ignitability and corrosivity) would not necessarily address the potentially toxic levels of the constituents that have been identified in these wastes. For example, using neutralization to eliminate the corrosivity of the waste would not necessarily reduce its toxicity.

The Agency encourages the commenter to decrease the volume of its hazardous wastes. However, as stated above, the commenter's efforts to eliminate the ignitable and corrosive nature of the wastes would not necessarily remove the toxic constituents in the wastes, which could potentially harm human health and the environment due to their high concentrations. The Agency therefore maintains that it is important to list as hazardous these wastes which contain toxic contaminants not already controlled by the RCRA ignitable and corrosive characteristics.

2. Secluded Management and Cost of Listing

One commenter, a chlorinated toluenes manufacturer, presently mixes one of the chlorinated toluenes production wastes with other nonlisted, nonchlorinated toluene process wastes during wastewater treatment. The entire waste stream is currently hazardous due to the characteristic of ignitability, although the commenter is conducting efforts to render the stream non-hazardous. The commenter states that, because of the mixture rule under 40 CFR 261.3, its entire separator bottoms stream (a wastewater treatment sludge) would become listed as K151. The commenter states that segregation of the chlorinated toluenes production waste from the other streams may be feasible, but the capital cost to perform this is estimated to exceed $250,000.

The Agency notes that, as part of its sampling and analysis efforts to support the listing of chlorinated toluene wastes, the commenter's subject mixed production wastes, as currently managed in an unsegregated fashion, were found to contain high levels of the contaminants of concern that are persistent and mobile in the environment. This waste was found to contain high levels of toxic organic constituents even after being mixed with other non-chlorinated toluenes production wastes.[1]

The Agency believes that mixing the chlorinated toluenes production wastes with other wastes to form a large volume of contaminated waste is contrary to waste minimization goals. Although the rule does not require facilities to segregate wastes, EPA encourages facilities to reduce the volume of hazardous wastes. Segregation of hazardous wastes from non-hazardous sources could be one method of achieving this goal. In evaluating the burden created by a new rule, however, the Agency only considers capital costs incurred through investments to segregate or otherwise manage wastes if this investment is the least burdensome method of compliance with the regulation. Based on the available information, the Agency believes no capital outlays are required due to today's rule because all newly-listed wastes, including the commenters (whose waste currently exhibit the characteristic of ignitability), are already managed on-site as hazardous waste. Therefore, the Agency continues to estimate increased waste management costs of less than $12,000 per year for all facilities due to today's new listings.[2]

As stated above, today's subject wastes are listed because of the presence of mobile and persistent toxic constituents in these wastes and therefore removal of the ignitability characteristic would not necessarily render these waste streams non-toxic.

3. Generation Volume of K151

One commenter, a chlorinated toluenes manufacturer, states that the Agency underestimated the quantity of K151 generated nationwide (i.e., 600 metric tons/year). See 56 FR 51596 (October 11, 1991). The commenter stated that his facility generated 25,692 tons of primary sludge in 1990. The commenter requested that the volume of this waste stream be included in the tabulation of Table 2 of the proposed rule and be considered when determining available treatment

[1] However, should any of the commenters' mixed waste streams contain low levels of toxic constituents, the commenter may petition the Agency for a delisting pursuant to the requirements of 40 CFR 260.20 and 40 CFR 260.22.

[2] The Agency notes, however, that should the commenter be successful in addressing the ignitable characteristic of the waste stream (assuming the subject commenter's estimate of an incurred capital cost of $250,000 for segregation of the subject waste stream is correct), the facility would incur an additional estimated cost of $40,000 per year for the first 10 years following promulgation of the rule. (This is based on annualizing the capital investment cost of $250,000 over 10 years at a 9.5 percent interest rate.) The facility may embark on this capital investment if, after comparing it to the operating costs associated with managing the mixed waste stream as hazardous, it believes it to be a sound investment.

capacity in future land disposal restrictions determinations.

The Agency wishes to clarify the scope of the K151 wastes. The K151 wastes include, but are not limited to, skimmings and sludges from oil/water separators, sludges from settling basins upstream of wastewater treatment, and other residuals from physical separation processes in the absence of other neutralization or biological treatment. These wastes have been found to contain high levels of hazardous constituents and to otherwise meet the criteria for listing wastes as hazardous. Conversely, wastes generated from chemical neutralization or biological treatment do not meet the criteria for hazardous wastes and thus are not included in the scope of K151.

Based on information previously provided to the Agency by the commenter in support of the proposed rule, the Agency does not believe that the sludge in question is K151 because it is generated after neutralization. The Agency's detailed justification is in the docket for this rule. Therefore, the Agency maintains that its original estimate of 600 metric tons as the annual generation rate of K151 is valid.

4. Weight-of-Evidence Classification of Perchloroethylene and Chloromethane and Other Minor Technical Revisions

Two comments concerned the weight-of-evidence classification of tetrachloroethylene (perchloroethylene or PCE) as a B2, probable human carcinogen (with a footnote stating that the Agency is re-evaluating this classification). One commenter stated that on January 8, 1991 (56 FR 643), EPA "corrected" the classification of PCE from B2, probable human carcinogen, to C, possible human carcinogen, and amended the preamble to two recent final rules, (August 14, 1989 (54 FR 33418)) and (December 11, 1989 (54 FR 50968)), to reflect the change. The commenter suggested that the Agency use the C classification in today's rulemaking. The second commenter suggested that EPA delete any reference to perchloroethylene as a Group B2 carcinogen.

The Agency acknowledges the notice in the **Federal Register** dated January 8, 1991 (56 FR 643), which amends the preamble to regulations published on August 14, 1989 (54 FR 33418), to establish reportable quantities under CERCLA for certain substances, and on December 11, 1989 (54 FR 50968), to list certain wastes from the production of chlorinated aliphatic hydrocarbons as hazardous wastes under RCRA. The January 8, 1991 notice (56 FR 643) documented the various weight-of-evidence assessments performed on tetrachloroethylene to date, by both the Agency and the Science Advisory Board (SAB). That summary will not be repeated here; interested readers may refer to the January 8, 1991 **Federal Register** Notice (56 FR 643). That discussion concluded by stating:

> EPA is currently deliberating concerning the weight-of-evidence classification for perchloroethylene and the issues raised and advice offered by the SAB concerning perchloroethylene. When these deliberations are completed, EPA will provide a formal reply to the SAB, under the signature of the Administrator or an appropriate designee, which informs the SAB of the Agency's response to the SAB's issues and advice and states the Agency's final position on the weight-of-evidence classification of perchloroethylene.

(56 FR 644 (January 8, 1991)). Based on the discussion presented in the notice (56 FR 643), EPA deleted perchloroethylene from substances referred to at 54 FR 50974 (December 11, 1989), without qualification, as Group B2 carcinogens. However, the notice (56 FR 643) did not reclassify perchloroethylene as a Group C carcinogen.

At the time of the publication of the proposed rule listing K150 and K151, the weight-of-evidence classification for perchloroethylene had not been resolved. However, in the August 1991 final report to the EPA Administrator (Health Effects Assessment of Perchloroethylene, EPA-SAB-EHC-91-013), the SAB's Environmental Health Committee recommended, after an extensive review, that perchloroethylene be placed on a "continuum between B2 and C." SAB's rationale was that although the evidence was not strong enough to warrant designation of PCE as a B2, probable human carcinogen, the evidence for carcinogenicity is stronger than most other compounds classified as C, possible human carcinogen. The Agency has not yet completed its formal response to the SAB recommendation and a designation will not be assigned until EPA has completed its final weight-of-evidence evaluation. As indicated in the January 8, 1991 notice (56 FR 644), EPA's final decision regarding the weight-of-evidence classification will be "separate and distinct from any regulatory evaluations and risk management decisions concerning perchloroethylene."

In order to clarify the fact that there is still no final Agency-wide weight-of-evidence cancer classification for perchloroethylene, the Agency has deleted the reference to this classification in Tables 3 and 4 (Tables 4 and 5 of the proposed rule). The final position on that classification is not relevant to this listing because the health-based level for perchloroethylene used in support of the listing is based on a final MCL (see 56 FR 51596-51601, October 11, 1991) which was calculated in the absence of a formal Agency weight-of-evidence cancer classification for perchloroethylene (for more information regarding this MCL, see 56 FR 3526 and 3541 (January 30, 1991)).

One commenter also identified some technical errors in the toxicological endpoints for the carcinogenicity of perchloroethylene. These errors have been addressed in the Health Effects Background document prepared for this final rule.

One commenter questioned EPA's use of the 24-month mouse study that resulted in kidney tumors as the basis for the inhalation carcinogenic potency factor for chloromethane (methyl chloride). The commenter stated that the tumors were observed only in male mice and only at the highest dose level of 1,000 ppm. According to the commenter, EPA's Office of Toxic Substances (OTS) requested industry to repeat the above study in both mice and rats with a increased number of dose levels "on the basis that EPA could not calculate or determine a cancer risk based on a single data point." The commenter noted that this additional study was never performed. Based on this, the commenter stated that the data should not now be used to support the estimation of a slope factor for chloromethane and that the information on carcinogenicity presented in EPA's Integrated Risk Information System (IRIS) are invalid.

As stated by the commenter, the Agency used an interim oral slope factor of 1.3×10^{-2} mg/kg/day based on a route-to-route extrapolation from the CIIT mouse inhalation study in the proposed rule. The Agency is continuing to use this number in the final rule, because although additional information could lead to greater confidence in the slope factor, the Agency has determined that the current level of data is sufficient to estimate carcinogenic potency (for more information, see the Health Effects background document in the docket for today's rule).[3] Contrary to the commenter's statement, Agency guidelines do allow slope factors to be calculated from effects observed only at the highest dose level (see Guidelines

[3] Although the source for this value in the proposed rule was IRIS, this number was recently removed from IRIS. Consistent with Agency policy, the new source for the number is the Health Effects Assessment Summary Tables (HEAST).

for Carcinogenic Risk Assessment (U.S. EPA, 1986a) which the available in the docket).

Furthermore, the Agency believes that even though this slope factor is currently under review by the Agency, the levels of chloromethane in K149 and K150 are so high that the compound poses a potential risk to human health and the environment if the wastes are mismanaged. This is because the concentrations of chloromethane in K149 and K150 (i.e., 7,000 and 13,500 mg/kg, respectively) are in excess of one million times the health-based level for chloromethane. Even if the health-based level were raised significantly based on further review by the Agency, the concentrations of chloromethane in the wastes would most likely still be present at levels that are several orders of magnitude above those considered to be of concern. In addition, the bases for listing K149 and K150 wastes include 13 constituents other than chloromethane. The presence of these other hazardous constituents, without the inclusion of chloromethane, at levels that could potentially harm human health and the environment, provides adequate justification for finalizing today's listings.

The commenter also questioned the "Group C" weight-of-evidence classification for chloromethane. Although the cancer classification for chloromethane had no effect or bearing on this listing decision, the Agency notes that EPA currently verified the "C" classification on IRIS. This classification was based on the CIIT study and other additional information, and interested readers may consult the background document for further information regarding this classification.

The health effects information and/or HBLs of the constituents of concern that have been changed since the proposal, or were in error in the proposal, have been revised to reflect the EPA's current data base. This information was added to the health effects assessment background document prepared for this final rule and is summarized in Tables 2, 3, and 4.

5. Typographical Error

A commenter notes that a typographical error appears in the proposed rule. The Agency agrees with the commenter that the proposed definition of K149 in 40 CFR 302.4 should read:

"* * * (this waste does not include still bottoms from the distillation of benzyl chloride)." (See 56 FR 51608, October 11, 1991.)

6. "Automatic Delisting" Provision

One commenter suggested that, if the rule is promulgated as proposed, an "automatic delisting" provision should be established for wastes that do not meet any of the hazardous waste characteristics.

The Agency has listed today's wastes because of the presence of toxic constituents for which the Agency has not set hazardous characteristics levels. Of the 15 constituents which comprise the basis for listing these wastes, 8 are not Toxicity Characteristic (TC) constituents. Therefore, even if these wastes could be treated to a point where the wastes no longer exhibit any of RCRA's hazardous waste characteristics, the constituents not regulated by the TC may still be present at hazardous levels in these wastes. Furthermore, the Agency is also concerned that since the thick and hydrophobic nature of these wastes parallels the characteristics of oily and greasy wastes, the concentrations of constituents may be underestimated by the Toxicity Characteristic Leaching Procedure (for more information regarding such concerns, see the proposed Hazardous Waste Identification Rule, 57 FR 21473 (May 20, 1992)). An exemption program based solely on the present RCRA characteristics program, therefore, would be inappropriate.

IV. Impact of Future Land Disposal Restrictions (LDR) Determinations

The statute requires EPA to promulgate land disposal prohibitions—that is, prohibit from land disposal hazardous wastes that do not meet the pretreatment standards promulgated under section 3004(m) and that are not disposed in so-called no-migration units—under a specific schedule for wastes identified and listed prior to the enactment of the 1984 amendments (RCRA sections 3004(d), 3004(e), and 3004(g)(5), 42 U.S.C. 6924(d), (e) and (g)(5)). If the Agency failed to promulgate land disposal restrictions by the dates specified in section 3004(g)(4), the wastes were absolutely prohibited from land disposal after May 8, 1990, (or in some cases November 8, 1986 or July 8, 1987). The Agency also is required to make a land disposal prohibition determination for any hazardous waste that is identified or listed in 40 CFR part 261 after November 8, 1984, within 6 months after the listing or identification becomes effective (RCRA section 3004(g)(4), 42 U.S.C. 6924(g)(4)). However, the statute does not provide for automatic restriction or prohibition of the land disposal of such wastes if EPA fails to meet this deadline.

Although some of the wastes covered by today's notice are being listed, in part, because of the presence of the same hazardous constituents found in K015, they are newly-listed wastes, and therefore, the treatment standards for K015 do not apply to today's newly-listed wastes. Because the Agency has not yet completed treatability and capacity analyses for these newly-listed wastes, land disposal restrictions for the wastes listed today are expected to be addressed by April 1993. It should be noted that because the statute does not provide for automatic restriction or prohibition of land disposal for newly-identified wastes until such restrictions are promulgated, land disposal of these wastes will not be restricted or prohibited until the Agency promulgates land disposal restrictions (unless the wastes exhibit one of the hazardous waste characteristics or meet other land disposal prohibitions, such as that on disposing of liquids in landfills). Wastes that exhibit the characteristic of toxicity using the toxicity characteristic leaching procedure (SW-846 Method 1311) are considered newly-identified and are not covered by the LDR, unless the waste also exhibits the characteristic of toxicity using the extraction procedure (SW-846 Method 1310) (see the Third Land Disposal Restrictions Rule, June 1, 1990, 55 FR 22520).

Most of today's newly listed wastes are expected to exhibit the characteristics of ignitability, corrosivity, or reactivity and thus are already subject to the land disposal restrictions standards for those characteristics, which include reporting, recordkeeping, and tracking requirements, dilution and storage prohibitions, and treatment standards (see 55 FR 22520, June 1, 1990). These wastes also may be subject to certain California List treatment standards if not already covered by a more specific prohibition (see 55 FR 22674, June 1, 1990).

V. State Authority

A. Applicability of Final Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3007, 3008, 3013, and 7003 of RCRA,

although, authorized States have primary enforcement responsibility.

Before HSWA amended RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities located in the State with permitting authorization. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified timeframes. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

By contrast, under section 3006(g) of RCRA, 42 U.S.C. § 6926(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to implement those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as part of State regulations to retain final authorization, the HSWA requirements apply in authorized States in the interim.

Today's rule is being promulgated pursuant to section 3001(e)(2) of RCRA, a provision added by the HSWA. Therefore, the Agency is amending Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to the HSWA and that take effect in all States, regardless of their authorization status. States may apply for either interim or final authorization for the HSWA provisions identified in Table 1 [40 CFR 271.1(j)], as discussed in the following section of this preamble.

B. Effect on State Authorizations

As noted above, EPA will implement today's rule in authorized States until they modify their programs to adopt this rule and the modifications are approved by EPA. Because today's rule is promulgated pursuant to the HSWA, a State submitting a program modification would be able to apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's requirements. The procedures and schedule for State program modifications under section 3006(b) are described in 40 CFR 271.21. The same procedures should be followed for section 3006(g)(2).

Section 271.21(e)(2) requires that States that have final authorization modify their programs to reflect Federal program changes and that they subsequently submit the modification to EPA for approval. The deadline by which states must modify their programs to adopt this regulation will be determined based on today's date in accordance with 40 CFR 271.21(e)(2).

States with authorized RCRA programs already may have regulations similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being promulgated today to determine whether they meet the tests for authorization. Thus, States are not authorized to implement their States' regulations in lieu of EPA regulations until the State program modification is approved. Of course, States with existing regulations may continue to administer and enforce their regulations as a matter of State law. In implementing the Federal program, EPA will work with States under cooperative agreements to minimize duplication of efforts. In many cases, EPA will be able to defer to the States in their efforts to implement their programs, and thereby avoid taking separate actions under Federal authority.

States that submit official applications for final authorization less than 12 months after the promulgation of EPA's regulations are not required to include standards equivalent to those promulgated in their applications (see 40 CFR 271.3(f)). However, the State must modify its program by the deadlines set forth in § 271.21(e). States that submit official applications for final authorization 12 months after the effective date of these standards must include equivalent standards in their application. Section 271.3 sets forth the requirements that a State must meet when submitting its final authorization application.

VI. CERCLA Designation and Reportable Quantities

All hazardous wastes listed in 40 CFR 261.31 through 261.33, as well as any solid waste that meets one or more of the characteristics of a RCRA hazardous waste (as defined at 40 CFR 261.21 through 261.24), are hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), pursuant to CERCLA section 101(14). Therefore, the three chlorinated toluenes waste streams listed as hazardous under RCRA by this final rule (K149, K150, and K151) are CERCLA hazardous substances. CERCLA hazardous substances are listed in Table 302.4 at 40 CFR 302.4 along with their reportable quantities (RQs); thus, EPA is today adding entries for K149, K150, K151 to Table 302.4.

A. Reporting Requirements

Under CERCLA section 103(a), the person in charge of a vessel or facility from which a hazardous substance is released in a quantity that equals or exceeds its RQ must immediately upon knowledge notify the National Response Center of the release (see 40 CFR part 302). In addition to this reporting requirement under CERCLA, section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) requires owners or operators of certain facilities to report the release of a CERCLA hazardous substance to State and local authorities. EPCRA section 304 notification must be given immediately after the release of an RQ or more to the community emergency coordinator of the local emergency planning committee for each area likely to be affected by the release, and to the State emergency planning commission of any State likely to be affected by the release.

B. Adjustment of RQs

Under section 102(b) of CERCLA, all hazardous wastes newly designated under CERCLA will have a statutory RQ of one pound unless and until adjusted by regulation. The Agency's methodology for adjusting RQs of individual hazardous substances begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each hazardous substance.[4] The intrinsic properties examined—called "primary criteria"—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity. Generally, for each intrinsic property, the Agency ranks hazardous substances on a scale, associating a specific range of values on each scale with an RQ of 1, 10, 100, 1000, or 5000 pounds. The data for each hazardous substance are evaluated using various primary criteria; each hazardous substance may receive several tentative RQ values based on its particular intrinsic properties. The lowest of the tentative RQs becomes the

[4] For more detailed information on this methodology, see the preamble to an RQ adjustment final rule published on August 14, 1989 (54 FR 33426). A different methodology is used to assign adjusted RQs to radionuclides (see 54 FR 22524, May 24, 1989).

"primary criteria RQ" for that substance.

After the primary criteria RQs are assigned, substances are further evaluated for their susceptibility to certain degradative processes, which are used as secondary adjustment criteria. These natural degradative processes are biodegradation, hydrolysis, and photolysis (BHP). If a hazardous substance, when released into the environment, degrades relatively rapidly to a less hazardous form by one or more of the BHP processes, its RQ (as determined by the primary RQ adjustment criteria), is generally raised one level.[5] This adjustment is made because the relative potential for harm to public health or welfare or the environment posed by the release of such a substance is reduced by these degradative processes. Conversely, if a hazardous substance degrades to a more hazardous product after its release, the original substance is assigned an RQ equal to the RQ for the more hazardous substance, which may be one or more levels lower than the RQ for the original substance. The downward adjustment is appropriate because the hazard posed by the release of the original substance is increased as a result of BHP.

The methodology summarized above is applied to adjust the RQs of individual hazardous substances. An additional process applies to RCRA waste streams, which contain individual hazardous substances as constituents. As the Agency has stated (54 *FR* 33440, August 14, 1989), to assign an RQ to a waste stream, the Agency determines the RQ for each waste stream constituent and then assigns the lowest of these constituent RQs to the waste stream itself.

The lowest constituent RQ for each of the waste streams that are the subject of today's final rule (K149, K150, and K151) is 10 pounds. In order to coordinate RCRA and CERCLA rulemakings, the Agency proposed to adjust the one-pound statutory RQs for each of these waste streams to 10 pounds in its October 11, 1991, proposed rule (56 FR 51592). EPA received no comments on these proposed RQ adjustments. The Agency is therefore promulgating these RQ adjustments by including final adjusted RQs of 10 pounds for waste streams K149, K150, and K151 in Table 302.4.

[5] No RQ level increase based on BHP occurs if the primary criteria RQ is already at its highest possible level (100 pounds for potential carcinogens and 5000 pounds for all other types of hazardous substance-except radionuclides). BHP is not applied to radionuclides.

VII. Compliance Dates

A. Notification

Under the Solid Waste Disposal Amendments of 1980 (Pub L. 96-452), EPA was given the option of waiving the notification requirement under section 3010 of RCRA following revision of the section 3001 regulations, at the discretion of the Administrator.

As proposed, EPA is waiving the notification requirement as unnecessary for persons already identified within the hazardous waste management universe. EPA is not waiving the notification requirement for waste handlers who have neither notified the Agency that they may manage hazardous wastes nor received an EPA identification number.

B. Interim Status

Because HSWA requirements are applicable in authorized States at the same time as in unauthorized States, EPA will regulate K 149, K150, and K151 until States are authorized to regulate these wastes. Thus, once this regulation becomes effective, EPA will apply Federal regulations to these wastes and to their management in both authorized and unauthorized States. Facilities that treat, store, or dispose of K149, K150, and K151, but that have not received a permit pursuant to section 3005 of RCRA and are not operating pursuant to interim status, might be eligible for interim status (see section 3005(e)(1)(A)(ii) of RCRA, as amended). To operate under interim status, the eligible facilities will be required to submit a section 3010 notification (when the requirement is waived, as explained above), pursuant to 40 CFR 270.70(g) and will be required to submit a Part A permit application within 6 months of promulgation of today's listing pursuant to § 270.10(e).

Under RCRA section 3005(e)(3) and 40 CFR 270.73(d), within 18 months of promulgation of today's listing, land disposal facilities qualifying for interim status under section 3005(e)(1)(A)(ii) also will be required to submit a Part B permit application and certify that the facility is in compliance with all applicable ground-water monitoring and financial responsibility requirements. If the facility fails to do so, interim status will terminate on that date.

All existing hazardous waste management facilities (as defined in 40 CFR 270.2) that treat, store, or dispose of K149, K150, and K151 and that are currently operating pursuant to interim status under section 3005(e) of RCRA, will be required to file with EPA an amended Part A permit application within 6 months of promulgation of today's listing.

C. Permitting Requirements

Physical construction of any new facility that will treat, store, or dispose of these wastes may not commence until Parts A and B of the permit application have been submitted and a RCRA permit has been approved. (See 40 CFR 270.10(f).)

Under current regulations, a hazardous waste management facility that has received a permit pursuant to section 3005 may not treat, store, or dispose of K149, K150, and K151 unless the permit modification procedures set forth in 40 CFR 270.42(g) are satisfied.

Under 40 CFR 270.42(g)(1)(v), for newly regulated land disposal units, permitted facilities must certify that the facility is in compliance with all applicable 40 CFR 265 ground-water monitoring and financial responsibility requirements no later than April 15, 1994. If the facility fails to submit these certification, authority to manage the newly listed wastes under 40 CFR 270.42(g) will terminate on that date.

VIII. Economic Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis (RIA). As mentioned in the preamble to the October 11, 1991 proposed rule, the total additional cost for disposal of these wastes as hazardous is approximately $12,000 per year, which is significantly less than the $100 million constituting a major regulation.

Since EPA does not expect that the amendments promulgated by today's rule will have an annual effect on the economy of $100 million or more or result in a measurable increase in cost or prices, or have an adverse impact on the ability of U.S.-based enterprises to compete with either domestic or foreign markets, these amendments are not believed to constitute a major action. Therefore, an RIA is not required.

IX. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, if the head of the agency certifies that the rule will not have a significant impact on a substantial number of small entities, no

regulatory flexibility analysis is required.

The hazardous wastes proposed to be listed here are not generated by small entities (as defined by the Regulatory Flexibility Act). Accordingly, I hereby certify that this amendment would not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

X. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects

40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 271

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

40 CFR Part 302

Air pollution control, Chemicals, Emergency Planning and Community Right-To-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Pesticides and pests, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: September 30, 1992.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In § 261.32, add the following waste streams in alpha-numeric order to the subgroup "Organic Chemicals" in the table:

§ 261.32 Hazardous wastes from specific sources.

* * * * *

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
*	*	*
K149	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups, (This waste does not include still bottoms from the distillation of benzyl chloride.).	(T)
K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	(T)
K151	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	(T)
*	*	*

3. Add the following entries in alpha-numeric order to Appendix VII of Part 261:

APPENDIX VII.—BASIS FOR LISTING HAZARDOUS WASTE

EPA hazardous waste No.	Hazardous constituents for which listed
*	*
K149	Benzotrichloride, benzyl chloride, chloroform, chloromethane, chlorobenzene, 1,4-dichlorobenzene, hexachlorobenzene, pentachlorobenzene, 1,2,4,5-tetrachlorobenzene, toluene.
K150	Carbon tetrachloride, chloroform, chloromethane, 1,4-dichlorobenzene, hexachlorobenzene, pentachlorobenzene, 1,2,4,5-tetrachlorobenzene, 1,1,2,2-tetrachloroethane, tetrachloroethylene, 1,2,4-trichlorobenzene.
K151	Benzene, carbon tetrachloride, chloroform, hexachlorobenzene, pentachlorobenzene, toluene, 1,2,4,5-tetrachlorobenzene, tetrachloroethylene.
*	*

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

4. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

5. § 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication:

§ 271.1 Purpose and scope.

* * * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * *	* * *	* * *	* * *
October 15, 1992	Listing Wastes from the Production of Chlorinated Toluenes.	[insert Federal Register page numbers].	April 15, 1993.
* * *	* * *	* * *	* * *

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

6. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

7. Section 302.4 is amended by adding the following entries to Table 302.4:

§ 302.4 Designation of hazardous substances.

* * * * *

TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[Note: All comments/notes are located at the end of this table]

Hazardous substance	CASRN	Regulatory synonyms	Statutory			Final RQ	
			RQ	Code†	RCRA waste No.	Category	Pounds (kg)
* * *	*	*	*		*		
K149			1*	4	K149	A	10 (4.54)
Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. [This waste does not include still bottoms from the distillation of benzyl chloride.]							
K150			1*	4	K150	A	10 (4.54)
Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.							
K151			1*	4	K151	A	10 (4.54)
Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.							

† indicates the statutory source as defined by 1, 2, 3, 4, or 5 below.

* * * * * * *

4 indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA section 3001.

1* indicates that the 1-pound RQ is a CERCLA statutory RQ

* * * * * * *

[FR Doc. 92-24232 Filed 10-14-92; 8:45 am]

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federal register

Thursday
October 15, 1992

Part III

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for SEPTEMBER 1992

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-53159; FRL-4169-7]

Premanufacture Notices; Monthly Status Report for SEPTEMBER 1992

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for September 1992.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPPTS-53159)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during September; (b) PMNs received previously and still under review at the end of September; (c) PMNs for which the notice review period has ended during September; (d) chemical substances for which EPA has received a notice of commencement to manufacture during September; and (e) PMNs for which the review period has been suspended. Therefore, the September 1992 PMN Status Report is being published.

Dated: October 8, 1992.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

Premanufacture Notice Monthly Status Report for SEPTEMBER 1992.

I. 125 Premanufacture notices and exemption requests received during the month:

PMN No.

P 92-1395	P 92-1396	P 92-1397	P 92-1398
P 92-1399	P 92-1400	P 92-1401	P 92-1402
P 92-1403	P 92-1404	P 92-1405	P 92-1406
P 92-1407	P 92-1408	P 92-1409	P 92-1410
P 92-1411	P 92-1412	P 92-1413	P 92-1414
P 92-1415	P 92-1416	P 92-1417	P 92-1418
P 92-1419	P 92-1420	P 92-1421	P 92-1422
P 92-1423	P 92-1424	P 92-1425	P 92-1426
P 92-1427	P 92-1428	P 92-1429	P 92-1430
P 92-1431	P 92-1432	P 92-1433	P 92-1434
P 92-1435	P 92-1436	P 92-1437	P 92-1438
P 92-1439	P 92-1440	P 92-1441	P 92-1442
P 92-1443	P 92-1444	P 92-1445	P 92-1446
P 92-1447	P 92-1448	P 92-1449	P 92-1450
P 92-1451	P 92-1452	P 92-1453	P 92-1454
P 92-1455	P 92-1456	P 92-1457	P 92-1458
P 92-1459	P 92-1460	P 92-1461	P 92-1462
P 92-1463	P 92-1464	P 92-1465	P 92-1466
P 92-1467	P 92-1468	P 92-1469	P 92-1470
P 92-1471	P 92-1472	P 92-1473	P 92-1474
P 92-1475	P 92-1476	P 92-1477	P 92-1478
P 92-1479	P 92-1480	P 92-1481	P 92-1482
P 92-1483	P 92-1484	P 92-1485	P 92-1486
P 92-1487	P 92-1488	P 92-1489	P 92-1490
P 92-1492	P 92-1493	P 92-1494	P 92-1495
P 92-1496	P 92-1497	P 92-1498	P 92-1499
P 92-1500	P 92-1501	P 92-1502	P 92-1503
P 92-1504	P 92-1505	P 92-1506	P 92-1507
P 92-1508	P 92-1509	P 92-1510	P 92-1511
Y 92-0195	Y 92-0197	Y 92-0198	Y 92-0199
Y 92-0200	Y 92-0201	Y 92-0202	Y 92-0203
Y 92-0204			

II. 314 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237	P 84-0660	P 84-0704	P 84-1145
P 85-0433	P 85-0619	P 85-1184	P 85-1331
P 86-0066	P 86-1315	P 86-1489	P 87-0323
P 88-0998	P 88-0999	P 88-1271	P 88-1272
P 88-1273	P 88-1274	P 88-1460	P 88-1753
P 88-1937	P 88-1938	P 88-1980	P 88-1982
P 88-1984	P 88-1985	P 88-1999	P 88-2000
P 88-2001	P 88-2100	P 88-2169	P 88-2212
P 88-2213	P 88-2228	P 88-2229	P 88-2230
P 88-2236	P 88-2484	P 88-2518	P 88-2529
P 88-2540	P 89-0321	P 89-0396	P 89-0538
P 89-0632	P 89-0721	P 89-0769	P 89-0775
P 89-0836	P 89-0837	P 89-0867	P 89-0957
P 89-0958	P 89-0959	P 89-1038	P 89-1058
P 90-0002	P 90-0009	P 90-0158	P 90-0159
P 90-0211	P 90-0261	P 90-0262	P 90-0263
P 90-0372	P 90-0441	P 90-0550	P 90-0558
P 90-0564	P 90-0581	P 90-0608	P 90-1280
P 90-1318	P 90-1319	P 90-1320	P 90-1321
P 90-1322	P 90-1358	P 90-1422	P 90-1527
P 90-1528	P 90-1529	P 90-1530	P 90-1531
P 90-1564	P 90-1592	P 90-1635	P 90-1687
P 90-1731	P 90-1732	P 90-1745	P 90-1840
P 90-1893	P 90-1937	P 90-1984	P 90-1985
P 91-0004	P 91-0051	P 91-0101	P 91-0102
P 91-0107	P 91-0108	P 91-0109	P 91-0110
P 91-0111	P 91-0112	P 91-0113	P 91-0118
P 91-0228	P 91-0242	P 91-0243	P 91-0244
P 91-0245	P 91-0246	P 91-0247	P 91-0248
P 91-0288	P 91-0328	P 91-0442	P 91-0487
P 91-0490	P 91-0503	P 91-0514	P 91-0521
P 91-0548	P 91-0572	P 91-0584	P 91-0619
P 91-0659	P 91-0689	P 91-0701	P 91-0732
P 91-0818	P 91-0826	P 91-0914	P 91-0915
P 91-0934	P 91-0939	P 91-0940	P 91-0941
P 91-1000	P 91-1009	P 91-1010	P 91-1011
P 91-1012	P 91-1013	P 91-1014	P 91-1015
P 91-1116	P 91-1117	P 91-1118	P 91-1131
P 91-1163	P 91-1190	P 91-1191	P 91-1206
P 91-1210	P 91-1243	P 91-1279	P 91-1280
P 91-1281	P 91-1282	P 91-1283	P 91-1297
P 91-1298	P 91-1299	P 91-1321	P 91-1322
P 91-1323	P 91-1324	P 91-1367	P 91-1368
P 91-1369	P 91-1371	P 91-1386	P 91-1394
P 91-1409	P 92-0003	P 92-0031	P 92-0032
P 92-0033	P 92-0044	P 92-0048	P 92-0066
P 92-0067	P 92-0068	P 92-0129	P 92-0168
P 92-0177	P 92-0217	P 92-0244	P 92-0245
P 92-0246	P 92-0247	P 92-0248	P 92-0249
P 92-0250	P 92-0251	P 92-0314	P 92-0343
P 92-0344	P 92-0396	P 92-0412	P 92-0445
P 92-0446	P 92-0471	P 92-0477	P 92-0478
P 92-0509	P 92-0545	P 92-0546	P 92-0547
P 92-0548	P 92-0549	P 92-0550	P 92-0551
P 92-0552	P 92-0595	P 92-0599	P 92-0606
P 92-0624	P 92-0625	P 92-0649	P 92-0652
P 92-0655	P 92-0656	P 92-0657	P 92-0658
P 92-0660	P 92-0688	P 92-0714	P 92-0755
P 92-0776	P 92-0777	P 92-0787	P 92-0804
P 92-0813	P 92-0918	P 92-0919	P 92-0998
P 92-0999	P 92-1003	P 92-1009	P 92-1029
P 92-1048	P 92-1052	P 92-1053	P 92-1054
P 92-1055	P 92-1062	P 92-1063	P 92-1064
P 92-1065	P 92-1066	P 92-1067	P 92-1068
P 92-1079	P 92-1086	P 92-1091	P 92-1102
P 92-1103	P 92-1112	P 92-1113	P 92-1116
P 92-1117	P 92-1118	P 92-1119	P 92-1125
P 92-1133	P 92-1134	P 92-1135	P 92-1136
P 92-1188	P 92-1192	P 92-1193	P 92-1222
P 92-1253	P 92-1254	P 92-1255	P 92-1283
P 92-1287	P 92-1288	P 92-1291	P 92-1293
P 92-1294	P 92-1295	P 92-1296	P 92-1297
P 92-1298	P 92-1303	P 92-1304	P 92-1305
P 92-1306	P 92-1307	P 92-1308	P 92-1313
P 92-1316	P 92-1322	P 92-1324	P 92-1328
P 92-1340	P 92-1345	P 92-1349	P 92-1352
P 92-1356	P 92-1357	P 92-1363	P 92-1364
P 92-1369	P 92-1377	P 92-1378	P 92-1382
P 92-1383	P 92-1394		

III. 147 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 85-0619	P 88-2484	P 89-0721	P 91-0514
P 91-0689	P 91-0968	P 91-1000	P 91-1163
P 91-1279	P 91-1280	P 91-1281	P 91-1282
P 91-1283	P 91-1289	P 91-1297	P 91-1298
P 91-1299	P 91-1371	P 91-1379	P 92-0044
P 92-0168	P 92-0475	P 92-0599	P 92-0624
P 92-0625	P 92-0686	P 92-0918	P 92-1037
P 92-1038	P 92-1039	P 92-1040	P 92-1041
P 92-1042	P 92-1043	P 92-1044	P 92-1045
P 92-1046	P 92-1047	P 92-1048	P 92-1049
P 92-1050	P 92-1051	P 92-1055	P 92-1056
P 92-1057	P 92-1058	P 92-1059	P 92-1060

P 92-1061	P 92-1062	P 92-1063	P 92-1064	P 92-1098	P 92-1099	P 92-1100	P 92-1101	P 92-1138	P 92-1139	P 92-1140	P 92-1141
P 92-1065	P 92-1066	P 92-1067	P 92-1068	P 92-1102	P 92-1104	P 92-1105	P 92-1106	P 92-1142	P 92-1143	P 92-1144	P 92-1145
P 92-1069	P 92-1070	P 92-1071	P 92-1072	P 92-1107	P 92-1108	P 92-1109	P 92-1110	P 92-1146	P 92-1147	P 92-1148	P 92-1149
P 92-1073	P 92-1074	P 92-1075	P 92-1076	P 92-1111	P 92-1112	P 92-1113	P 92-1114	P 92-1150	P 92-1151	P 92-1152	P 92-1154
P 92-1077	P 92-1078	P 92-1079	P 92-1080	P 92-1115	P 92-1116	P 92-1117	P 92-1118	P 92-1198	P 92-1199	Y 92-0191	Y 92-0192
P 92-1081	P 92-1082	P 92-1083	P 92-1084	P 92-1120	P 92-1121	P 92-1122	P 92-1123	Y 92-0193	Y 92-0194	Y 92-0195	Y 92-0196
P 92-1085	P 92-1086	P 92-1087	P 92-1088	P 92-1124	P 92-1125	P 92-1126	P 92-1127	Y 92-0197	Y 92-0198	Y 92-01991	
P 92-1089	P 92-1090	P 92-1092	P 92-1093	P 92-1128	P 92-1129	P 92-1130	P 92-1131				
P 92-1094	P 92-1095	P 92-1096	P 92-1097	P 92-1132	P 92-1133	P 92-1135	P 92-1137				

IV. 125 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/Generic Name	Date of Commencement
P 92-0909	G Amino phenol	March 1, 1995.
P 86-0630	G Substituted pyridine	July 17, 1992.
P 86-1146	G Capped aliphatic isoyanate	August 24, 1992.
P 86-1323	G Substituted vinyl acetate/ethylene polymer	August 17, 1989.
P 87-1368	G Sodium alkyl naphthalene sulphonate	August 21, 1992.
P 87-1371	G Cyclic alkyl amine alkylaryl sulfonate	August 21, 1992.
P 88-0367	G Alkylphenol, alkal salt	August 5, 1992.
P 88-0826	G Alkyl methacrylate copolymer	October 7, 1991.
P 88-0972	3,3',5,5'-Tetramethylbiphenyl-4,4'-diol	October 25, 1991.
P 88-1271	G Substituted pyridine	July 16, 1992.
P 88-2190	G Cationic terpolymer of acrylamide	July 10, 1990.
P 89-0413	G Alkyl hydroxy substituted benzenamine	June 15, 1992.
P 89-0853	G Copolymer	October 31, 1989.
P 89-0946	G Polyurethane acrylate	September 9, 1992.
P 90-0210	Diphenylmethane-4; 4-diisocyanate; polycarbonate diol; neopentylglycol; 1,4-butanediol	October 2, 1991.
P 90-0434	G Naphthoic ester	May 21, 1990.
P 90-0556	G (4-(1-Methylbutoxy)phenyl)hydrazine monohydrochloride	October 17, 1991.
P 90-0615	G Urethane alkyd	July 24, 1992.
P 90-0698	Yttrium stearate	August 19, 1992.
P 90-0974		October 10, 1990.
P 90-1494	G Halogenated ethylene vinylacetate copolymer ethyl benzene copolymer; halogenated rubber copolymer	August 12, 1992.
P 90-1509	G Tricycloalkanol, 4-alkyl-8-methylene alkyl ester	June 14, 1992.
P 90-1591	G Substituted polyoxyalkdene aniline	July 2, 1992.
P 90-1635	Benzenepropanoic acid, 3-(2*H*-benzotriazol-2-yl-)-5-(1,1-dimethylethylethyl)-4-hydroxyl-,C_{7-9} alkyl, branched and linear, esters	January 18, 1991.
P 90-1678	G Modified methylaluminoxane	July 23, 1992.
P 90-1734	G Pentaerithritol diphosphite	September 11, 1992.
P 90-1747	2-Propenoic acid, 2-methyl-, 2-methylpropyl ester; 2-propenoic acid, 2-methyl, 2-(diethylamino-)ethylester; catalyst: pentanenitrile, 2,2'-azobis (2,4-dimethyl.	October 28, 1991.
P 90-1965	G Alkyl ester	August 18, 1992.
P 90-1973	G Alkoxylated aliphatic alcohol, monostearate	October 22, 1991.
P 91-0043	G Aromatic amine	April 16, 1992.
P 91-0060	G Ethylene oxide-propylene oxide-butyleneoxide copolymer	August 7, 1992.
P 91-0206	G Propylene oxide-butylene oxide copolymer	August 7, 1992.
P 91-0457	G Alkyloxy ketal	August 24, 1992.
P 91-0458	G Chloroalkylsilane	September 1, 1992.
P 91-0459	G Acetamidoacetkylsilane	September 9, 1992.
P 91-0486	Rosin, dicyclopentadine, cyclicodimers dimer fatty acids soya oil maleicanhydride funaric acid reaction product	August 10, 1992.
P 91-0636	G Carboxylic acid derivative	May 29, 1992.
P 91-0699	G Quaternary ammonium compound	July 25, 1992.
P 91-0817	G Ethylbenzene-2-propenenitrile copolymer	September 15, 1992.
P 91-0862	G Capped polyurea	December 15, 1991.
P 91-0936	G Epoxy modified polyester polymer	July 21, 1992.
P 91-1003	G Aqueous polyurethane dispersion	October 17, 1991.
P 91-1115	4-Aminobutyraldehyde dimethyl acetal	October 14, 1991.
P 91-1174	G Polyurethane resin	October 18, 1991.
P 91-1188	Bicyclo(3,3,1)hept-3-EN-2-OL, 4,6,6,-trimethyl-,(1*S*-(1*a*,2*b*,5*a*))-	August 19, 1992.
P 91-1201	G Alkylthydroxylamine	October 28, 1991.
P 91-1258	G Modified acrylic polymer	June 17, 1992.
P 91-1321	G Methyl polychloro aliphatic ketone	August 29, 1992.
P 91-1322	G Dimethyl-3-substituted heteromonocycle	August 29, 1992.
P 91-1323	G Dimethyl substituted heteromonocycle amine	August 29, 1992.
P 91-1354	G Dialkanol dialkyl ammonium sulfonate (salt)	June 1, 1992.
P 91-1389	G Polyurethane	September 1, 1992.
P 91-1420	G Brominated epoxy resin	June 16, 1992.
P 91-1444	G Methyl methacrylate, polymer with 2-ethylhexyl methacrylate and other monomers	July 14, 1992.
P 91-1445	G Methyl methacrylate, polymer with 2-ethylhexyl methacrylate and other monomers	July 14, 1992.
P 91-1446	G Methyl methacrylate, polymer with 2-ethylhexyl methacrylate and other monomers	July 14, 1992.
P 92-0004	G Fluorinated alcohol phosphate ester	July 16, 1992.
P 92-0026	G 2-ethyl-2-hydroxymethyl-1,3-propanediol, ester with branched C_9 fatty acids	August 4, 1992.
P 92-0053	G Cuprate(3-),(2-[((substituted)azo)ohenylmethyylazo-4-sulfobenzeato(5-)), salt	June 17, 1992.

IV. 125 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 92-0155	G Reaction product of-aliphatic oils and acids, pentaerythritol, ethylene glycol, glycerine, trimethylolpropane, trimethylolethane, sorbitol, ck1281 phenolic phthalic anhydride, maleic anhydride, fumaric acid, isophthalic acid, hexahydrophathalic anhyside trimellitic anhydride, styrene, methyl methacrylate, vinyl toluene, polyethylenaterephthalate, methyl glucoside and neopenty glycol.	August 6, 1992.
P 92-0178	G Carboxy substituted polyamide	July 30, 1992.
P 92-0179	G Polyethyleneglycol ester	August 3, 1992.
P 92-0180	G Substituted amino polyethylene glycol	August 5, 1992.
P 92-0201	G Calcium alkylarysulfonate	August 4, 1992.
P 92-0261	G Alkyl glycerides	July 18, 1992.
P 92-0274	G Tertiary amine salt	July 9, 1992.
P 92-0281	G Acrylic copolymers *A A1,A2*	July 16, 1992.
P 92-0338	G Substituted pyrogallol	August 10, 1992.
P 92-0341	Ethane,-1,1,1-trifluoro	July 16, 1992.
P 92-0343	G 1,3,5-Triazin-2-amine, 4-dimethylamino-6-substituted-	July 28, 1992.
P 92-0350	Hexanedioic acid dimethyl ester; pentanedioic acid dimethyl ester; 1,4 butanediol; 1,3 propanediol 2-ethyl-2-(hydroxymethyl)	June 27, 1992.
P 92-0366	G Substituted phenylazopyrazolone salt	August 9, 1992.
P 92-0423	G 2,5-Dimercapto-1,3,4-thiadiazole reaction product	August 25, 1992.
P 92-0455	G Sodium salt of norpholine derivative	June 16, 1992.
P 92-0456	G Salt of cephalosporia derivative	June 16, 1992.
P 92-0457	G Thioether	July 22, 1992.
P 92-0460	G Formaldehyde free acrylic copolymer	July 16, 1992.
P 92-0470	G Alky resin	July 20, 1992.
P 92-0479	G Formaldehyde polymer	August 23, 1992.
P 92-0496	G Azonapthalene sulfonate dye	June 30, 1992.
P 92-0497	G Blocked polyurethane	July 14, 1992.
P 92-0512	G 2,2'-Substituted bisbenzoic acid, substituted ammonium salt	June 27, 1992.
P 92-0522	G Polyurethane based on polyisocyanate, polyols and polyamines	September 8, 1992.
P 92-0524	G Amino-functional silicone	July 1, 1992.
P 92-0544	G Poly-beta-hydroxy-*T*-anylamine	June 20, 1992.
P 92-0556	G Blocked polyurethane	September 4, 1992.
P 92-0573	G Azo naphthalene carboxylic acid salt	July 9, 1992.
P 92-0593	G Acrylic resin with and hydroxy functional groups	July 2, 1992.
P 92-0626	G Polyether aromatic polyurethane polymer	July 2, 1992.
P 92-0630	G Modified styrene-olefin copolymer	July 20, 1992.
P 92-0633	Benzene, di-C_{10-18}-alkyl derivatives	June 30, 1992.
P 92-0635	G Acrylic salt	August 19, 1992.
P 92-0646	G Hydroxy acrylic resin	July 9, 1992.
P 92-0650	G Potassium salt of an aromatic substituted pyrazolecarboxylic acid	August 21, 1992.
P 92-0672	G Epoxy resin	June 17, 1992.
P 92-0673	G Substituted ethyl benzamide	September 11, 1992.
P 92-0676	G Substituted 1.3-dioxolane	September 1, 1992.
P 92-0685	G Perfluoroalkylethyl group containing urethane methtacrylate, polymer with methylmethacrylate and *T*-butyl methyacrylate	June 30, 1992.
P 92-0717	G Polyether polyamine	July 2, 1992.
P 92-0774	G Absorbent cellulosic polymer	August 25, 1992.
P 92-0801	Lauric acid; glycerine; pentaeryythritol; isophthalic acid; triphenylphosphite	August 3, 1992.
P 92-0806	Soybean oil; trimethylolpropane; isophthalic acid adipic acid; lithium acetal; trimethylphosphite	August 3, 1992.
P 92-0809	G Imide resin solution	August 26, 1992.
P 92-0811	G Starch ester	September 1, 1992.
P 92-0889	2-*H*-Aze[in-2-one, hexahydro oxirane methyl-polymerwith oxirane, bis(2aminopropyl)ether; 1,4-benzene dicarboxylic acid	August 31, 1992.
P 92-0928	G Polymer salt of alkyl propenoates, substituted alkyl propenoates, ethenyl benzene and ethylene carboxilic acid	September 10, 1992.
P 92-0978	G 2() Benzotriazole	August 27, 1992.
P 92-1011	G Aminophenyl substituted pyrazolone	September 2, 1992.
P 92-1013	G Aminophenyl sustituted pyrazolone	September 3, 1992.
Y 87-0029	G Alkyd resin	October 22, 1991.
Y 90-0286	G Unsaturated polyester	October 11, 1991.
Y 91-0183	G Polyacrylic ester	August 28, 1992.
Y 91-0241	G Acrylic graft copolymer	June 15, 1992.
Y 92-0019	G Alkyl resin	July 24, 1992.
Y 92-0025	G Aqueous polyurethane dispersion.	May 30, 1992.
Y 92-0109	1,3-Benzenedicarboxylic acid, dimethyl ester; 2-(2-hydroxyethoxy)ethanol; 1,4-cyclohexanedimethanol	June 25, 1992.
Y 92-0125	G Silicone-acrylic	May 26, 1992.
Y 92-0126	G Homopolymer, benzoic acid derivative	August 4, 1992.
Y 92-0128	G Non-volatile vinyl acrylate polymer	August 3, 1992.
Y 92-0134	G Polyester	July 8, 1992.
Y 92-0145	Aqueous ammonia	July 15, 1992.
Y 92-0146	G Polymeric modified rosin ester	August 10, 1992.
Y 92-0160	G Diisocyanatoalkane polymer with polyestardiol, disubtituted alkanoic acid, and alkanediamine, compound with disubstituted alkamamine.	August 12, 1992.
Y 92-0169	G Acrylic copolymer	August 21, 1992.

IV. 125 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Identity/Generic Name	Date of Commencement
Y 92-0179	G Styrene-acrylic polymer, sodium salts	August 25, 1992.

V. 9 Premanufacture notices for which the period has been suspended.

PMN No.

P 92-0999 P 92-1029 P 92-1079 P 92-1091
P 92-1119 P 92-1134 P 92-1136 P 92-1192
P 92-1193

[FR Doc. 92-25043 Filed 10-14-92; 8:45 am]

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federal register

Thursday
October 15, 1992

Part IV

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for AUGUST 1992

[OPPTS-53158; FRL-4169-6]

Premanufacture Notices; Monthly Status Report for AUGUST 1992

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for August 1992.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPPTS-53158)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August; and (e) PMNs for which the review period has been suspended. Therefore, the August 1992 PMN Status Report is being published.

Dated: October 8, 1992.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

Premanufacture Notice Monthly Status Report for AUGUST 1992.

I. 130 Premanufacture notices and exemption requests received during the month:

PMN No.

P 92-1279	P 92-1280	P 92-1281	P 92-1282
P 92-1283	P 92-1284	P 92-1285	P 92-1286
P 92-1287	P 92-1288	P 92-1289	P 92-1290
P 92-1291	P 92-1292	P 92-1293	P 92-1294
P 92-1295	P 92-1296	P 92-1297	P 92-1298
P 92-1299	P 92-1300	P 92-1301	P 92-1303
P 92-1304	P 92-1305	P 92-1306	P 92-1307
P 92-1308	P 92-1309	P 92-1310	P 92-1311
P 92-1312	P 92-1313	P 92-1314	P 92-1315
P 92-1316	P 92-1317	P 92-1318	P 92-1319
P 92-1320	P 92-1321	P 92-1322	P 92-1323
P 92-1324	P 92-1325	P 92-1326	P 92-1327
P 92-1328	P 92-1329	P 92-1330	P 92-1331
P 92-1332	P 92-1333	P 92-1334	P 92-1335
P 92-1336	P 92-1337	P 92-1338	P 92-1339
P 92-1340	P 92-1341	P 92-1342	P 92-1343
P 92-1344	P 92-1345	P 92-1346	P 92-1347
P 92-1348	P 92-1349	P 92-1350	P 92-1351
P 92-1352	P 92-1353	P 92-1354	P 92-1355
P 92-1356	P 92-1357	P 92-1358	P 92-1359
P 92-1360	P 92-1361	P 92-1362	P 92-1363
P 92-1364	P 92-1365	P 92-1366	P 92-1367
P 92-1368	P 92-1369	P 92-1370	P 92-1371
P 92-1372	P 92-1373	P 92-1374	P 92-1375
P 92-1376	P 92-1377	P 92-1378	P 92-1379
P 92-1380	P 92-1381	P 92-1382	P 92-1383
P 92-1384	P 92-1385	P 92-1386	P 92-1387
P 92-1388	P 92-1389	P 92-1390	P 92-1391
P 92-1392	P 92-1393	P 92-1394	Y 92-0179
Y 92-0182	Y 92-0183	Y 92-0184	Y 92-0185
Y 92-0186	Y 92-0187	Y 92-0188	Y 92-0189
Y 92-0190	Y 92-0191	Y 92-0192	Y 92-0193
Y 92-0194	Y 92-0196		

II. 279 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237	P 84-0660	P 84-0704	P 84-1145
P 85-0433	P 85-0619	P 85-1184	P 85-1331
P 86-0066	P 86-1315	P 86-1489	P 87-0323
P 88-0998	P 88-0999	P 88-1271	P 88-1272
P 88-1273	P 88-1274	P 88-1460	P 88-1753
P 88-1937	P 88-1938	P 88-1980	P 88-1982
P 88-1984	P 88-1985	P 88-1999	P 88-2000
P 88-2001	P 88-2100	P 88-2169	P 88-2212
P 88-2213	P 88-2228	P 88-2229	P 88-2230
P 88-2236	P 88-2484	P 88-2518	P 88-2529
P 88-2540	P 89-0321	P 89-0396	P 89-0538
P 89-0632	P 89-0721	P 89-0769	P 89-0775
P 89-0836	P 89-0837	P 89-0867	P 89-0957
P 89-0958	P 89-0959	P 89-1038	P 89-1058
P 90-0002	P 90-0009	P 90-0158	P 90-0159
P 90-0211	P 90-0261	P 90-0262	P 90-0263
P 90-0372	P 90-0441	P 90-0550	P 90-0558
P 90-0564	P 90-0581	P 90-0606	P 90-1280
P 90-1318	P 90-1319	P 90-1320	P 90-1321
P 90-1322	P 90-1358	P 90-1422	P 90-1527
P 90-1528	P 90-1529	P 90-1530	P 90-1531
P 90-1564	P 90-1592	P 90-1635	P 90-1687
P 90-1731	P 90-1732	P 90-1745	P 90-1840
P 90-1893	P 90-1937	P 90-1984	P 90-1985
P 91-0004	P 91-0051	P 91-0101	P 91-0102
P 91-0107	P 91-0108	P 91-0109	P 91-0110
P 91-0111	P 91-0112	P 91-0113	P 91-0118
P 91-0228	P 91-0242	P 91-0243	P 91-0244
P 91-0245	P 91-0246	P 91-0247	P 91-0248
P 91-0288	P 91-0328	P 91-0442	P 91-0487
P 91-0490	P 91-0503	P 91-0514	P 91-0521
P 91-0548	P 91-0572	P 91-0584	P 91-0619
P 91-0659	P 91-0689	P 91-0701	P 91-0732
P 91-0818	P 91-0826	P 91-0914	P 91-0915
P 91-0934	P 91-0939	P 91-0940	P 91-0941
P 91-1000	P 91-1009	P 91-1010	P 91-1011
P 91-1012	P 91-1013	P 91-1014	P 91-1015
P 91-1116	P 91-1117	P 91-1118	P 91-1131
P 91-1163	P 91-1190	P 91-1191	P 91-1206
P 91-1210	P 91-1243	P 91-1279	P 91-1280
P 91-1281	P 91-1282	P 91-1283	P 91-1297
P 91-1298	P 91-1299	P 91-1321	P 91-1322
P 91-1323	P 91-1324	P 91-1367	P 91-1368
P 91-1369	P 91-1371	P 91-1386	P 91-1394
P 91-1409	P 92-0003	P 92-0031	P 92-0032
P 92-0033	P 92-0044	P 92-0048	P 92-0066
P 92-0067	P 92-0068	P 92-0129	P 92-0168
P 92-0177	P 92-0217	P 92-0244	P 92-0245
P 92-0246	P 92-0247	P 92-0248	P 92-0249
P 92-0250	P 92-0251	P 92-0314	P 92-0343
P 92-0344	P 92-0396	P 92-0412	P 92-0445
P 92-0446	P 92-0471	P 92-0477	P 92-0478
P 92-0509	P 92-0545	P 92-0546	P 92-0547
P 92-0548	P 92-0549	P 92-0550	P 92-0551
P 92-0552	P 92-0595	P 92-0599	P 92-0606
P 92-0624	P 92-0625	P 92-0649	P 92-0652
P 92-0655	P 92-0656	P 92-0657	P 92-0658
P 92-0660	P 92-0688	P 92-0714	P 92-0755
P 92-0776	P 92-0777	P 92-0787	P 92-0804
P 92-0813	P 92-0918	P 92-0919	P 92-0998
P 92-0999	P 92-1003	P 92-1009	P 92-1029
P 92-1048	P 92-1052	P 92-1053	P 92-1054
P 92-1055	P 92-1062	P 92-1063	P 92-1064
P 92-1065	P 92-1066	P 92-1067	P 92-1068
P 92-1079	P 92-1086	P 92-1091	P 92-1102
P 92-1103	P 92-1112	P 92-1113	P 92-1116
P 92-1117	P 92-1118	P 92-1119	P 92-1125
P 92-1133	P 92-1134	P 92-1135	P 92-1136
P 92-1188	P 92-1192	P 92-1193	P 92-1222
P 92-1253	P 92-1254	P 92-1255	

III. 233 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 91-0358	P 91-1321	P 91-1322	P 91-1323
P 92-0002	P 92-0266	P 92-0683	P 92-0692
P 92-0744	P 92-0745	P 92-0749	P 92-0832
P 92-0833	P 92-0834	P 92-0835	P 92-0836
P 92-0837	P 92-0838	P 92-0839	P 92-0840
P 92-0841	P 92-0843	P 92-0844	P 92-0845
P 92-0846	P 92-0847	P 92-0848	P 92-0849
P 92-0850	P 92-0851	P 92-0852	P 92-0853
P 92-0854	P 92-0855	P 92-0856	P 92-0857
P 92-0858	P 92-0859	P 92-0860	P 92-0861
P 92-0862	P 92-0863	P 92-0864	P 92-0865
P 92-0866	P 92-0867	P 92-0868	P 92-0869
P 92-0870	P 92-0871	P 92-0872	P 92-0873
P 92-0874	P 92-0875	P 92-0876	P 92-0877
P 92-0878	P 92-0879	P 92-0880	P 92-0881
P 92-0882	P 92-0883	P 92-0884	P 92-0885
P 92-0886	P 92-0887	P 92-0888	P 92-0889
P 92-0890	P 92-0891	P 92-0892	P 92-0893
P 92-0894	P 92-0895	P 92-0896	P 92-0897
P 92-0898	P 92-0899	P 92-0900	P 92-0901

P 92-0902	P 92-0903	P 92-0904	P 92-0905	P 92-0956	P 92-0957	P 92-0958	P 92-0959	P 92-1012	P 92-1013	P 92-1014	P 92-1015
P 92-0906	P 92-0907	P 92-0908	P 92-0909	P 92-0960	P 92-0961	P 92-0962	P 92-0963	P 92-1016	P 92-1017	P 92-1018	P 92-1019
P 92-0910	P 92-0911	P 92-0912	P 92-0913	P 92-0964	P 92-0965	P 92-0966	P 92-0967	P 92-1020	P 92-1021	P 92-1022	P 92-1023
P 92-0914	P 92-0915	P 92-0916	P 92-0917	P 92-0968	P 92-0969	P 92-0970	P 92-0971	P 92-1026	P 92-1027	P 92-1028	P 92-1030
P 92-0920	P 92-0921	P 92-0922	P 92-0923	P 92-0972	P 92-0973	P 92-0974	P 92-0975	P 92-1031	P 92-1032	P 92-1033	P 92-1034
P 92-0924	P 92-0925	P 92-0926	P 92-0927	P 92-0976	P 92-0977	P 92-0978	P 92-0979	P 92-1035	P 92-1036	Y 92-0162	Y 92-0163
P 92-0928	P 92-0929	P 92-0930	P 92-0931	P 92-0980	P 92-0981	P 92-0982	P 92-0983	Y 92-0164	Y 92-0165	Y 92-0166	Y 92-0167
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IV. 132 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/Generic Name	Date of Commencement
P 83-0906	G Brominated aryl alkyl ether.	March 1, 1985.
P 83-0908	G Ethylated amino phenol.	March 1, 1985.
P 83-0910	G Anilino-ether.	March 1, 1985.
P 85-0216	G Substituted pyridine.	June 13, 1992.
P 85-0535	G Substituted pyridine.	June 13, 1992.
P 85-1057	G Alkatriene.	October 9, 1985.
P 86-0343	G Amino functional, styrene, acrylic ester multipolymer.	July 23, 1992.
P 86-0372	Ethanol, potassium salt.	August 3, 1992.
P 88-0003	G Modified styrene copolymer.	February 1, 1988.
P 89-0680	G Polycycloaliphatic esters.	September 14, 1991.
P 89-0963	G Polyalkylene polyamine.	July 8, 1992.
P 89-1104	G Acidified epoxy resin.	February 20, 1991.
P 90-0640	G Acrylic copolymer, 2-amino-2-methyl-1-propanol salt.	December 14, 1990.
P 90-1279	G Alkyl ester.	August 20, 1992.
P 90-1409	G Silicone acrylate.	June 20, 1991.
P 90-1731	G Substituted triazole.	June 3, 1992.
P 90-1809	2,5-Dibutoxy-4-(4-morpholinyl)benzenamine.	August 6, 1991.
P 90-1977	Crosslinked phenol-formaldehyde polymer.	July 17, 1992.
P 91-0031	G Disubstituted naphthalene carboxylic acid.	June 19, 1992.
P 91-0050	G Epoxy terminated polymer of polyetheramine and bisphenol A.	March 15, 1991.
P 91-0067	G Methylenediisocyanate polyester prepolymer.	March 4, 1991.
P 91-0070	G 4-Methylbenzene sulfonic acid, salt with substituted alkylamine.	January 25, 1991.
P 91-0072	G Silane treated silica.	January 30, 1991.
P 91-0076	1,1-Dimethyl-1-(2-hydroxypropyl)amine methacrylimide.	April 16, 1991.
P 91-0082	G Isocyanate functional urethane polymer.	January 28, 1991.
P 91-0090	G Glycol half ester of mhhp/hhp acid.	January 30, 1991.
P 91-0092	G Acrylic copolymer.	April 2, 1991.
P 91-0093	G Acrylic copolymer intermediate.	February 26, 1991.
P 91-0099	G Styrene-acrylic resin.	February 4, 1991.
P 91-0117	G Acrylate derivative polymer.	March 3, 1991.
P 91-0129	G Amylopectin, 2-(heteromonocyclic) ethyl ether.	March 18, 1991.
P 91-0130	G Triazinyl reactive mono azo dye.	February 5, 1991.
P 91-0131	G Triazinyl reactive mono azo dye.	February 5, 1991.
P 91-0133	G Alkoxyaminoalkane.	April 8, 1991.
P 91-0135	G Arylheterarylalkylamine.	February 6, 1991.
P 91-0140	7-Tetradecan-1-ol, acetate, (Z)-.	February 22, 1991.
P 91-0143	G Methylalkylpolysiloxane modified.	March 14, 1991.
P 91-0146	G Aromatic sulfonic acid.	February 12, 1991.
P 91-0147	G Aromatic sulfonic acid calcium salt.	February 12, 1991.
P 91-0150	G Alkyl amine salt.	March 6, 1991.
P 91-0151	G Alcohol, alkali metal salt.	February 26, 1991.
P 91-0166	G Acrylic sulfonic-acid sodium salt.	February 12, 1991.
P 91-0169	G Hydroxy functional acrylate metacrylate styrenated polymer.	March 21, 1991.
P 91-0172	G Metal alkyl dione diaquo.	February 20, 1991.
P 91-0185	3-Cyclopentene-1-acetonitrile, 2,2,3-trimethyl-.	March 6, 1991.
P 91-0195	G Polyurethane.	March 26, 1991.
P 91-0196	G Alkanedioic acid, polymer with *N,N*-dialkylalkanamine, 3-hydroxy-2-(hydroxymethyl)-2-alkylpropanoate, alkylpropanoate, alkanediol, alkanediamine and 1,1'-methylenebis(4-isocycanatocyclohexane)..	March 4, 1991.
P 91-0205	G Reaction product of natural oils, pentaerythritol, glycerine, phthalic anhydride and phenolic resin.	February 13, 1991.
P 91-0214	G Styrene-acrylate copolymer with epoxy ester.	March 15, 1991.
P 91-0215	G Epoxy ester.	March 7, 1991.
P 91-0220	G Tung oil-oticica oil-phenolic resin.	March 6, 1991.
P 91-0234	G Polyurethane.	April 3, 1991.
P 91-0235	G Polyurethane.	April 3, 1991.
P 91-0239	G 2-Alkylphenoxyl-1,4-diamino-3-phenoxy anthraquinone.	March 18, 1991.
P 91-0262	G Carboxy functional polyester salted by amine.	March 13, 1991.
P 91-0274	G Waterborne poly acrylour ethane.	March 26, 1991.
P 91-0279	G Polyisocyanate poly addition product B.	March 14, 1991.
P 91-0289	G Alphatic polyesterdoil.	April 4, 1991.
P 91-0292	G Casein, alkylamine compound.	March 13, 1991.
P 91-0293	G Modified rosin, aluminium salt.	March 12, 1991.

IV. 132 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 91-0296	G Amine salt of acrylic polymer	March 21, 1991.
P 91-0298	G Amine salt of acrylic polymer	April 8, 1991.
P 91-0305	G Acrylic resin	March 30, 1991.
P 91-0317	G Dimethylpolysiloxane, polyoxyalkylene ether	April 3, 1991.
P 91-0319	G Polyurethane suspension in polyol	March 13, 1991.
P 91-0324	G Nitro bipnenyl, bis sulfo, amino, hydroxy napthalenyl azo dimethoxy, sod salt	March 31, 1991.
P 91-0325	G Sulfo nahpthalene azo *h*- acid, mono chloro triazine, amino phenyl v.s.	March 31, 1991.
P 91-0347	Fatty acids, C_8, C_9, esters with pentaerythritol	March 26, 1991.
P 91-0354	G Polyurethane salt	April 2, 1991.
P 91-0355	G Polyurethane	April 2, 1991.
P 91-0359	G Soya linoleic alkyd	March 26, 1991.
P 91-0360	G Acrylated soya linoleic alkyd	March 27, 1991.
P 91-0364	G Polyurethane salt	March 28, 1991.
P 91-0368	G Rosin phenolic modified short oil alkyd resin	March 28, 1991.
P 91-0369	Polymer of dimer fatty acids, acetic acid, rosin, glycerine, ethylene diamene, and propylene carbonate	April 8, 1991.
P 91-0372	G Acrylic copolymers	April 12, 1991.
P 91-0379	Phosphoric acid, mixed decyl, ethyl, and octyl ester, potassium salt	June 20, 1991.
P 91-0384	G Esterified polyamic acid	April 23, 1991.
P 91-0398	G Alkyoxypropionitrile	April 12, 1991.
P 91-0399	G Alkyloxypropinitrile	April 12, 1991.
P 91-0405	G Aromatic azide	April 11, 1991.
P 91-0414	G Alkylated alkyd	April 10, 1991.
P 91-0453	G Alkyl ammonium salt of a transition metal halide	April 17, 1991.
P 91-0454	G Alkyl ammonium salt of a transition metal halide	April 17, 1991.
P 91-0573	G Ethylene-siloxane copolymer	December 13, 1991.
P 91-0762	Linear and branched undecanol	June 1, 1992.
P 91-0763	Polymer of ethylene oxide, alcohol, potassium hydroxide, and acetic acid	July 30, 1992.
P 91-1145	G Polyester polyurethane	June 2, 1992.
P 91-1222	G Modified maleated rosin, calcium magnesium and zinc salts	July 9, 1992.
P 91-1264	G Organosilyl-functional silica	July 7, 1992.
P 91-1265	G Napthalene sulfonate condensate salt	June 2, 1992.
P 91-1294	G Acrylate/anhydride copolymer	March 8, 1992.
P 91-1304	G Polyamide graft copolymer	June 25, 1992.
P 91-1453	G Dialkyl-1,3,4-thiadiazole	July 21, 1992.
P 91-1454	G 2-Alkylthio-5-arylthio-1,3,4-thiadiazole	July 21, 1992.
P 92-0005	G Fluorinated alcohol phosphate ester salt	July 16, 1992.
P 92-0006	G Fluorinated alcohol phosphate ester salt	July 16, 1992.
P 92-0007	G Fluorinated alcohol phosphate ester salt	July 16, 1992.
P 92-0008	G Fluoroinated alcohol phosphate ester salt	July 16, 1992.
P 92-0009	G Fluorinated alcohol phosphate ester salt	July 16, 1992.
P 92-0027	G Acrylic salt	June 28, 1992.
P 92-0138	G Alkyl amino alcohol	June 28, 1992.
P 92-0156	G Triethanolamine salts of fatty acid	June 25, 1992.
P 92-0172	G Substituted resorcinol	July 1, 1992.
P 92-0312	G Amine functional epoxy resin salted with an organic acid	June 27, 1992.
P 92-0339	G Substituted phenol	July 7, 1992.
P 92-0349	G Hetro monocyclic acid, morpholine salt	June 15, 1992.
P 92-0370	G Salt of styrene acrylic copolymer	July 7, 1992.
P 92-0378	G Modified glucosied	July 2, 1992.
P 92-0440	G Polyurethane resin	July 7, 1992.
P 92-0447	G Aliphatic polyamine	June 8, 1992.
P 92-0451	G Bisphenol of, substituted phosphomium salt	June 19, 1992.
P 92-0468	G Silicone phosphate	July 23, 1992.
P 92-0484	G Polyester polyurethane	July 1, 1992.
P 92-0494	G Methacrylic acid copolymer salt	June 11, 1992.
P 92-0500	G A copolymer of diallylbisphenol *A* with an aliphatic polyether polyurethane	June 8, 1992.
P 92-0540	Fatty acids, C_{18}-unsaturated; dimers; azelaric acid; ethylenediamine; 1,5-pentanediamine, 2-methyl-; piperazine	July 21, 1992.
P 92-0559	G Copper phthalocyanate derivative	June 19, 1992.
P 92-0600	G Epoxy polymer reacted with cycloaliphatic amine	June 30, 1992.
P 92-0622	G Acrylate, acrylamide, quaternary ammonium salt polymer	June 11, 1992.
P 92-0627	G Acrylic copolymer	June 29, 1992.
P 92-0634	Benzene sulfonic acid, di-C_{10-18}-alkyl derivatives	July 18, 1992.
P 92-0640	G Acrylic polymer	July 18, 1992.
P 92-0660	G Acrylic polymer	July 15, 1992.
P 92-0693	G Acrylic resin	July 14, 1992.
P 92-0702	G Hydroxy functional styrenated methacrylate polymer	July 8, 1992.
P 92-0771	G Polyether silane	July 23, 1992.
Y 88-0149	G Polyester resin of alkyl and aryl dicarboxylic acids and alkyl diols	December 10, 1989.
Y 89-0019	G Polyether/polycarbonate	February 22, 1989.
Y 89-0128	G Long oil alkyl resin	August 3, 1992.
Y 89-0215	G Polymer aromatic diacid, bis(hydroxyalkyl)aryl ether, and branched-alkanediol	June 25, 1992.
Y 92-0028	G Polyurethane, *N,N*-dimethylamminoethanol salt	May 30, 1992.

V. 12 Premanufacture notices for which the period has been suspended.

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P 92-0919 P 92-0998 P 92-1003 P 92-1009
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H.R. 1435/P.L. 102-402

Rocky Mountain Arsenal National Wildlife Refuge Act of 1992. (Oct. 9, 1992; 106 Stat. 1961; 7 pages) Price: $1.00

H.R. 3379/P.L. 102-403

To amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference. (Oct. 9, 1992; 106 Stat. 1968; 1 page) Price: $1.00

S. 1216/P.L. 102-404

Chinese Student Protection Act of 1992. (Oct. 9, 1992; 106 Stat. 1969; 3 pages) Price: $1.00

S. 2344/P.L. 102-405

Veterans' Medical Programs Amendments of 1992. (Oct. 9, 1992; 106 Stat. 1972; 14 pages) Price: $1.00

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