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Tuesday
October 24, 1995

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[Three Sessions]

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Presidential Documents

Title 3—

The President

Executive Order 12977 of October 19, 1995

Interagency Security Committee

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the quality and effectiveness of security in and protection of buildings and facilities in the United States occupied by Federal employees for nonmilitary activities (''Federal facilities''), and to provide a permanent body to address continuing government-wide security for Federal facilities, it is hereby ordered as follows:

Section 1. *Establishment.* There is hereby established within the executive branch the Interagency Security Committee (''Committee''). The Committee shall consist of: (a) the Administrator of General Services (''Administrator'');

(b) representatives from the following agencies, appointed by the agency heads:

(1) Department of State;

(2) Department of the Treasury;

(3) Department of Defense;

(4) Department of Justice;

(5) Department of the Interior;

(6) Department of Agriculture;

(7) Department of Commerce;

(8) Department of Labor;

(9) Department of Health and Human Services;

(10) Department of Housing and Urban Development;

(11) Department of Transportation;

(12) Department of Energy;

(13) Department of Education;

(14) Department of Veterans Affairs;

(15) Environmental Protection Agency;

(16) Central Intelligence Agency; and

(17) Office of Management and Budget;

(c) the following individuals or their designees:

(1) the Director, United States Marshals Service;

(2) the Assistant Commissioner of the Federal Protective Service of the Public Buildings Service, General Services Administration (''Assistant Commissioner'');

(3) the Assistant to the President for National Security Affairs; and

(4) the Director, Security Policy Board; and

(d) such other Federal employees as the President shall appoint.

Sec. 2. *Chair.* The Committee shall be chaired by the Administrator, or the designee of the Administrator.

Sec. 3. *Working Groups.* The Committee is authorized to establish interagency working groups to perform such tasks as may be directed by the Committee.

Sec. 4. *Consultation.* The Committee may consult with other parties, including the Administrative Office of the United States Courts, to perform its responsibilities under this order, and, at the discretion of the Committee, such other parties may participate in the working groups.

Sec. 5. *Duties and Responsibilities.* (a) The Committee shall: (1) establish policies for security in and protection of Federal facilities;

(2) develop and evaluate security standards for Federal facilities, develop a strategy for ensuring compliance with such standards, and oversee the implementation of appropriate security measures in Federal facilities; and

(3) take such actions as may be necessary to enhance the quality and effectiveness of security and protection of Federal facilities, including but not limited to:

(A) encouraging agencies with security responsibilities to share security-related intelligence in a timely and cooperative manner;

(B) assessing technology and information systems as a means of providing cost-effective improvements to security in Federal facilities;

(C) developing long-term construction standards for those locations with threat levels or missions that require blast resistant structures or other specialized security requirements;

(D) evaluating standards for the location of, and special security related to, day care centers in Federal facilities; and

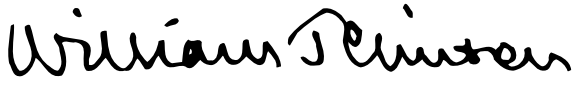
(E) assisting the Administrator in developing and maintaining a centralized security data base of all Federal facilities.

Sec. 6. *Agency Support and Cooperation.* (a) *Administrative Support.* To the extent permitted by law and subject to the availability of appropriations, the Administrator, acting by and through the Assistant Commissioner, shall provide the Committee such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of its functions under this order.

(b) *Cooperation.* Each executive agency and department shall cooperate and comply with the policies and recommendations of the Committee issued pursuant to this order, except where the Director of Central Intelligence determines that compliance would jeopardize intelligence sources and methods. To the extent permitted by law and subject to the availability of appropriations, executive agencies and departments shall provide such support as may be necessary to enable the Committee to perform its duties and responsibilities under this order.

(c) *Compliance.* The Administrator, acting by and through the Assistant Commissioner, shall be responsible for monitoring Federal agency compliance with the policies and recommendations of the Committee.

Sec. 7. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government, and is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.



THE WHITE HOUSE,
October 19, 1995.

[FR Doc. 95–26497
Filed 10–20–95; 2:55 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

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. 95–044F]

Designation of the State of Hawaii Under the Federal Meat Inspection Act and the Poultry Products Inspection Act

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Representatives of Hawaii have advised the Agency that, due to a lack of funding, the State of Hawaii will no longer continue administering its State meat and poultry inspection programs after October 31, 1995. The Food Safety and Inspection Service (FSIS) is mandated by law to assume the responsibility, previously held by the State of Hawaii, for administering the meat and poultry inspection programs with respect to establishments operating, and operations and transactions, within the State. Therefore, in accordance with the law, the Secretary is designating the State of Hawaii to receive Federal inspection of meat and poultry inspection programs with respect to establishments operating, and operations and transactions, within the State, and FSIS is amending the Federal meat and poultry inspection regulations by adding Hawaii to the list of ''designated'' States.

DATES: This final rule will be effective on November 1, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Connie L. Bacon, Assistant Director, Federal-State Relations, Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700, (202) 720–6313.

SUPPLEMENTARY INFORMATION:

Background

Under section 301(c) of the Federal Meat Inspection Act (FMIA) and section 5(c) of the Poultry Products Inspection Act (PPIA), a State may administer State meat and poultry inspection programs provided the State has developed and is effectively enforcing State meat and poultry inspection requirements at least equal to Federal meat and poultry inspection requirements under titles I and IV of the FMIA and sections 1–4, 6–10, and 12–22 of the PPIA (collectively referred to below as the titles). These titles contemplate continuous, ongoing programs. When States can no longer effectively enforce meat and poultry inspection requirements at least equal to Federal requirements, then they must be ''designated'' by the Secretary under these provisions of the Acts.

In accordance with the FMIA and PPIA, the Secretary had determined that the State of Hawaii had developed and was enforcing State meat and poultry inspection requirements for establishments at least equal to Federal meat and poultry inspection requirements under the titles. However, on July 28, 1995, representatives of the State of Hawaii notified FSIS that, due to a lack of funding, Hawaii will no longer continue to administer its State meat and poultry inspection programs after October 31, 1995. They have requested that the Department assume responsibility for carrying out the provisions of the titles within the State.

In view of the termination date, it is determined that the State of Hawaii would not effectively enforce requirements at least equal to those imposed under the titles. Therefore, the Secretary of Agriculture must designate the State of Hawaii under section 301(c)(3) of the FMIA and section 5(c)(3) of the PPIA. Therefore, on and after November 1, 1995, the provisions of the titles will apply to establishments operating, and operations and transactions, within the State, unless exempted under sections 23(a) or 301(c)(2) of the FMIA or sections 15 or 5(c)(2) of the PPIA.

Owners or operators of Hawaii's meat and poultry establishments wishing to continue operations after October 31, 1995, should contact the FSIS Regional Office for information concerning requirements and exemptions under the Acts and applications for inspection and requests for surveys of establishments at the following address: Regional Director, Western Regional Office, Inspection Operations, FSIS, U.S. Department of Agriculture, 620 Central Avenue, Building 2C, Alameda, CA 94501, (510) 337–5074.

The Administrator has determined that there is good cause for issuing this final rule without prior notice and opportunity for public comment. Since the State of Hawaii has advised FSIS that its State-operated meat and poultry inspection programs will be discontinued, the Agency is mandated by law to assume the responsibilities for administering the meat and poultry inspection programs for establishments operating, and operations and transactions within the State. It is necessary therefore, to designate the State of Hawaii immediately, in accordance with section 301(c)(3) of the FMIA and section 5(c)(3) of the PPIA in order to carry out the Secretary's responsibilities under the Acts.

Additionally, it does not appear that additional relevant information would be made available to the Secretary by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to the public interest.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant under Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Hawaii, of administering the meat and poultry inspection programs with respect to meat and poultry establishments operating, and operations and transactions within the State. This action will affect approximately 46 State and 11 Talmadge Aiken meat and poultry establishments in Hawaii, and most, if not all, of which may be presumed to be small businesses.

However, this is not a substantial number of establishments given the approximately 6,800 small meat and small poultry establishments nationwide, which are either federally or State inspected. Additionally, the application of certain Federal facility and other requirements will be flexible and each facility will be reviewed with regard to the circumstances peculiar to that establishment. Furthermore, it is not anticipated that significant costs will be incurred by these Hawaii establishments as a result of this action. Those specific establishments requiring some upgrading of facilities will be provided up to 18 months in which to submit blueprints and sketches and up to 36 months in which to improve their facilities.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Requirements

This rule has been reviewed under the Paperwork Reduction Act and imposes no new paperwork or recordkeeping requirements.

List of Subjects

9 CFR Part 331

Meat inspection.

9 CFR Part 381

Poultry and poultry products inspection.

Accordingly, part 331 of the Federal meat inspection regulations (9 CFR part 331) is amended to read as follows:

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

1. The authority citation for part 331 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

§ 331.2 Designation of States under paragraph 301(c) of the Act.

2. The table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended in the ''State'' column, by adding ''Hawaii'' immediately below ''Guam'' and in the ''Effective date of application of Federal provisions'' column, by adding ''November 1, 1995'' on the line with ''Hawaii.''

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

4. The table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended in the ''State'' column, by adding ''Hawaii'' is added immediately below ''Guam'' and in the ''Effective date of application of Federal provisions'' column, by adding ''November 1, 1995'' on the line with ''Hawaii.''

Done at Washington, DC, on: October 18, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–26297 Filed 10–23–95; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–23–AD; Amendment 39–9410; AD 95–22–03]

Airworthiness Directives; Beech Aircraft Corporation Models 60 and A60 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Beech Aircraft Corporation (Beech) Models 60 and A60 airplanes. This action requires incorporating flight manual supplement revisions into the Airplane Flight Manual (AFM) that would specify a minimum airspeed for operating the affected airplanes in icing conditions. Reports of several incidents and accidents on the affected airplanes related to flight in icing conditions prompted the proposed action. The actions specified by the proposed AD are intended to prevent loss of control of the airplane because of the airplane traveling too slowly in icing conditions.

EFFECTIVE DATE: December 12, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Bennett L. Sorensen, Flight Test Pilot, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946–4165; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Beech Models 60 and A60 airplanes was published in the Federal Register on June 5, 1995 (60 FR 29513). The proposed action requires incorporating flight manual supplement revisions into the Airplane Flight Manual (AFM) that would specify a minimum airspeed for operating the affected airplanes in icing conditions. Accomplishment of the proposed action would be in accordance with Beech Model 60 and A60 Pilot's Operating Handbook/Airplane Flight Manual (POH/AFM) supplement ''FLIGHT IN KNOWN ICING CONDITIONS'', Revised: January, 1995, part number (P/N) 60–590001–17.

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

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 243 airplanes in the U.S. registry would be affected by the proposed AD, that it would take less than 1 workhour per airplane to accomplish the proposed action. Since an owner/operator who holds a private pilot's certificate as authorized by sections 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11) can accomplish this action, the only cost impact upon the public is the time it takes to incorporate these AFM supplement revisions.

The compliance time of the AD is presented in calendar time instead of hours time-in-service. Although the unsafe condition develops as a result of

airplane usage, it cannot develop unless the airplane travels too slowly in icing conditions. Therefore, to ensure that all owners/operators of the affected airplanes incorporate the minimum airspeed in icing conditions flight manual supplement revisions in a reasonable amount of time, the compliance time is based on calendar time.

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

95–22–03 Beech Aircraft Corporation: Amendment 39–9410; Docket No. 95–CE–23–AD.

Applicability: Models 60 and A60 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 60 calendar days after the effective date of this AD, unless already accomplished.

To prevent loss of control of the airplane because of the airplane traveling too slowly in icing conditions, accomplish the following:

(a) Incorporate Airplane Flight Manual (AFM) supplement ''FLIGHT IN KNOWN ICING CONDITIONS'', Revised: January 1995, part number (P/N) 60–590001–17, into the AFM, P/N 60–590000–5 or P/N 60–590000–11, as applicable.

(b) Incorporating the AFM supplement ''FLIGHT IN KNOWN ICING CONDITIONS'', Revised: January 1995, part number (P/N) 60–590001–17, as required by this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the AFM revision referred to herein upon request to Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment (39–9410) becomes effective on December 12, 1995.

Issued in Kansas City, Missouri, on October 12, 1995.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–26106 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–76–AD; Amendment 39–9414; AD 95–20–01 R1]

Airworthiness Directives; Beech Aircraft Corporation Models 65 and L–23F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) 95–20–01 R1, which was sent previously to all known U.S. owners and operators of certain Beech Aircraft Corporation (Beech) Models 65 and L–23F (military conversion) airplanes. This AD requires fabricating and installing a placard that specifies not to operate the airplane with the cabin door removed, and incorporating a copy of the AD into the Limitations Section of the Airplane Flight Manual (AFM). A recent accident of one of the affected airplanes that was operating with the cabin door removed prompted the existing AD. The actions specified by this AD are intended to prevent the possibility of a reduction in stability, controllability, or airplane climb performance during operation, particularly in single-engine operations at high gross weights.

DATES: Effective November 3, 1995, to all persons except those to whom it was made immediately effective by priority letter AD 95–20–01 R1, issued September 21, 1995, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before December 27, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–76–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information that relates to this AD may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Schueler, Program Manager, Wichita Aircraft Certification Office,

FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4111; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: On September 15, 1995, the FAA issued priority letter Airworthiness Directive (AD) 95–20–01. This AD required the following on certain Beech Model 65 airplanes:

—Fabricating a placard with the words ''Operation of the airplane with the cabin door removed is prohibited'';
—Installing this placard on the airplane's instrument panel within the pilot's clear view; and
—Incorporating a copy of this AD in the Limitations Section of the Airplane Flight Manual (AFM).

A recent accident of a Beech Model 65 airplane where the airplane was destroyed prompted that action. The referenced airplane was configured for parachute operations, including operating with the passenger seats and cabin door removed.

The operator of this airplane had the cabin door removed in accordance with FAA-approved Flight Manual Supplement, dated September 20, 1967. However, further examination of this particular flight manual supplement revealed an unapproved alteration of the document to make the Beech Model 65 eligible for operation with the cabin door removed.

The Type Certificate Data Sheet for the Beech 65 series airplanes lists several Beech Model airplanes that are eligible for cabin door removal. This listing does not include the Beech Model 65. Currently, the FAA is examining these circumstances to determine why this model was not included in this eligibility. Certain Beech Model 65 airplanes may operate with the cabin door removed under a Restricted Category Certificate.

The configuration of the Beech models that are eligible for operation with the cabin door removed includes a swept fin tail. The Beech Model 65 does not have this swept fin tail configuration. The FAA has not determined (1) the number of the 244 originally manufactured Beech Model 65 airplanes that are in operation with the cabin door removed in accordance with this Flight Manual Supplement, dated September 20, 1967; or (2) how many Restricted Category Certificates have been issued for operating with the cabin door removed.

After issuing AD 95–20–01, the FAA received reports that the Beech Model L–23F (military conversion) should also be included in the applicability of that AD. These airplanes are eligible to be brought back into civilian use. Based on this, the FAA determined that AD 95–20–01 should be revised to include these military conversion Beech Model L–23F airplanes.

Since an unsafe condition was identified that is likely to exist or develop in other Beech Models 65 and L–23F airplanes of the same type design (including those operating under a Restricted Category Certificate), the FAA revised priority letter AD 95–20–01 and issued priority letter AD 95–20–01 R1 to prevent the possibility of a reduction in stability, controllability, or airplane climb performance during operation, particularly in single-engine operations at high gross weights. The AD retains the placard and AFM requirements of AD 95–20–01 for the Model 65 airplanes, and adds the Model L–23F airplanes to the Applicability section of the AD.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on September 21, 1995, to all known U.S. operators of Beech Models 65 and L–23F airplanes. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule 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 above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD 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. 95–CE–76–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

95–20–01 R1 Beech Aircraft Corporation: Amendment 39–9414; Docket No. 95–CE–76–AD. Revises priority letter AD 95–20–01.

Applicability: The following airplane models and serial numbers, certificated in any category:

Model	Serial numbers
65	L–1, L–2, L–6, LC–1 through LC–239, LF–7 and LF–8.
L–23F ..... (military conversion)	L–3, L–4, L–5, and LF–9 through LF–76.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required prior to further flight after the effective date of this AD (except for those operators receiving this action by priority letter issued September 21, 1995, which made these actions effective upon receipt), unless already accomplished.

To prevent the possibility of a reduction in stability, controllability, or airplane climb performance during operation, particularly in single-engine operations at high gross weights, accomplish the following:

(a) Fabricate a placard, using letters at least 1/8-inch in height, that consists of the words ''Do not operate the airplane with the cabin door removed.'' Install this placard on the airplane's instrument panel within the pilot's clear view.

(b) Insert a copy of this AD into the Limitations Section of the airplane flight manual (AFM).

(c) The actions required by this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment (39–9414) becomes effective on November 3, 1995, to all persons except those persons to whom it was made immediately effective by priority letter AD 95–20–01 R1, issued September 21, 1995, which contained the requirements of this amendment.

Issued in Kansas City, Missouri, on October 16, 1995.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–26107 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–183–AD; Amendment 39–9413; AD 95–22–06]

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes. This action requires repetitive inspections to detect fatigue cracking of the shock strut cylinder of the main landing gear (MLG), and replacement of any cracked shock strut cylinder with a serviceable part. This action also provides for installation of brake line hydraulic restrictors on the MLG brake systems, which, if accomplished, terminates the repetitive inspection requirement. This amendment is prompted by a report indicating that fatigue cracking and subsequent fracturing of the shock strut cylinder of the MLG occurred due to high stress loads on the cylinder as a result of braking induced vibration. The actions specified in this AD are intended to prevent such fracturing, which could result in collapse of the MLG and consequent reduced controllability of the airplane during landing.

DATES: Effective November 8, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 8, 1995.

Comments for inclusion in the Rules Docket must be received on or before December 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA received a report indicating that the shock strut cylinder of the left main landing gear (MLG) fractured on a McDonnell Douglas Model DC–9–80 series airplane. The fractured MLG collapsed during landing rollout. The affected shock strut cylinder had accumulated 6,386 total landings and 18,236 total hours time-in-service. Investigation revealed that the fracturing was the result of fatigue cracking caused by high stress loads on the shock strut cylinder. These high stress loads were induced by vibration, which occurs during landing rollout when the aircraft is at speeds between 40 and 50 knots, with the anti-skid system on during moderate to heavy braking. Fatigue cracking and subsequent fracturing of the shock strut cylinder, if not corrected, could result in collapse of the MLG; such a collapse could adversely affect the controllability of the airplane during landing.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995, which describes procedures for repetitive dye penetrant

and magnetic particle inspections to detect cracking of the shock strut cylinder of the MLG, and replacement of any cracked shock strut cylinder with a serviceable part. The alert service bulletin also describes procedures for installation of brake line hydraulic restrictors on the left and right MLG brake systems, which eliminates the need for the repetitive inspections. Accomplishment of the installation will minimize stress loads induced by vibration and the possibility of fatigue cracking of the shock strut cylinder.

Since an unsafe condition has been identified that is likely to exist or develop on other Model DC–9–80 series airplanes and Model MD–88 airplanes of the same type design, this AD is being issued to prevent fracturing of the shock strut cylinder of the MLG, which could result in collapse of the MLG and consequent reduced controllability of the airplane during landing. This AD requires repetitive dye penetrant and magnetic particle inspections to detect cracking of the shock strut cylinder of the MLG, and replacement of any cracked shock strut cylinder with a crack-free serviceable part. This AD also provides for the installation of brake line hydraulic restrictors on the left and right MLG brake systems, which terminates the repetitive inspection requirement if it is accomplished prior to further flight after inspections are performed and no cracking is found. However, all airplanes, including those on which brake line hydraulic restrictors have been installed previously, are required to perform the inspections at least one time. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Operators should note that, McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995, recommends that the accomplishment of the inspections be completed within 6 months (from the issue date of the service bulletin). While the FAA agrees that 6 months is an appropriate time interval in which the inspections can be accomplished and an adequate level of safety maintained, this AD specifies a compliance time of 90 days for the accomplishment of the inspections. This 90-day compliance time was developed by taking into account the manufacturer's recommended 6-month time interval from September 11, 1995 (the service bulletin issue date), as well as the number of days that are normally required for the rulemaking process to be completed (approximately 90 days). In consideration of both of these factors, the FAA finds that a compliance time of 90 days after the effective date of this final rule will fall approximately at the same time (calendar date) for compliance that has been recommended by the manufacturer. By adjusting the compliance time interval in this way:

1. Operators will be provided, in effect, with a full 6 months in which to complete the inspections;

2. The inspections can be accomplished within an interval of time that parallels normal scheduled maintenance for a majority of affected operators; and

3. The inspections will be accomplished within an appropriate interval to prevent the initiation and propagation of fatigue cracking in the shock strut cylinder.

In addition, the McDonnell Douglas service bulletin recommends that the installation of brake line hydraulic restrictors be accomplished within 12 months. However, this AD does not require such installation at a specified time; it is provided in this AD as an optional terminating action. The FAA may consider additional rulemaking to require accomplishment of the installation, but has determined that the repetitive inspections will maintain an adequate level of safety in the fleet in the meantime.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–183–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

95–22–06 McDonnell Douglas: Amendment 39–9413. Docket 95–NM–183–AD.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, and Model MD–88 airplanes; as listed in McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent collapse of the main landing gear (MLG) due to fracturing of the shock strut cylinder, accomplish the following:

(a) For airplanes on which brake line hydraulic restrictors have not been installed on the left and right MLG brake systems in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995, prior to the effective date of this AD: Within 90 days after the effective date of this AD, perform dye penetrant and magnetic particle inspections to detect cracking of the shock strut cylinder of the MLG, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995.

(1) If no cracking is found, repeat the inspections thereafter at intervals not to exceed 1,200 landings.

(2) If any cracking is found, prior to further flight, replace the shock strut cylinder with a crack-free serviceable part in accordance with the alert service bulletin. After replacement, repeat the inspections at intervals not to exceed 1,200 landings.

(b) For airplanes on which brake line hydraulic restrictors have been installed on the left and right MLG brake systems in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995, prior to the effective date of this AD: Within 90 days after the effective date of this AD, perform dye penetrant and magnetic particle inspections to detect cracking of the shock strut cylinder of the MLG, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995.

(1) If no cracking is found, no further action is required by this AD.

(2) If any cracking is found, prior to further flight, replace the shock strut cylinder with a crack-free serviceable part in accordance with the alert service bulletin. After the cylinder is replaced and the brake line hydraulic restrictors are reinstalled, no further action is required by this AD.

(c) Installation of brake line hydraulic restrictors on the left and right MLG brake systems, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995, constitutes terminating action for the repetitive requirements of this AD only if it is accomplished prior to further flight after a dye penetrant and magnetic particle inspection is performed in accordance with this AD and no cracking is found during that inspection.

(d) As of the effective date of this AD, no person shall install on any airplane a MLG shock strut cylinder or MLG assembly unless that part has been inspected and found to be crack free, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995.

(e) 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, Los Angeles Aircraft Certification Office (ACO), 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, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the initial inspection required by this AD can be accomplished. Such special flight permits may not be issued for airplanes on which cracking is found during an inspection required by this AD.

(g) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on November 8, 1995.

Issued in Renton, Washington, on October 16, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25987 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–187–AD; Amendment 39–9412; AD 95–22–05]

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This action requires repetitive inspections to detect damage of the brake assembly and wheel assembly; repair, if necessary; and installation of a heat shield. This action also provides for an optional installation which, if accomplished, constitutes terminating action for the repetitive inspections. This amendment is prompted by reports of failure of the brake assembly due to separation of the stator clips from the stator disk. The actions specified in this AD are intended to prevent failure of the brake assembly, which could result in a brake fire.

DATES: Effective November 8, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 8, 1995.

Comments for inclusion in the Rules Docket must be received on or before December 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–187–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth E. Harder, Aerospace Engineer,

Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that it has received several reports indicating that the brake assembly failed on several of these airplanes. Investigation revealed that the cause of the failures of the brake assemblies was due to separation of the stator clips from the stator disk. (The stator clip is a steel component that attaches to the stator lug to offer better resistance to damage of the drive face of the lug.) Brake assemblies having part numbers 5012589, 5007219–1, 5008541, 5008541–1, and 5008541–2 have been identified as those susceptible to such failure.

In certain reported instances, these separated clips migrated through the torque tube lightening hole and became trapped between the torque tube and the wheel hub. In at least one case, this resulted in a cut through the hub, leakage of hydraulic fluid on the hot brakes, and subsequent brake fire fueled by hydraulic fluid. In other reported incidents, the separated clips migrated through the carbon stack and resulted in brake damage or disintegration.

These conditions, if not detected, could result in brake and wheel failure, which could lead to a brake fire.

Saab has issued Service Bulletin 340–32–105, dated September 5, 1995, which describes procedures for repetitive visual inspections to detect damage of the brake assembly and wheel assembly, repair of damaged assemblies, and installation of a heat shield in the torque tube. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD 1–075, dated September 7, 1995, in order to assure the continued airworthiness of these airplanes in Sweden.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, 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 an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the brake assembly, which could result in a brake fire. This AD requires repetitive visual inspections to detect damage of the brake assembly and wheel assembly, repair of any damaged brake assembly or wheel assembly found, and installation of a heat shield. The actions are required to be accomplished in accordance with the service bulletin described previously.

This AD also provides for termination of the repetitive visual inspections by installing a redesigned stator clip. This installation is to be accomplished in accordance with a method approved by the FAA.

This is considered to be interim action. The manufacturer has advised that it is currently developing a modified stator clip that will positively address the unsafe condition addressed by this AD. Once this redesigned clip is developed, approved, and available, the FAA may consider additional rulemaking.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–187–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

95–22–05 Saab Aircraft AB: Amendment 39–9412. Docket 95–NM–187–AD.

Applicability: Model SAAB SF340A series airplanes having serial numbers 004 through 159, inclusive; and Model SAAB 340B series airplanes having serial numbers 160 and subsequent; equipped with brake assemblies having part number 5012589, 5007219–1, 5008541, 5008541–1, or 5008541–2; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the brake assembly and wheel assembly, which could result in the potential for a brake fire, accomplish the following:

(a) Within 10 days after the effective date of this AD, perform a visual inspection to detect damage of the brake assembly and wheel assembly in accordance with Saab Service Bulletin 340–32–105, dated September 5, 1995.

(1) If no damage is detected, repeat the inspection thereafter at intervals not to exceed 225 hours time-in-service.

(2) If any damage is detected, prior to further flight, repair the damaged brake assembly and/or wheel assembly in accordance with the service bulletin. Repeat the inspection thereafter at intervals not to exceed 225 hours time-in-service.

(b) Within 225 hours time-in-service after accomplishing the inspection required by paragraph (a) of this AD, install a heat shield in the torque tube in accordance with Saab Service Bulletin 340–32–105, dated September 5, 1995.

(c) Installation of a redesigned stator clip in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(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, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspections, repair, and installation of a heat shield shall be done in accordance with Saab Service Bulletin 340–32–105, dated September 5, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on November 8, 1995.

Issued in Renton, Washington, on October 16, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25989 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–173–AD; Amendment 39–9411; AD 95–22–04]

Airworthiness Directives; Canadair Model CL–215–1A10 and CL–215–6B11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Canadair Model CL–215–1A10 and CL–215–6B11 series airplanes. This action requires inspections to detect cracking of main landing gear (MLG) axles that have been reworked by chromium plating, and replacement of cracked axles. This amendment is prompted by reports of fatigue cracking found on several MLG wheel axes that had been chromium-plated during rework. The actions specified in this AD are intended to prevent such cracking, which can result in failure of the axle, separation of the wheel from the aircraft, and consequent reduced controllability of the airplane during takeoff or landing.

DATES: Effective November 8, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 8, 1995.

Comments for inclusion in the Rules Docket must be received on or before December 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–173–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, , Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeff Casale, Aerospace Engineer, Systems and Equipment Branch, ANE–171, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (206) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Canadair Model CL–215–1A10 and CL–215–6B11 series airplanes. Transport Canada Aviation advises that there have been reports of fatigue cracking found on several main landing gear (MLG) wheel axles on in-service airplanes. In three cases, such cracking has resulted in complete failure of the axle and subsequent separation of the wheel from the airplane. Investigation has revealed that this cracking occurs only on axles that have been reworked by chromium plating the wheel inner bearing surface. Such cracking, if not detected and corrected in a timely manner, can lead to failure of the axle and separation of the wheel from the airplane. Since each MLG has only a single wheel, loss of the

wheel could result in reduced controllability of the airplane during take-off or landing.

The number of reworked axles currently in the fleet is unknown; however, at least nine MLG axles were reworked by chromium plating during manufacture prior to their installation on the airplane. In light of this, Transport Canada Aviation has advised that, irrespective of the number of flight hours accumulated on the airplane or axle, the potential for cracking exists in all of these affected airplanes.

Canadair has issued Alert Service Bulletin 215–A462, dated June 2, 1993, which describes procedures for conducting an eddy current or chemical inspection of the inner bearing surface area of the left and right MLG axles to determine whether they have been reworked using chromium plating. For axles that have been so reworked, the service bulletin provides instructions for conducting repetitive ultrasonic inspections to detect cracks in the chromium-plated inner bearing surface. The service bulletin also describes procedures for removing cracked axles and replacing them with serviceable units. Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian Airworthiness Directive CF–93–08R2, dated June 20, 1994, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, 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 an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent cracking of the chromium-plated inner bearing surface of the MLG axle. Such cracking can lead to failure of the axle, separation of the wheel from the aircraft, and consequent reduced controllability of the airplane during takeoff or landing. This AD requires an eddy current or chemical inspection of the inner bearing surface area of the left and right MLG axles to determine if they have been reworked using chromium plating. For axles that have been reworked, this AD requires repetitive ultrasonic inspections to detect cracking in the chromium-plated inner bearing surface. If cracking is found, the cracked axle must be removed and replaced with a serviceable unit. The actions are required to be accomplished in accordance with the service bulletin described previously.

Additionally, operators must submit a report of all ultrasonic inspection findings to the manufacturer.

None of the Model CL–215–1A10 or CL–215–6B11 series airplanes affected by this action is on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required inspection actions, at an average labor charge of $60 per work hour. Based on these figures, the total cost impact of this AD would be $120 per airplane per inspection.

If a cracked axle is found and replaced, that action would require 8 work hours per airplane to accomplish, at an average labor charge of $60 per work hour. Required parts are estimated to cost $13,000 per assembly. Based on these figures, the total cost impact of necessary replacement required by this AD would be $13,480 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the Federal Register.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–173–AD.'' The postcard will be date stamped and returned to the commenter.

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

95–22–04 Canadair: Amendment 39–9411. Docket 95–NM–173–AD.

Applicability: Model CL–215–1A10 (piston) and CL–215–6B11 (turboprop) series airplanes, having serial numbers 1011 through 1125 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking in the inner bearing surface of the main landing gear (MLG) axle, which can result in failure of the axle, separation of the wheel from the aircraft, and consequent reduced controllability of the airplane during takeoff or landing, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform either an eddy current inspection or a chemical inspection of the inner bearing surface area of the left and right MLG axles to determine if they have been reworked using chromium plating, in accordance with Canadair Alert Service Bulletin 215–A462, dated June 2, 1993.

(b) If the inner bearing surface of the MLG axle has not been reworked using chromium plating, no further action is required by this AD for that axle.

(c) If the inner bearing surface of the MLG axle has been reworked using chromium plating, prior to further flight, perform an ultrasonic inspection to detect cracking in the axle, in accordance with Canadair Alert Service Bulletin 215–A462, dated June 2, 1993.

(1) If no crack is detected during this inspection, repeat the ultrasonic inspection at intervals not to exceed 150 landings.

(2) If any crack is detected during this inspection, prior to further flight, remove the cracked axle and replace it with a serviceable axle that does not have an inner bearing surface that has been reworked using chromium plating, in accordance with the service bulletin.

(d) Within 5 days after completing each ultrasonic inspection required by paragraph (c) of this AD, submit a report of inspection findings, both positive and negative, to Canadair, Amphibious Aircraft Division, Customer Support, Dept. 645, Attention: Manager of Technical Support, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada; fax (514) 856–0152. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(e) Installation of an MLG axle that does not have an inner bearing surface that has been reworked using chromium plating, in accordance with Canadair Alert Service Bulletin 215–A462, dated June 2, 1993, constitutes terminating action for the inspections required by this AD for that axle.

(f) 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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) The inspections and replacement shall be done in accordance with Canadair Alert Service Bulletin 215–A462, dated June 2, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, , Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on November 8, 1995.

Issued in Renton, Washington, on October 16, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25990 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 93–AWA–11]

RIN 2120–AF56

Alteration of the Salt Lake City Class B Airspace Area, Salt Lake City, Utah

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; corrections.

SUMMARY: This document contains corrections to the Alteration of the Salt Lake City Class B Airspace Area, Salt Lake City, Utah, Final Rule (60 FR 48350) published on September 18, 1995. Corrections are made in the following areas: the airspace description of areas D, K, and M and the Coordinated Universal Time (UTC). More specifically, in area D, long. 112°02′33″ N is changed to read 112°02′33″ W; in area K, long. 111°14′50″ W is changed to read long. 112°14′50″ W; and in area M, 9,000 MSL is changed to read 9,000 feet MSL. In addition, this action corrects the effective time from 0701 UTC to 0901 UTC.

EFFECTIVE DATE: 0901 UTC, November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1995, the Final Rule for the Alteration of the Salt Lake City Class B Airspace Area, Salt Lake City, Utah (60 FR 48350) was published with an effective date of November 9, 1995. The Final Rule revised the description of many areas including D, K, and M. The previous description of areas D, K, and M listed in this document is published in Section 71.125 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 Code Federal Regulation (CFR) 71.1. The amended designations for areas K and M

will be subsequently published in Section 71.125 of Handbook 7400.7.

Correction of Final Rule

Accordingly, pursuant to the authority delegated to me, the publication in the Federal Register on September 18, 1995, (60 FR 48350); Airspace Docket 93–AWA–11 and the corresponding description in FAA Order 7400.9C, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

The description for Areas D, K, and M are corrected to read as follows:

Area D [Corrected]

Area D. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point at lat. 40°39′20″ N, long. 112°02′33″ W, extending east to point at lat. 40°39′20″ N, long. 111°58′13″ W, extending south along long. 111°58′13″ W, until intercepting the 11-mile arc of the I–BNT ILS/DME antenna, then counterclockwise until intercepting I–15, extending south on I–15 until intercepting a line at lat. 40°31′05″ N, extending west on lat. 40°31′05″ N, until a point at lat. 40°31′05″ N, long. 112°02′33″ W, then north along long. 112°02′33″ W, to intercept the 11-mile arc of the I–BNT ILS/DME antenna at lat. 40°35′22″ N, long. 112°00′33″ W, then clockwise on the 11-mile arc of I–BNT ILS/DME antenna to long. 112°02′33″ W, then to the point of beginning.

Area K [Corrected]

Area K. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point on the 13-mile arc of the I–BNT ILS/DME antenna at lat. 40°46′30″ N, long. 112°14′50″ W, extending east to the bend on I–80 at lat. 40°46′30″ N, long. 112°08′48″ W, then north along long. 112°08′48″ W, until intercepting the 13-mile arc of the I–BNT ILS/DME antenna, then counterclockwise along the 13-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area M [Corrected]

Area M. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL beginning at a point where the 25-mile arc of the I–BNT ILS/DME intersects the I–15 freeway south of the Ogden Municipal Airport extending north along the I–15 freeway to the 30-mile arc of the I–BNT ILS/DME, thence counterclockwise along the 30-mile arc to long. 112°10′00″ W, then south along long. 112°10′00″ W to the 25-mile arc of the I–BNT ILS/DME, then clockwise along the 25-mile arc to the point of beginning.

Issued in Washington, DC, on October 16, 1995.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 95–26352 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority; Associate Commissioner for Health Affairs

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to the authority of the Commissioner of Food and Drugs to provide initial responses to the Drug Enforcement Administration's (DEA) temporary scheduling notices for control of hazardous substances. This redelegation of authority is intended to ensure the prompt and efficient transmission to the DEA of these responses. This authority is being redelegated from the Commissioner of Food and Drugs to the Associate Commissioner for Health Affairs under the Controlled Substances Act (as amended), which amends the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended hereafter. The delegation excludes the authority to submit reports to Congress.

EFFECTIVE DATE: October 24, 1995.

FOR FURTHER INFORMATION CONTACT:

Nicholas P. Reuter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382, or

Ellen Rawlings, Division of Management Systems and Policy (HFA–305), Food and Drug Administration, 301–443–4976.

SUPPLEMENTARY INFORMATION: On May 16, 1994, the Assistant Secretary for Health delegated to the Commissioner of Food and Drugs authorities under the Controlled Substances Act, as amended (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 811(h)(4), as amended hereafter). These authorities concern providing initial responses to the DEA's temporary scheduling notices for control of hazardous substances. The Commissioner is further redelegating these authorities to the Associate Commissioner for Health Affairs to ensure the prompt and efficient transmission to DEA of these responses. This delegation excludes the authority to submit reports to Congress.

Further redelegation of the authority delegated may only be authorized with the Commissioner's approval. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a; 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354, 361, 362, 1701–1706, 2101, 2125, 2127, 2128 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b, 264, 265, 300u–300u–5, 300aa–1, 300aa–25, 300aa–27, 300aa–28); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591; secs. 312, 313, 314 of the National Childhood Vaccine Injury Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. New § 5.81 is added to read as follows:

§ 5.81 Responses to Drug Enforcement Administration temporary scheduling notices.

The Associate Commissioner for Health Affairs is authorized to provide responses to the Drug Enforcement Administration's temporary scheduling notices under the Controlled Substances Act, as amended (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 811(h)(4), as amended hereafter). The delegation excludes the authority to submit reports to Congress.

Dated: October 10, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–26356 Filed 10–23–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 172

[Docket No. 94F–0223]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Polydextrose

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polydextrose produced by using phosphoric acid. This action is in response to a petition filed by A. E. Staley Manufacturing Co.

DATES: Effective October 24, 1995; written objections and requests for a hearing by November 24, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3107.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 15, 1994 (59 FR 36204), FDA announced that a food additive petition (FAP 4A4422) had been filed by A. E. Staley Manufacturing Co., c/o P.O. Box 151, Decatur, IL 62525. The petition proposed to amend the food additive regulations in § 172.841 *Polydextrose* (21 CFR 172.841) to provide for the safe use of polydextrose produced using phosphoric acid in place of citric acid.

The petition provided data that demonstrated that polydextrose manufactured using phosphoric acid in place of citric acid is equivalent to polydextrose produced in accordance with § 172.841. FDA further determined that the very low levels of residual phosphate in polydextrose produced using phosphoric acid are both chemically and toxicologically insignificant (Ref. 1). Therefore, based on its evaluation of the data in the petition and other relevant material, FDA concludes that the proposed food additive use is safe, and that the regulation should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before November 24, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from M. J. DiNovi, Chemistry Review Branch, CFSAN, to R. M. Angeles, Novel Ingredients Branch, CFSAN, October 7, 1994.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 379e).

2. Section 172.841 is amended by revising paragraph (a)(1) to read as follows:

§ 172.841 Polydextrose.

* * * * *

(a)(1) Polydextrose (CAS Reg. No. 68424–04–4) is a partially metabolizable water-soluble polymer prepared by the condensation of a melt which consists either of approximately 89 percent D-glucose, 10 percent sorbitol, and 1 percent citric acid or of approximately 90 percent D-glucose, 10 percent sorbitol, and 0.1 percent phosphoric acid, on a weight basis.

* * * * *

Dated: October 17, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–26358 Filed 10–23–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 177

[Docket No. 91F–0371]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ultra-filtration membranes that consist of a microporous poly(vinylidene fluoride) membrane with a hydrophilic surface modifier consisting of hydroxypropyl acrylate/tetraethylene glycol diacrylate copolymer for processing foods. This action is in response to a petition filed by Keller and Heckman.

DATES: Effective October 24, 1995; written objections and requests for a hearing by November 24, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 15, 1991 (56 FR 51719), FDA announced that a food additive petition (FAP 1B4287) had been filed by Keller and Heckman, 1001 G St. NW., suite 500 West (formerly, 1150 17th St. NW.), Washington, DC 20001. The petition proposed that the food additive regulations be amended in § 177.2910 *Ultra-filtration membranes* (21 CFR 177.2910) to provide for the safe use of ultra-filtration membranes that consist of a microporous poly(vinylidene fluoride) membrane with a hydrophilic surface modifier consisting of hydroxypropyl acrylate/tetraethylene glycol diacrylate copolymer for processing foods.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the food additive is safe and that § 177.2910 should be amended as set forth below.

Information in the petition indicates that one of the components of the surface modifier for the ultra-filtration membrane, tetraethylene glycol diacrylate (TEGDA), may be a weak rodent carcinogen when applied to the skin (Ref. 1). FDA evaluated this study and has concluded that the evidence that TEGDA may be a weak dermal carcinogen in rodents does not preclude a conclusion that the petitioned use of the food additive is safe.

First, in the dermal rodent study, there was evidence of systemic exposure to the test compound and an assessment of TEGDA's ability to induce tumors at sites distant from the dermal application. The study reported that an examination of several sentinel tissues, including heart, lung, spleen, kidney, bladder, thyroid, adrenal, testes, prostate, and stomach provided no evidence that TEGDA causes tumors systemically. Second, dermal carcinogenicity is not highly predictive of carcinogenicity by other routes of exposure (Ref. 2). These observations support the agency's view that there is no evidence that suggests that TEGDA is likely to be a carcinogen when orally ingested, which is the route of exposure most directly relevant to the safety assessment of food additives.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before November 24, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Barkley, W., and L. Klaus Stemman, ''Chronic Mouse Dermal Toxicity Study,'' revised May 1986, submitted to Keith A. Bearson by Department of Environmental Health, University of Cincinnati Medical Center, Cincinnati, OH, (unpublished), submitted in Food Additive Petition No. 1B4287, p. 430, 1991.

2. Tobin, Paul S. et al., ''An Evaluation of Skin Painting Studies as Determinants of Tumorigenesis Potential Following Skin Contact With Carcinogens,'' *Regulatory Toxicology and Pharmacology*, vol. 2, 22–37, 1982.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.2910 is amended by revising the introductory text, by adding new paragraph (a)(4), by redesignating paragraphs (e) and (f) as paragraphs (f) and (g), and by adding a new paragraph (e) to read as follows:

§ 177.2910 Ultra-filtration membranes.

Ultra-filtration membranes identified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section may be safely used in the processing of food, under the following prescribed conditions;

(a) * * *

(4) Ultrafiltration membranes that consist of a microporous poly(vinylidene fluoride) membrane with a hydrophilic surface modifier consisting of hydroxypropyl acrylate/tetraethylene glycol diacrylate copolymer.

* * * * *

(e) Ultrafiltration membranes identified in paragraph (a)(4) may be used to filter aqueous or acidic foods containing up to 13 percent of alcohol at temperatures not to exceed 21°C (70°F).

* * * * *

Dated: October 13, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–26268 Filed 10–23–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 178

[Docket No. 92F–0189]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,2′-methylenebis(4,6-di-*tert*-butylphenyl)2-ethylhexyl phosphite as an antioxidant and/or stabilizer in polypropylene articles intended for contact with food. This action is in response to a petition filed by Asahi Denka Kogyo K. K.

DATES: Effective October 24, 1995; written objections and requests for a hearing by November 24, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of May 20, 1992 (57 FR 21415), FDA announced that a food additive petition (FAP 2B4320) had been filed by Asahi Denka Kogyo K. K., c/o 775 S. 23d St., Arlington, VA 22202 (formerly 1002 Pennsylvania Ave. SE., Washington, DC 20003). The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 2,2′-methylenebis(4,6-di-*tert*-butylphenyl)2-ethylhexyl phosphite as an antioxidant and/or stabilizer in polypropylene articles intended for contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe and that the regulations in § 178.2010 should be amended as set forth below.

FDA's review of the subject petition indicates that the additive may contain trace amounts of formaldehyde as an impurity. The potential carcinogenicity of formaldehyde was reviewed by the Cancer Assessment Committee (the Committee) of FDA's Center for Food Safety and Applied Nutrition. The Committee noted that for many years formaldehyde has been known to be a carcinogen by the inhalation route, but it concluded that these inhalation studies are not appropriate for assessing the potential carcinogenicity of formaldehyde in food. The Committee's conclusion was based on the fact that the route of administration (inhalation) is not relevant to the safety of formaldehyde residues in food and the fact that tumors were observed only locally at the portal of entry (nasal turbinates). In addition, the agency has received literature reports of two drinking water studies on formaldehyde: (1) A preliminary report of a carcinogenicity study purported to be positive by Soffritti, et al. (1989), conducted in Bologna, Italy (Ref. 1); and (2) a negative study by Til et al. (1989), conducted in The Netherlands (Ref. 2). The Committee reviewed both studies and concluded, ''* * * that data concerning the Soffritti study reported were unreliable and could not be used in the assessment of the oral carcinogenicity of formaldehyde'' (Ref. 3). This conclusion is based on a lack of critical details in the study, questionable histopathologic conclusions, and the use of unusual nomenclature to describe the tumors. Based on the Committee's evaluation, the agency has determined that there is no basis to conclude that formaldehyde is a carcinogen when ingested.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before November 24, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Soffritti, M., Maltoni, F. Maffei, and R. Biagi, ''Formaldehyde: An Experimental Multipotential Carcinogen,'' *Toxicology and Industrial Health*, vol. 5, No. 5:699–730, 1989.

2. Til, H. P., R. A. Woutersen, V. J. Feron, V. H. M. Hollanders, H. E. Falke, and J. J. Clary, ''Two-Year Drinking Water Study of Formaldehyde in Rats,'' *Food Chemical Toxicology*, vol. 27, No. 2, pp. 77–87, 1989.

3. Memorandum of conference concerning ''formaldehyde;'' meeting of the Cancer Assessment Committee, FDA; April 24, 1991, and March 4, 1993.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry under the headings

''Substances'' and ''Limitations'' to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

(b) * * *

* * * * *

Substances	Limitations
* * *	* * * *
2,2′-Methylenebis(4,6-di-*tert*-butylphenyl)2-ethylhexyl phosphite (CAS Reg. No. 126050–54–2).	For use only at levels not to exceed 0.25 percent by weight of polypropylene complying with § 177.1520 of this chapter. The finished polymers may only be used in contact with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories I, II, IV–B, VI–B, VII–B, and VIII under conditions of use B through H described in Table 2, § 176.170(c) of this chapter, and with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories III, IV–A, V, VI–A, VI–C, VII–A, and IX under conditions of use C through G described in Table 2, § 176.170(c) of this chapter.
* * *	* * * *

Dated: October 13, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–26221 Filed 10–23–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 178

[Docket No. 91F–0423]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *N,N*-bis(2-hydroxyethyl)alkyl((C_{13}–C_{15})amine as an antistatic agent in the manufacture of olefin polymer articles intended to contact food. This action is in response to a petition filed by ICI Americas, Inc.

DATES: Effective October 24, 1995; written objections and requests for a hearing by November 24, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of November 29, 1991 (56 FR 61022), FDA announced that a food additive petition (FAP 2B4297) had been filed by ICI Americas, Inc., Concord Pike and Murphy Rd., Wilmington, DE 19897. The petition proposed that the food additive regulations be amended in § 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 178.3130) to provide for the safe use of *N,N*-bis(2-hydroxyethyl)alkyl(C_{13}–C_{15})amine as an antistatic agent in the manufacture of olefin polymer articles intended to contact food.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of unreacted 1,4-dioxane and ethylene oxide, which are carcinogenic impurities resulting from the manufacture of the additive. Residual amounts of reactants and manufacturing aids, such as 1,4-dioxane and ethylene oxide, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A), the so-called ''general safety clause'' of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use.''

The anticancer or Delaney clause (section 409(c)(3)(A) (the act) further provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to the impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive (*Scott* v. *FDA*, 728 F. 2d 322 (6th Cir. 1984)).

II. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, *N,N*-bis(2-hydroxyethyl)alkyl(C_{13}–C_{15})amine, will result in exposure to the additive of no greater than 0.26 part per million (ppm) in the daily diet (Ref. 1).

FDA does not ordinarily consider chronic toxicological testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data from subchronic rat and dog toxicity studies on the additive. No adverse effects were reported in these studies.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive, 1,4-dioxane and ethylene oxide. This risk evaluation of 1,4-dioxane and ethylene oxide has two aspects: (1) Assessment of the worst-case exposure to the impurities from the proposed use of the additive; and (2) extrapolation of

the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. 1,4–Dioxane

FDA has estimated the hypothetical worst-case exposure to 1,4-dioxane from the petitioned use of the additive in the manufacture of olefin polymer food-contact articles to be 3 parts per billion (ppb) of the daily diet or 9 micrograms per person per day (ug/person/day) (Ref. 1). The agency used data from a carcinogenesis bioassay on 1,4-dioxane conducted by the National Cancer Institute (Ref. 3) to estimate the upper-bound lifetime human risk from exposure to this chemical stemming from the proposed use of the additive (Ref. 3). The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas and hepatocellular tumors in female rats.

Based on the estimated worst-case exposure of 9 ug/ person/day, FDA estimates that the upper-bound limit of individual lifetime risk from the use of the subject additive is 3.15×10^{-7}, or 3.15 in 10 million (Ref. 4). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime averaged individual exposure to 1,4-dioxane is expected to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm from exposure to 1,4-dioxane would result from the proposed use of the additive.

B. Ethylene Oxide

FDA estimated that the hypothetical worst-case exposure to ethylene oxide from the petitioned use of the additive in the manufacture of olefin polymer food-contact articles is 0.03 ppb of the daily diet or 90 nanograms (ng)/person/day (Ref. 1). The agency used data from a carcinogenesis bioassay on ethylene oxide conducted for the Institute of Hygiene, University of Mainz, Germany, to estimate the upper-bound level of lifetime human risk from exposure to ethylene oxide stemming from the proposed use of the additive (Ref. 5). The results of the bioassay on ethylene oxide demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas of the forestomach and carcinomas in situ of the glandular stomach.

Based on a potential exposure of 90 ng/person/day, FDA estimates that the upper-bound limit of individual lifetime risk from the potential exposure to ethylene oxide from the use of the subject additive is 1.68×10^{-7}, or 1.68 in 10 millon (Ref. 4). Because of the numerous conservative assumptions used in calculating the exposure estimate, actual lifetime-averaged individual exposure to ethylene oxide is likely to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is reasonable certainty that no harm from the exposure to ethylene oxide would result from the proposed use of the additive.

C. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of 1,4-dioxane and ethylene oxide as impurities in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low level at which 1,4-dioxane and ethylene oxide may be expected to remain as impurities following production of the additive, the agency would not expect these impurities to become components of food at other than extremely small levels; and (2) the upper-bound limits of lifetime risk from exposure to these impurities, even under worst-case assumptions, are very low, less than 3.15 in 10 million for 1,4-dioxane and less than 1.68 in 10 million for ethylene oxide, respectively.

III. Conclusion

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of the additive in olefin polymer food-contact articles is safe. Based on this information, the agency has also concluded that the additive will have the intended technical effect. Therefore, § 178.3130 should be amended as set forth below.

In accordance with § 171.1(h), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

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

V. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum dated August 30, 1993, from the Chemistry Review Branch (HFS–247), to the Indirect Additives Branch (HFS–216) concerning FAP 2B4297, ICI Americas, Inc., exposure to the food additive and its components (1,4-dioxane and ethylene oxide).

2. Kokoski, C. J., ''Regulatory Food Additive Toxicology,'' in Chemical Safety Regulation and Compliance, edited by F. Homburger and J. K. Marquis, S. Karger, New York, NY, pp. 24–33, 1985.

3. ''Bioassay of 1,4–Dioxane for Possible Carcinogenicity,'' National Cancer Institute, NCI–CG–TR–80, 1978.

4. Memorandum, ''Report of the Quantitative Risk Assessment Committee,'' October 7, 1993.

5. Dunkelberg, H., ''Carcinogenicity of Ethylene Oxide and 1,2–Propylene Oxide Upon Intragastric Administration to Rats,'' *British Journal of Cancer*, 46: 924, 1982.

VI. Objections

Any person who will be adversely affected by this regulation may at any time on or before November 24, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a

waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additive, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.3130 is amended in the table in paragraph (b) by alphabetically adding a new entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * *
N,N–Bis(2-hydroxyethyl)alkyl(C_{13}–C_{15})amine (CAS Reg. No. 70955–14–5)..	For use only as an antistatic agent at levels not to exceed 0.2 percent by weight in molded or extruded high-density polyethylene (having a density ≥ 0.95 g/cm^3) and polypropylene containers that contact food only of the types identified in § 176.170(c) of this chapter, Table 1, under types I, VI-B, VII-B, and VIII, under the conditions of use E through G described in Table 2 of § 176.170(c) of this chapter, provided such foods have a pH above 5.0.
* * *	* * * *

Dated: October 10, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–26359 Filed 10–23–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–94–057]

Drawbridge Operation Regulations; Plum Island River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating rules governing the Plum Island Bridge at mile 3.3, over the Plum Island River between Newburyport and Plum Island, Massachusetts, by requiring advance notice for openings at all times. This action is being taken because there have been increasingly fewer requests for bridge openings in recent years. This will relieve the bridge owner of the unnecessary burden of having personnel at the bridge at all times.

EFFECTIVE DATE: November 24, 1995.

ADDRESSES: Documents referred to in this preamble are available for copying and inspection at the First Coast Guard District, Bridge Branch office located in the Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110–3350, room 628, between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Manager, Bridge Branch, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this final rule are Mr. John W. McDonald, Project Officer, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Regulatory History

On December 12, 1994, the Coast Guard published a notice of proposed rulemaking entitled ''Drawbridge Operation Regulations; Plum Island River, Massachusetts'' in the Federal Register (59 FR 63943). The Coast Guard received no letters commenting on the notice of proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Plum Island Bridge over the Plum Island River between Newburyport and Plum Island, Massachusetts has a vertical clearance of 13′ above mean high water (MHW) and 21′ above mean low water (MLW). This final rule will permit the bridge to open on signal April 1 to November 30, 5 a.m. to 9 p.m., if at least one hour advance notice is given. At all other times the draw will open on signal if at least three hours advance notice is given.

There has been a decrease in requests for bridge openings during the last several years at the Plum Island Bridge. As a result of this decreasing demand for bridge openings, the Massachusetts Highway Department asked the Coast Guard to change the operating rules to allow the bridge to operate on advance notice at all times.

Discussion of Comments and Changes

The Coast Guard received no comments on the notice of proposed rulemaking. Therefore, no changes to the proposed rule were made.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulation will not prevent mariners

from passing through the Plum Island Bridge, but will only require mariners to plan their transits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.615 is revised to read as follows:

§ 117.615 Plum Island River.

The draw of the Plum Island Turnpike Bridge, mile 3.3 between Newburyport and Plum Island, shall operate as follows:

(a) From April 1 through November 30, 5 a.m. to 9 p.m., the draw shall open on signal if at least one hour advance notice is given by calling the number posted at the bridge. At all other times the draw shall open on signal if at least three hours advance notice is given.

(b) The owners of this bridge shall provide and keep in good legible condition, clearance gauges for each draw with figures not less than twelve (12) inches high, designed, installed and maintained according to the provisions of § 118.160 of this chapter.

Dated: July 6, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 95–26259 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD01–94–087]

RIN 2115–AE47

Drawbridge Operation Regulations; Neponset River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating rules governing the Granite Avenue Bridge at mile 2.5, over the Neponset River between Boston and Milton, Massachusetts, by authorizing the bridge to open on signal May 1 through October 31; 6 a.m. to 12 midnight and to open on signal at all other times provided at least one hour advance notice is given by calling the number posted at the bridge. This final rule will relieve the bridge owner of the unnecessary burden of having personnel at the bridge at all times during the above period and should still provide for the reasonable needs of navigation.

EFFECTIVE DATE: November 24, 1995.

ADDRESSES: Documents referred to in this preamble are available for copying and inspection at the First Coast Guard District, Bridge Branch office located in the Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110–3350, room 628, between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Manager, Bridge Branch, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this final rule are Mr. John W. McDonald, Project Officer, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Regulatory History

On December 12, 1994, the Coast Guard published a notice of proposed rulemaking entitled ''Drawbridge Operation Regulations; Neponset River, Massachusetts'' in the Federal Register (59 FR 63945). The Coast Guard received one letter commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Granite Avenue Bridge over the Neponset River between Boston and Milton, Massachusetts has a vertical clearance of 6′ above mean high water (MHW) and 16′ above mean low water (MLW). Vessels from the Milton Yacht Club are the primary users of the Granite Avenue Bridge. The yacht club is located upstream of the bridge. The yacht club docks are removed from the waterway in December of each year and there are no other waterway users that would require openings during the winter months. Because of this lack of facility, the bridge owner, the Massachusetts Highway Department (MHD), will have drawtenders on one hour recall to respond to requests for openings at all times from November 1 to April 30 and between the hours of midnight and 6 a.m. daily from May 1 through October 31.

Discussion of Comments and Changes

The Coast Guard received one comment letter on the notice of proposed rulemaking. The Neponset Valley Yacht Club requested that the draw open on signal twenty four hours a day from 1 April through 31 October.

The bridge logs for 1994 indicate that from 1 May through 31 October between 12 a.m. and 6 a.m. there were no requests in May, one request in June, two requests in July, three requests in August, two requests in September and three requests in October.

The total requests for openings between 12 a.m. and 6 a.m. have been so few that the Coast Guard believes that the proposal to require a one hour advance notice during these hours is reasonable. Therefore, no changes to the proposed rule are being made.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not

require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that this rule will not prevent mariners from passing through the Granite Avenue Bridge, but will only require mariners to plan their transits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.611 is revised to read as follows:

§ 117.611 Neponset River.

The Granite Avenue Bridge, mile 2.5, between Boston and Milton, Massachusetts, shall operate as follows:

(a) The draw of the Granite Avenue Bridge shall open on signal from May 1 through October 31; 6 a.m. to 12 midnight. At all other times the draw shall open on signal if at least one hour advance notice is given by calling the number posted at the bridge.

(b) The owners of this bridge shall provide and keep in good legible condition, clearance gauges for each draw with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

Dated: July 21, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 95–26260 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD13–94–039]

Drawbridge Operation Regulations; Lake Washington, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations governing the operation of the Evergreen Point, State Route 520, floating drawbridge across Lake Washington at Seattle, Washington. This action modifies five different aspects of the existing regulations for the bridge including the notice period for requesting an opening; the length of weekday closed periods; the exemptions from weekday closed periods for federal holidays and vessels greater than 2000 gross tons; and the requirement that non-self-propelled vessels be towed through the draw. Through this action, the Coast Guard seeks to alleviate commuter traffic congestion on the bridge while continuing to meet the reasonable needs of navigation on Lake Washington.

EFFECTIVE DATE: November 24, 1995.

ADDRESSES: Unless otherwise noted, documents referred to in this preamble are available for inspection and copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220–7270).

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are Austin Pratt, Project Officer, Aids to Navigation Branch, Thirteenth Coast Guard District, and Lieutenant Commander John C. Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

Regulatory History

On June 6, 1995, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulation; Lake Washington, Seattle, WA, in the Federal Register (60 FR 29804). Only one comment was received and that comment favored the proposed rulemaking.

Background and Purpose

At the request of the Washington State Department of Transportation (WDOT), the Coast Guard is amending the drawbridge operation regulations for the Evergreen Point, State Route 520, floating drawbridge across Lake Washington at Seattle, Washington. The chief purpose of this action is to alleviate commuter traffic congestion on the bridge while continuing to meet the reasonable needs of navigation.

In recent years vehicular traffic volumes have increased dramatically while requests for openings of the drawspan have declined. State Route 520 is a major four-lane commuter arterial in the Seattle area and is heavily traveled during daily commuting hours. Any opening of the drawspan during commuting hours causes severe traffic congestion and back-ups.

Most of the vessels on Lake Washington are able to pass under the bridge at its two fixed transition spans at either end of the floating segment. With the exception of a few tall-masted sailing vessels, floating construction equipment is the chief user of the

drawspan. The predominant navigational use of Lake Washington is recreational.

In recent years, the drawspan has been under extensive repair and refurbishment. This work has required temporary changes to bridge operations. Since September 21, 1992, temporary regulations allowed WDOT to keep the drawspan closed except from 11 p.m. to 2 a.m. during the week and from 11 p.m. to 5 a.m. on weekends. From April 1 to October 1, 1994, the Coast Guard authorized WDOT to keep the drawspan closed at all times during the final phase of the repair project. Despite the highly restrictive nature of these temporary regulations, no objections were received from entities representing commercial or recreational navigation on Lake Washington.

In order to alleviate roadway traffic congestion while continuing to meet the reasonable needs of navigation, this action modifies five different aspects of the existing regulations:

First, the rule increases the notice period for requesting openings from one hour to two hours. The bridge does not currently have continuous attendance by drawtenders, and in recent years, drawtenders have had difficulty getting to the bridge in time to make requested openings. This difficulty is the result of increased roadway traffic in the Seattle metropolitan area. The increase in the notice period will give drawtenders sufficient time to arrive at the bridge for openings. This rule change will not seriously inconvenience navigation because vessel transits of the drawspan are infrequent and can be planned in advance by vessel operators.

Second, the rule increases the period during which the drawspan may remain closed on weekdays. The existing drawbridge operation regulations at 33 CFR 117.1049(c) allow the bridge to remain closed from 6 a.m. to 10 a.m. and from 2 p.m. to 7 p.m. Monday through Friday. The amendment establishes a single, yet substantially increased, closed period from 5 a.m. to 9 p.m. Monday through Friday. The increase in the length of the weekday closed period is necessary to prevent the interruption of commuter traffic on the bridge. A bridge opening during peak traffic hours can produce traffic gridlock on the bridge and its approaches, and openings during the workday must be avoided. The small number of openings requested in recent years and the nature of vessel traffic on Lake Washington indicates that the impact on commercial and recreational navigation from the increased closed period will be minimal.

Third, the rule removes Columbus Day from the Federal holiday exemption to normal weekday closed periods. Under the existing federal holiday exemption contained in 33 CFR 117.1049(c), the normal weekday closed periods do not apply on designated federal holidays. Unlike other federal holidays, Columbus Day enjoys no significant reduction in roadway traffic in the Seattle metropolitan area. This difference is due to the fact that most employers in the area do not observe Columbus Day. For this reason, commuter traffic volumes remain substantial on Columbus Day. Removal of Columbus Day from the federal holiday exemption will prevent the serious traffic congestion that is caused by opening the drawspan during heavy commuter hours.

Fourth, the rule removes the provision of 33 CFR 117.1049(c) that requires the drawspan to open during weekday closed periods in order to accommodate piledrivers and vessels greater than 2000 gross tons. In recent years the use of Lake Washington by vessels of this type and size has declined dramatically. Moreover, waters of Lake Washington in the area of the bridge do not form a restricted waterway, and the need for immediate openings for these larger and less maneuverable vessels is therefore less critical. Finally, the passage of such vessels can be planned in such a way as to avoid their arrival at the bridge during the weekday closed periods.

Fifth, the rule removes the provision of 33 CFR 117.1049(d) requiring non-self-propelled vessels to be towed through the drawspan. The original purpose of this requirement was to avoid delays to roadway traffic caused by openings requested by vessels powered only by sail. The increase in the length of the weekday closed periods will reduce the significance of such an event, and the possibility of such an event no longer needs to be specifically accounted for in the bridge operation regulations.

Discussion of Comments and Changes

The Coast Guard received only one comment in response to the notice of proposed rulemaking. This response from a major marine towing company in Seattle approved of these proposed changes to the operation regulation.

Regulatory Evaluation

This rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this action to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that most commercial navigation on Lake Washington can transit the bridge at its two fixed transition spans at either end of the floating segment. Moreover, commercial vessels can plan their transits so that they do not arrive at the bridge during weekday closed periods. Finally, transits of the drawspan by commercial vessels have become increasingly infrequent in recent years.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under 5 U.S.C. 605 (b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this action will not have a significant impact on a substantial number of small entities.

Collection of Information

This action contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this action and concluded that under section 2.B.2. of COMDTINST M16475.1B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection and copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.1049 is amended by revising paragraphs (a) and (c) and deleting paragraph (d) to read as follows:

§ 117.1049 Lake Washington.

* * * * *

(a) The draw shall open on signal if at least two hours notice is given.

* * * * *

(c) The draw need not be opened from 5 a.m. to 9 p.m. Monday through Friday, except for all Federal holidays other than Columbus Day.

Dated: October 12, 1995.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 95–26262 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP St. Louis 95–012]

RIN 2115–AA97

Safety Zone; Mississippi River, Mile 840.0 to Mile 615.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Upper Mississippi River between mile 840.0 and 615.0. This regulation is required for the prevention of groundings and preservation of the navigable channel. This regulation will restrict general navigation in the required area for the protection of life, property and environment along the river.

EFFECTIVE DATES: This regulation is effective on October 2, 1995 and will terminate on December 1, 1995, unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this regulation are LT R. E. McFarland, Supervisor, Marine Safety Detachment, St. Paul, Minnesota and LT S. M. Moody, Project Attorney, Second Coast Guard District Legal Office, St. Louis, Missouri.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, receding river levels and unstable channel conditions exist all along this reach of the Upper Mississippi River, leaving insufficient time to publish a notice of proposed rulemaking. As a result, the Coast Guard deems it to be in the public's best interest to issue a rule without waiting for comment period or delayed effective date because of immediate need to limit barge drafts.

Background and Purpose

The Upper Mississippi River historically experiences reduced water levels and unstable channel conditions during the Autumn and early Winter months. Unfortunately, this also coincides with the harvest season and a period of peak commercial shipping activity upon the river. Channel conditions from Saint Paul, MN., mile 840.0, to mile 615.0 are unstable. This rule is required to impose vessel draft limits to prevent groundings, maintain optimal channel conditions and preserve the environment within the regulated area.

Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz). Mariners may also call Marine Safety Detachment, St. Paul, Minnesota, at (612) 290–3991 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

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

2. A temporary section 165.T02–049 is added, to read as follows:

§ 165.T02–049 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 840.0 and 615.0 is established as a safety zone.

(b) *Effective Dates.* This section is effective on October 2, 1995 and will terminate on December 1, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part, which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety

Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: October 2, 1995.

J.M. Holmes,

Commander, USCG, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95–26257 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AG98

Veterans Education: Increase in Rates Payable in the Educational Assistance Test Program

AGENCY: Department of Defense and Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: This documents corrects a typographical error in a final rule published in the Federal Register on Thursday, September 7, 1995 (60 FR 46533), concerning payments of subsistence allowance and educational assistance under the Educational Assistance Test Program. This action is necessary to accurately reflect the educational assistance rate amount provided by the Department of Defense to the Department of Veterans Affairs.

EFFECTIVE DATE: September 7, 1995.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

Accordingly, the publication on September 7, 1995 of the final rule, which was the subject of FR Doc. 95–22004, is corrected as follows:

§ 21.5820 [Correction]

On page 46534, in the first column, in § 21.5820, paragraph (b)(2)(ii)(B), the dollar amount of ''$115.94'' is corrected to read ''$3.86''.

Dated: October 3, 1995.

Thomas O. Gessel,

Director, Office of Regulations Management, Office of General Counsel, Department of Veterans Affairs.

Dated: October 10, 1995.

Wayne S. Sellman,

Director, Accession Policy, Office of Under Secretary of Defense (Personnel and Readiness), Department of Defense.

[FR Doc. 95–26244 Filed 10–23–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK 6–1–6587a; FRL–5293–5]

Approval and Promulgation of Air Quality Implementation Plans; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA approves a State Implementation Plan (SIP) revision submitted by the State of Alaska implementing an oxygenated gasoline program in the Municipality of Anchorage. This SIP revision was submitted to satisfy the requirement of section 211(m) of the Clean Air Act, as amended (the ''Act''), which requires all carbon monoxide (CO) nonattainment areas with a design value of 9.5 parts per million (ppm) or greater based generally on 1988 and 1989 air quality monitoring data to implement an oxygenated gasoline program.

In the proposed rules section of this Federal Register, EPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this direct final rule, EPA will withdraw this direct final rule and address the comments received in a subsequent final rule on the related proposed rule. No additional opportunity for public comment will be provided. Unless this direct final rule is withdrawn, EPA will conduct no further rulemaking on this requested SIP revision.

DATES: This action is effective on December 26, 1995 unless adverse or critical comments are received by November 24, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, Office of Air (AT–082), EPA, Docket #AK 6–1–6587, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents that are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby, Suite 105, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Office of Air (AT–082), EPA, Seattle, Washington 98101, (206) 553–0180.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of CO emissions. An important measure for reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting, which are more prevalent in the winter.

Section 211(m) of the Act requires certain States to submit revisions to their SIPs and implement oxygenated gasoline programs by no later than November 1, 1992. This requirement applies to States with CO nonattainment areas with design values of 9.5 ppm or more based generally on 1988 and 1989 data. Each State's oxygenated gasoline program must require gasoline for the specified control area to contain not less than 2.7 percent oxygen by weight during that portion of the year in which the areas are prone to high ambient concentrations of CO. Under section 211(m)(2), the oxygenated gasoline requirements are to cover generally all gasoline sold or dispensed in the larger of the Consolidated Metropolitan Statistical Area (CMSA) or the Metropolitan Statistical Area (MSA) in which the nonattainment area is located. Under section 211(m)(2), the length of the control period, to be established by the EPA Administrator, shall not be less than four months unless a State can demonstrate that, because of meteorological conditions, a reduced control period will assure that there will be no carbon monoxide exceedances outside of such reduced period. EPA announced guidance on the establishment of control periods by area in the Federal Register on October 20, 1992 (57 FR 47769).

In addition to the guidance on establishment of control period by area, EPA has issued additional guidance related to the oxygenated gasoline program. On October 20, 1992 (57 FR 47769) EPA announced the availability of oxygenated gasoline credit program guidelines in the Federal Register. Under a credit program, marketable oxygen credits may be generated from the sale of gasoline with a higher oxygen content than is required (i.e. an oxygen content greater than 2.7 percent by weight). These oxygen credits may be used to offset the sale of gasoline with a lower oxygen content than is required. Where a credit program has been

adopted, EPA's guidelines provide that no gallon of gasoline should contain less than 2.0 percent oxygen by weight.

II. Background for This Action

Under section 211(m) of the Act, Alaska was required to submit a revised SIP under section 110 and part D of title I, which includes an oxygenated gasoline program for the Municipality of Anchorage. EPA reaffirmed the boundaries of the Municipality of Anchorage on November 6, 1991 (56 FR 56694); the oxygenated gasoline requirements cover generally all gasoline sold or dispensed in the MSA boundary. The oxygenated gasoline program was implemented as scheduled on November 1, 1992. However, within a short period of time, the State received health and driveability complaints from the general public regarding the use of Methyl Tertiary Butyl Ether (MTBE) blended gasoline, and the Governor of Alaska made a decision to temporarily suspend the oxygenated fuels program while the State investigated the complaints. The U.S. Congress approved a one-year exemption for Alaska from the oxygenated fuel requirements as a rider to the 1994 Federal funding appropriations bill. During this suspension, a series of studies began which included health, driveability, and effectiveness at cold temperatures using oxygenated gasoline in climate fluctuations such as the Municipalities of Anchorage and Fairbanks experience. Also, Alaska reviewed other options to demonstrate attainment of the CO National Ambient Air Quality Standards (NAAQS) if oxygenated gasoline continued to be suspended.

As a result, Anchorage chose to implement an oxygenated fuel program using an ethanol blend, consisting of 10 percent ethanol blend with an oxygen content of 3.5 percent. It was fully implemented on January 1, 1995 and continued through March 31, 1995. This initial control period for Anchorage using an enthanol blend was successful with the general public and for air quality—there were no exceedances of the CO NAAQS. In subsequent years, the program will operate from November 1 through March 31.

The Oxygenated Gasoline Requirements (18 AAC 53.005–18 AAC 53.190) were submitted to EPA on March 24, 1994, as a revision to the Alaska SIP, with its amendments adopted through March 19, 1994 by the Alaska Department of Envirnomental Conservation.

EPA summarizes its analysis of the State submittal below:

Type of Program and Oxygen Content Requirement

As discussed above, section 211(m)(2) of the Act requires that gasoline sold or dispensed for use in the specified control areas contain not less than 2.7 percent oxygen by weight. Under section 211(m)(5), the EPA Administrator issued guidelines for credit programs allowing the use of marketable oxygen credits. Alaska has elected to require control area responsible parties (CARs) to supply an average of at least 2.7 percent oxygen for each control area serviced. A CAR is defined as a person who owns oxygenated gasoline that is sold or dispensed from a control area terminal. A blender CAR is, in general, a party downstream from a terminal who blends oxygenates into gasoline or who otherwise changes the oxygen content of the gasoline intended for use in a control area.

To achieve an average of 2.7 percent oxygen, a blender will be allowed to supply oxygenated gasoline with a minimum of 2.0 percent oxygen and a maximum of 3.7 percent. Each gallon of fuel pumped by the retailer must be, at minimum, 2.0 percent oxygen by weight. Trading of oxygen credits is allowed. The following sections of this notice address some specific elements of the State's submittal.

Applicability and Program Scope

The State regulations provide that the Alaska Department of Environmental Conservation (ADEC) will issue a public notice establishing a control period applicable to the Municipality of Anchorage. Not less than 75 days before the control period begins, ADEC will publish the notice in a newspaper serving Anchorage and will send the notice to each CAR and blender CAR registered with ADEC since the former control period of November 1, 1992. ADEC established its control period in accordance with its oxygenated gasoline requirements (18 AAC 53.010) for the Municipality of Anchorage, and this first year's ethanol-blended fuel program for Anchorage began January 1, 1995 (allowing Alaskan refiners adequate initial setup time to get the program in place). In subsequent years, Alaska has established that the oxygenated gasoline program will operate from November 1 through March 1. This control period is consistent with EPA guidance.

EPA guidance suggests that all gasoline sold or dispensed for use within a given control area and during a given control period should comply with the average of 2.7 percent oxygen content requirement and should contain not less than 2.0 percent oxygen by weight. Marketable oxygen credits should be used or traded only within the boundaries of the control area in which they were created and only during the applicable control period.

Alaska's oxygenated gasoline program has both an ''averaging period'' compliance scheme and a ''per-gallon'' compliance scheme. When registering, each blender must choose whether to comply on an average basis or on a per gallon basis. Under the averaging period scheme, all gasoline sold or dispensed within the control area during a given averaging period must be, on average, at least 2.7 percent by weight. In addition, any gasoline sold or dispensed to an ultimate consumer within the control area and averaging period must contain at least 2.0 percent oxygen by weight. The averaging period in Alaska's program will be typically November 1 through March 1. The blender may also choose to comply on a per-gallon basis. Under the per-gallon compliance scheme, each gallon of gasoline offered for use in a control area must contain at least 2.7 percent oxygen by weight. These requirements are consistent with EPA guidance.

Registration and Reporting Requirements

EPA's credit program guidelines suggest that all parties intending to trade marketable oxygen credits should register with the State at least 30 days in advance of each control season. The 30 day time period is intended to allow the State flexibility. Upon acceptance, the State should issue CAR identification numbers. EPA guidelines indicate that no party should be allowed to generate, trade, buy or sell credits without a CAR identification number.

Under Alaska's regulations, at least 30 days before the beginning of the control period in which a person meets the definition of CAR or blender CAR, or at least 30 days before conducting activities as a CAR or blender CAR, that person shall petition for registration as a CAR or blender CAR. Registration requests must be on forms approved by and available from ADEC. ADEC will issue each blender a permit containing a unique identification number within 30 days after submission of a registration application.

CARs and blender CARs shall pay a registration fee of $100 at the time of application to compensate for the costs of implementing the requirements of the oxygenated gasoline program. CAR or blender CARs shall also pay a preliminary annual fee at the time of registration, which is based on the

volume of gallons of oxygenated gasoline that CAR or blender CAR blended for use within each control area during the preceding averaging period. On or before May 1, CAR or blender CARs shall pay a final annual fee that is based on the volume of gallons of oxygenated gasoline blended for use within each control area during the preceding averaging period, minus the preliminary annual fee. If the preliminary annual fee is greater than the determined final annual fee amount due, no additional fee is due and ADEC will refund the excess fees paid by June 15.

EPA has also specified that records should be retained by all parties in the gasoline distribution system. EPA's guidelines impose responsibilities on various parties in the gasoline industry. Persons who produce or import gasoline (refiners and importers) are responsible for assuring that the gasoline is tested and that the accompanying documentation accurately reflects oxygen content. Persons who transport, store, or sell gasoline (refiners, importers, blenders, distributors, resellers, retailers, wholesale purchaser-consumers) have various responsibilities associated with assuring that only oxygenated gasoline is sold or dispensed for use in control areas. Terminal owners and operators are responsible for assuring that the oxygen content of the gasoline they receive, handle, or dispense is accurate. Retailers and wholesale purchaser consumers are responsible for assuring that gasoline intended for sale during the control period contains at least 2.0 percent oxygen by weight.

Under Alaska's regulations, at the end of the control period, CARs and blender CARs must have an audit conducted by an independent certified public accountant that consists of a review of the supporting documentation used to prepare reports required under the oxygenated program, for accuracy, completeness, and conformance with the requirements of the program. In addition, CARs and blender CARs must submit a report no later than 30 days after the last day of each averaging period that shows compliance with the requirements of the oxygenated gasoline program. Also, interim reports are due for November, December and January of each averaging period, no later than 30 days after the last day of each month. Reports must be filed on forms approved by ADEC. Alaska's rule allows a reporting time frame of 30 days rather than EPA's suggested 15 days. EPA feels that providing businesses extra reporting time will not compromise environmental benefits.

EPA guidelines suggest that all parties in the gasoline distribution network who are located or do business within a control area, and whose product is eventually sold into the control area for ultimate use, should be required to keep records concerning certain day-to-day activities. Under these guidelines, refiners and importers should be required to keep a copy of all the tests that are performed on batches of gasoline prior to shipment, as well as copies of the bills of lading or transfer documents for each batch. Terminal owners and operators and CARS and blender CARS should be required to keep records of both the gasoline they receive from upstream parties, as well as copies of all the tests performed and records created before the gasoline was transferred to a downstream party. Alaska's program is consistent with these suggested provisions.

EPA guidelines recommend that CARs and blender CARs commission an annual attest engagement, performed by either an internal auditor or independent Certified Public Accountant (CPA). The guidelines encourage the State to provide the internal auditor or CPA with standardized forms specifying the methodology to be used for attest engagements. Alaska's program requires that CARs or blender CARs submit to an attest engagement conducted by an independent CPA, within 120 days after the end of an averaging period. Therefore, Alaska's program meets EPA's recommendations for attest engagements.

Blenders may use attest engagements as a defense to liability. If EPA notes that the State's program suffers from compliance problems related to lack of attest engagements, EPA may require the use of attest engagements as a corrective action.

Prohibited Activities

EPA's credit program guidelines contain provisions designed to ensure that gasoline failing to meet the 2.0 percent by weight minimum oxygen content requirement is not available for use within a control area. Alaska's regulations provide that CARs or blender CARs may not transfer gasoline for use in a control area that contains less than the minimum percent of oxygen by weight to parties who are not themselves registered as CARs or blender CARs. Under EPA's credit program guidelines, regulated parties, including refiners, importers, oxygenate blenders, carriers, distributors, or resellers should comply with recordkeeping requirements. In addition, Alaska's regulations provide that a terminal that sells or dispenses gasoline intended for use in a control area should accept gasoline only if transfer documentation accompanies it, or unless the terminal is a blender registered in compliance with 18 AAC 53.070. Misrepresenting the oxygen content of the gasoline in accompanying documents is a violation. Transfer documents must accompany the gasoline in every link of the gasoline distribution network except for the final consumer. Non-oxygenated gasoline may not be sold in any control area during the control period.

Transfer Documents

EPA's credit program guidelines specify that transfer documents should include the following information: Date of the transfer; name and address of the transferor and transferee; the volume of the gasoline that is being transferred; the proper identification of the gasoline as oxygenated or nonoxygenated; the location of the gasoline at the time of the transfer; the type of oxygenate; and the oxygen content of the gasoline (for transfers upstream of the control area terminal and for transfers between CARs, including the oxygenate volume of the gasoline). Records are to be kept in a location where they are available for State review. Alaska's requirements related to transfer documentation meets EPA's recommendation. These transfer document requirements will enhance the enforcement of the oxygenated gasoline regulation by providing a paper trail for each gasoline sample taken by State enforcement personnel.

Enforcement and Penalty Schedules

The State oversight agency enforces the oxygenated gasoline regulations. Each State should devise a comprehensive penalty schedule. Penalties should reflect the severity of a party's violation, the compliance history of the party, and the potential environmental harm associated with the violation.

With the consent of the owner or operator, ADEC or its designee will, in its discretion, enter the premises of any business subject to the requirements of the oxygenated gasoline program to determine that business's compliance with the program by inspecting all relevant records and equipment and taking gasoline samples for testing.

Alaska Statutes, Title 46, Water, Air, Energy and Environmental Conservation, Sections 46.03.760 and 46.03.790, provide for both civil and criminal penalties for oxygenated fuel violations. Civil and criminal penalties include fines up to $10,000 per day for each violation.

Test Methods and Laboratory Review

EPA's sampling procedures are detailed in appendix D of 40 CFR part 80. EPA has recommended, in its credit program guidelines, that States adopt these sampling procedures. Alaska has adopted EPA sampling procedures.

For the purpose of determining compliance with the requirements of these guidelines, Alaska's regulation includes a test method. EPA's guidelines recommend the use of the OFID test, although parties may elect to use ASTM–D4815–89 or another method, if approved by EPA. Alaska has elected to use the test method specified in ASTM–D4815–89.

Labeling

EPA was required to issue Federal labeling regulations under section 211(m)(4) of the Act. These regulations, published in the Federal Register on October 20, 1992, require the following statement be posted for a per-gallon program or credit program with a minimum oxygen content requirement:

''The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles.'' 40 CFR 80.35(a)(1). The Federal regulation also specifies the appearance and placement requirements for the labels. 40 CFR 80.35(a).

EPA has strongly recommended that States adopt their own labeling regulations, consistent with the Federal regulation, and Alaska has done so. EPA therefore approves Alaska's labeling requirement.

EPA's review of the material indicates that the State has adopted an oxygenated gasoline program for the Municipality of Anchorage in accordance with the requirements of the Act. EPA approves the Alaska SIP revision for an oxygenated gasoline program for the Municipality of Anchorage, 18 AAC 53, Fuel Requirements for Motor Vehicles, Article 1 (Oxygenated Gasoline Requirements, 18 AAC 53.005—18 AAC 53.190) and Article 9 (General Provisions, 18 AAC 53.990), submitted March 24, 1994, including amendments to the Alaska regulations adopted through March 19, 1994.

Temporary Variance

Included as part of the State's oxygenated gasoline requirements at 18 AAC 53.150 is a provision for a temporary variance from the oxygenated gasoline requirements. Under this provision, a temporary variance may be granted after a public hearing only in narrowly defined, extreme and unusual circumstances where a refiner can show that for reasons beyond its control, it cannot comply with the oxygenated gasoline requirements for a defined period of time. A refiner must show that all of the conditions listed in the regulation are met, including that it exercised prudent planning to avoid noncompliance, and that all reasonable steps were taken to minimize the noncompliance. The provision also requires the refiner to show that compliance with the requirements for oxygenated gasoline will be achieved as soon as possible and to agree to offset all or a portion of the excess emissions associated with the use of nonconforming gasoline, where practicable. In addition, the applicant must state a proposed date by which compliance will be achieved or reestablished. The State will hold a public hearing to determine whether, and under what conditions and to what extent, a temporary variance is necessary and will be permitted. At least two weeks before the public hearing, the State will give written notice to the applicant and EPA, and will publish notice of the hearing in a newspaper of general circulation in the Anchorage control area.

EPA is approving this narrowly crafted provision to permit temporary variances by finding it consistent with previous EPA guidance to the states to address the situation where extraordinary circumstances do not allow a regulated party to comply with the oxygenated gasoline program under Section 211(m). On October 20, 1992 (57 FR 47769), EPA announced the availability of oxygenated gasoline credit program guidelines in the Federal Register. In that document, ''Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the CAA,'' EPA wrote that ''in appropriate extreme and unusual circumstances which are clearly outside the control of the refiner and which could not have been avoided by the exercise of prudence, diligence and due care, states should consider allowing a refiner, for a brief period, to distribute'' nonconforming fuel.

III. Conclusion

EPA, in this action, is approving this revision to the Alaska SIP for an oxygenated gasoline program.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or

establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 26, 1995 unless, by November 24, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 26, 1995.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: August 30, 1995.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(22) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(22) On March 24, 1994, ADEC submitted a revision to its SIP for the State of Alaska addressing the attainment and maintenance of the National Ambient Air Quality Standards for carbon monoxide in the Anchorage carbon monoxide nonattainment area.

(i) Incorporation by reference.

(A) March 24, 1994 letter from Alaska Governor Walter Hickel to EPA Regional Administrator Chuck Clarke including as a revision to the SIP the State of Alaska, Department of Environmental Conservation, 18 AAC 53, ''Fuel Requirements for Motor Vehicles,'' (Article 1, 18 AAC 53.005—18 AAC 53.190 and Article 9, 18 AAC 53.990) with amendments adopted through March 19, 1994.

* * * * *

[FR Doc. 95–26316 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WA41–1–7114a; FRL–5283–6]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves the Regulations of the Northwest Air Pollution Authority (NWAPA) for the control of air pollution in Island, Skagit, and Whatcom Counties, Washington, as revisions to the Washington State Implementation Plan (SIP). These Regulations were submitted by the Director of the Washington State Department of Ecology (WDOE) on February 14, 1995. In accordance with state law, NWAPA rules must be at least as stringent as the WDOE statewide rules.

DATES: This action is effective on December 26, 1995 unless adverse or critical comments are received by November 24, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air Programs Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air Programs Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and Washington Department of Ecology, P.O. Box 47600, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, Air Programs Branch (AT–082), EPA, Region 10, Seattle, Washington 98101, (206) 553–6917.

SUPPLEMENTARY INFORMATION:

I. Background

On February 14, 1995, the Director of WDOE submitted to EPA Region 10 revised and updated regulations for NWAPA affecting Island, Skagit, and Whatcom Counties. NWAPA and WDOE held a joint public hearing on October 13, 1994 to receive public comment on the revisions to NWAPA's rules and the submittal to EPA as a revision to the Washington SIP. These regulations became effective as a matter of state law on November 13, 1994.

These revisions to NWAPA's rules provide clarification and corrections to previously adopted NWAPA rules in order to reflect changes in the Washington Clean Air Act, Washington Administrative Codes (WAC), etc., and to raise fees that reflect the added costs of performing these duties. The amended rules cover such subjects as criminal and civil penalties, notice of construction procedures, registration classes, volatile organic compounds (VOC) controls, and others (please see Description of Plan Revisions, below).

II. Description of Plan Revisions

This rulemaking action approves, as part of the Washington SIP, certain portions of NWAPA's Regulations related to the control of criteria pollutants under section 110 of the Act. State law requires that the regulations of local air pollution control agencies be at least as stringent as state law (WAC–400–020(2)). In this rulemaking, EPA is approving the following sections:

104.1—Adoption of State Laws and Rules
132—Criminal Penalty
133—Civil Penalty
200—Definitions
300—Notice of Construction when Required
301—Information Required for Notice of Construction and Application for Approval, Public Notice, Public Hearing
302—Issuance of Approval or Order
322—Exemptions from Registration
324—Fees (except for section 324.121)
340—Report of Breakdown and Upset
451—Emission of Air Contaminant-Visual Standard
462—Emission of Sulfur Compounds
580—Volatile Organic Compound Control

The following discussion highlights elements of NWAPA's rules that EPA is approving: Section 104.1 allows NWAPA to position itself as the primary enforcement agency for the three counties under its jurisdiction by incorporating by reference the latest versions of the Washington State Clean Air Act and the Washington State Administrative Procedures Act, as well as other state rules. Sections 132 and 133—Criminal Penalty and Civil Penalty, respectively, were amended to be consistent with the enforcement requirements of the federal Title V air operating permit program (40 CFR 70.11(a)(3)). The criminal penalty language was reworded to clarify that the maximum fine for criminal violations is ten thousand dollars per day per violation, or by imprisonment in the county jail for not more than one year, or both. Civil penalties have been adjusted from $10,660 to $11,000 per day per violation. Definitions, section 200, were revised to make terms consistent with state and federal definitions, and definitions for concealment, existing stationary facility, fugitive dust, fugitive emissions, modification, new source, and others, were added to the NWAPA regulations. Section 300 was changed to clarify when an investigation fee is required. Slight typographical errors were corrected by the amendments to sections 301 and 340. New threshold levels below which no ''notice of construction'' is required are added by section 322. New emission units or activities with emissions below the following levels are exempt: 5 tons per year (tpy) of Carbon Monoxide, 2 tpy of nitrogen oxides, 2 tpy of sulfur oxides, 2 tpy of volatile organic compounds, .75 tpy of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}), 0.03 tpy of lead, and threshold levels for hazardous air pollutants as defined in WAC Chapter 173–401–531. Inspection fees have been raised in section 324 for fuel burning equipment, scrubbers, incinerators, and gasoline stations. Application fees for a ''bubble'' and ''emission reduction credit'' have also been raised. Part of section 451 was deleted as it was less stringent than state rules.

Both sections 462 and 580 were revised to be consistent with state rules. Emission of Sulfur Compounds, section 462, now measures sulfur dioxide/sulfur compound emissions for a sixty consecutive minute period. Section 580, Volatile Organic Compound Control, was modified to change the throughput threshold requirements for Stage I vapor control as well as to revise the definition of a gasoline station.

In its February 14, 1995 submission, NWAPA did not submit its rules regarding Solid Fuel Burning Device Standards (section 480); Outdoor Burning (section 501); Grass Seed Fields (section 504); Refuse Burning—Time Restriction (section 511); Odor Control Measures (section 535); Concealment and Masking (section 540); and Asbestos Control Standards (section 570) for inclusion in the SIP. Therefore, statewide rules for open burning and concealment and masking apply to NWAPA's jurisdiction.

III. Summary of EPA Action

In this action, EPA approves numerous additions to the NWAPA rules as revisions to the Washington SIP. Specifically, EPA approves the following sections: 104.1, 132, 133, 200, 300, 301, 302, 322, 324 (except for section 324.121), 340, 451, 462, and 580. EPA is taking no action on section 324.121 because it addresses fees for sources subject to the state's Title V air operating permit program and has been approved as part of that program. *See* 59 FR 55813 (November 9, 1994).

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 26, 1995 unless, by November 24, 1995 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 26, 1995.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: August 8, 1995.

Charles Findley,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(56) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(56) On February 14, 1995, the Director for the Washington State Department of Ecology (WDOE) submitted amended regulations for the Northwest Air Pollution Authority (NWAPA) as a revision to the Washington State Implementation Plan (SIP).

(i) Incorporation by reference.

(A) The February 7, 1995 letter from the Director of WDOE submitting the amended NWAPA regulations to the Environmental Protection Agency (EPA); the Northwest Air Pollution Authority Regulations (approving sections 104.1, 132, 133, 200, 300, 301, 302, 322, 324 (except for 324.121), 340, 451, 462, 580) adopted on February 10, 1995.

[FR Doc. 95–26200 Filed 10–23–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD 94–025]

RIN 2115–AE77

Commercial Fishing Industry Vessel Regulations for Aleutian Trade Act Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing regulations for U.S. commercial fishing industry vessels subject to the Aleutian Trade Act (ATA) of 1990. This rule promulgates a new subpart regulating certain equipment requirements and operating procedures for fish tender vessels operating in the Aleutian trade. These regulations allow for continued cargo service by water to remote communities in Alaska while ensuring increased safety standards for the vessels engaged in this trade.

DATES: This final rule is effective on April 22, 1996. The Director of the Federal Register approves as of April 22, 1996 the incorporation by reference of certain publications listed in the regulations.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–025). U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Mark D. Bobal, Office of Marine Safety, (G–MOS–2), Room 1210, U.S. Coast Guard Headquarters, Washington, D.C. 20593–0001, (202) 267–0214.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 19, 1990, the Coast Guard published a notice of proposed rulemaking (NPRM) for Commercial Fishing Industry Vessels (55 FR 14924). In the NPRM, the Coast Guard proposed to regulate U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels, including vessels engaged in the Aleutian Trade, to implement the provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. Subsequent to the NPRM, Congress enacted the Aleutian Trade Act of 1990 (ATA), significantly affecting the impact of the proposed regulations on vessels engaged in the Aleutian trade.

As a result of the ATA the Coast Guard published a supplemental notice of proposed rulemaking, (SNPRM), in the Federal Register on October 27, 1992 (57 FR 48670). The Coast Guard received over 206 comments specifically opposing, and only 4 comments favoring, the proposed ATA regulations.

On September 13, 1994, the Coast Guard published a second SNPRM entitled Commercial Fishing Industry Vessel Regulations for Aleutian Trade

Act Vessels in the Federal Register (59 FR 47034) incorporating the comments received from the October 1992 SNPRM. Due to a publishing error, the commenting period was extended to December 31, 1994 in the Federal Register (59 FR 60117). The Coast Guard received 8 letters commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Aleutian Trade Act of 1990

On November 16, 1990, the President signed Pub. L. 101–595, The Aleutian Trade Act of 1990 (''the ATA''). The ATA applies only to fish tender vessels engaged in the transportation of cargo (including fishery related products) for hire to or from a place in Alaska west of 153° West longitude and east of 172° East longitude and only, if that place receives weekly common carrier service by water, to or from a place in the United States (except a place in Alaska). The ATA requires these fish tender vessels to meet new safety and manning standards over a specified period of time. Additional background information concerning the ATA and the Coast Guard's interpretation of the Act, may be found at page 48670 of the SNPRM published October 27, 1992. The Coast Guard has compared this rule to international standards and determined that it does not establish a requirement in excess of international standards.

Discussion of Comments and Changes

In responses to the SNPRM of September 13, 1994, eight letters were submitted. Some of these were very detailed, while others contained broad comments and opinions. Each letter was given consideration in the development of this final rule. The following paragraphs respond to the comments received to the SNPRM and the changes made to each section.

One general comment concerned the implementation date of these regulations in light of possible modifications that might be needed in order to comply with certain requirements, such as deck rails and hand grabs, found in § 28.810. The Coast Guard agrees and has made the final rules effective 6 months from the publishing date.

Subpart A—General Provisions

Section 28.50 Definition of Terms Used in This Part

A comment was received to better define who in the Coast Guard organization falls under the term used in this section. The term *Coast Guard Representative* when referring to a member of the Coast Guard is limited to persons employed at the cognizant U.S. Coast Guard Marine Safety Office or Marine Inspection Office. The intent was not to have Coast Guard Cutters or small boat station personnel perform a general or partial survey, or be notified of repairs and/or alterations on Aleutian Trade Act Vessels.

The Coast Guard also received comments asking what the definition of a ''qualified vessel'' is under the Aleutian Trade Act. The Coast Guard intended this term to include fish tender vessels engaged in the Aleutian trade meeting the requirements of 46 USC 4502 (c)(1); however, the term no longer appears in the rule.

The following is a list of fish tender vessels that the Coast Guard believes meet the statutory requirements of the ATA. Any vessels newly entering the service, or which undergo major conversion, will have to meet the standards of 46 CFR Subpart D. The following list was originally published in the Congressional Record—House on October 27, 1990. The vessels are:

Vessel name	Official No.
MARLIN	568721
TARPON	576033
SCULPIN	587573
BOWFIN	604231
DOLPHIN	617019
ALEUT PACKER	580852
CAPELIN	506241
SALLY J	620431
YELLOWFIN	927811
REDFIN	656674
EASTERN WIND	964583
NORTHERN WIND	969815
COASTAL NOMAD	686157
COASTAL RANGER	520075
COASTAL TRADER	285716
COASTAL VOYAGER	284906
MOKAHANA	266658
SUNMAR SEA	[1] 666754
SUNMAR SKY	683227
SUNMAR STAR	[2] 7119678

[1] Now called COASTAL SEA.
[2] Correct O.N. 971086.

Subpart G—Aleutian Trade Act Vessels

Section 28.800 Applicability and General Requirements

One comment was received concerning the provision of having an incline test performed by a marine surveyor. It was noted that there is a very limited pool of marine surveyors that are qualified to perform incline experiments. However, no changes are being made to this requirement because the law specifically requires marine surveyors for the incline test.

Section 28.815 Bilge Pumps, Bilge Piping, and Dewatering Systems

Four comments were received questioning the rating terminology used to describe the portable bilge pump, i.e. ''capable of dewatering each space at the rate of two inches per minute'', which may be used in satisfying the requirement for a second bilge pump, as opposed to the rating terminology of the required portable fire pump in section 28.820 i.e. ''9500 GPH''. It was argued the same pump should be allowed to satisfy the requirements of both. The Coast Guard agrees and, in fact, the original intent was to allow one portable pump to suffice for the two; however a sizing or rating problem arises in attempting to set a minimum standard for a single pump that is capable of accomplishing two purposes (i.e. high pressure output for firefighting, and yet high volume for emergency dewatering). In consideration of the comments the Coast Guard has removed the above described dewatering rate, and revised the pump rating to a common GPM (gallons per minute) requirement for both pump cites.

Another comment dealt with the general concern of why two separate independent sources of power are required for the bilge pumps. In the original proposal, the Coast Guard wanted these vessels to have an emergency generator located above the machinery level to ensure backup power in time of emergency for firefighting or dewatering. There was much opposition to this proposal. However after first hand assessment and ship rides aboard these vessels in the Gulf of Alaska by Coast Guard traveling inspectors, it was determined that an equivalent level of safety was necessary and is served by the alternate source of power requirement.

Section 28.820 Fire Pumps, Fire Mains, Fire Hydrants, and Fire Hoses

This section was revised to allow one pump to meet this section as well as § 28.815. This requires one power driven fire pump, connected to fixed piping, capable of delivering water at a minimum of 50 gallons per minute with a pressure of not less than 60 pounds per square inch at the pump outlet.

Section 28.825 Excess Fire Detection and Protection Equipment

One comment was concerned with the use of the term ''Water Spray Apparatus''. To avoid confusion, the Coast Guard has dropped ''Water Spray Apparatus'' and ''Steam Fire Apparatus'' and replaced this marking requirement with the common

nomenclature used to identify these systems on ATA vessels.

Section 28.835 Fuel Systems

One comment assumed that paragraph (h) of this subsection dealing with positive shutoff valves was addressing mechanical reachrods only. This was not the intent. Air or electrically operated solenoid valves are acceptable. This section incorporates applicable regulations of subchapter F for any replacement and or alteration to the existing grandfathered piping. It also adds the requirement for remote shutoff valves on certain fuel tanks, metal shields under filters, and limits the length of nonmetallic flexible hose used (for vibration purposes only). Note: Some of the piping aboard ex-Navy yard oilers used in the Aleutian trade was built and installed to Navy specifications and was encased in cement ballast. This arrangement is grandfathered. One comment stated that the requirements for fuel lines to be constructed of seamless material was excessive. The Coast Guard never intended piping requirements to exceed those requirements found for cargo vessels in subchapter F, 46 CFR § 56.50. This section has been rewritten to clarify the piping requirement for seamless pipe.

Section 28.880 Hydraulic Equipment

One comment requested paragraph (e) be clarified to indicate that controls for operating hydraulic equipment need to be located to allow for an unobstructed view of the operating area, not an unobstructive view of the whole hydraulic system. The term ''whole hydraulic system'' could be construed to include the components found in the engine room. The Coast Guard agrees and this was changed to avoid any confusion.

Section 28.885 Cargo Gear

One comment mistook the biennial examination in paragraph (c) to mean biannual (every six months). To clarify, the Coast Guard added ''biennial, (every second year)'' to the text to reduce any confusion.

Section 28.895 Survey and Classification

One comment questioned the lack of legislative intent in requiring the classing of a vessel after undergoing a major conversion. After a review of the legislative history of the Act, major conversion issues were addressed under the loadline provisions. The Coast Guard agrees with this comment and dropped the survey and classification section from this subpart.

Section 28.895 Loadlines

This section was identified as § 28.900 in the SNPRM. Two comments were received complaining that this section was unclear and confusing. One comment complained that the statutory language of the ATA was tortured and confusing and proposed suggested revisions to the regulations. To address this concern, this section was rewritten to clarify that loadlines are required on all fish tender vessels engaged in the Aleutian trade starting in 2003.

Section 28.900 Post Accident Inspection

This section was identified as § 28.905 in the SNPRM. Three comments were received regarding this section expressing concern that only Coast Guard Marine Safety Office personnel could conduct these inspections. The term Coast Guard Representative includes third parties. Two other comments were concerned that this section was written more as a performance standard, and possibly routine maintenance could fall under the repair language as written. This was not the intent of this section and the Coast Guard has replaced this section with the language found in 46 CFR § 97.07–1 which deals with Cargo Vessel requirements found in subchapter I.

Section 28.905 Repairs and Alterations

This section was identified as § 28.910 in the SNPRM.

Section 28.910 Manning and Crew

This section was identified as § 28.915 in the SNPRM. In an effort to keep repetitive cites to a minimum, this section is being deleted since 46 U.S.C. and CFR § 15 cover this section.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 28.40 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as indicated in that section.

Regulatory Evaluation

These regulations are not a significant regulatory action under section 3(f) of Executive Order 12866, and do not require an assessment of potential costs and benefits under section 6(a)(3) of that order. They have not been reviewed by the Office of Management and Budget under that order. These regulations are not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard estimates that only 20 vessels out of an estimated U.S. commercial fishing fleet in excess of 120,000 vessels will be affected by this rule. The Coast Guard believes that existing equipment on board these 20 vessels can be upgraded and replaced when the existing equipment is no longer serviceable. Therefore, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether these regulations will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include: (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields; and (2) governmental jurisdictions with populations of less than 50,000.

Twenty commercial fishing industry vessels are involved in the Aleutian Trade. A number of these vessels are owned or operated by small entities. However, the Coast Guard estimates that the cost of complying with these regulations will be minor. Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C 605(b) that these regulations will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Since this rule affects ATA vessels both inside and outside state waters, the Coast Guard intends to preempt State action addressing the same subject matter.

Environment

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

rules are to enhance certain safety equipment requirements and general operating procedures of ATA vessels and have no significant effect on the environment. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 28

Fire prevention, Fishing vessels, Incorporation by reference, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard amends chapter I of title 46, Code of Federal Regulations part 28 as follows:

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

1. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4506, 6104, 10603; 49 U.S.C. app. 1804; 49 CFR 1.46.

2. Section 28.40(b) is revised to read as follows:

§ 28.40 Incorporation by reference.

* * * * *

(b) The material approved for incorporation by reference in this part and the sections affected are:

American Boat and Yacht Council (ABYC),	
P.O. Box 747, 405 Headquarters Dr., Suite 3, Millersville, MD 21108–0747:	
E–1–1972—Bonding of Direct Current Systems	28.345
E–8–1985—Alternating Current (AC) Electrical Systems on Boats	28.345
E–9–1981—Recommended Practices and Standards Covering Direct Current (DC) Electrical Systems on Boats	28.345
H–2–1989—Ventilation of Boats Using Gasoline	28.340
H–25–1986—Portable Fuel Systems for Flammable Liquids	28.335
H–33–1989—Diesel Fuel Systems	28.335
P–1–1986—Installation of Exhaust Systems for Propulsion and Auxiliary Engines	28.380
International Maritime Organization (IMO),	
Publications Section, 4 Albert Embankment, London SE1 7SR, England:	
Resolution A.658(16) ''Use and Fitting of Retro-Reflective Materials on Life-Saving Appliances'', dated November 1989.	28.135
National Fire Protection Association (NFPA),	
60 Batterymarch Park, Quincy, MA 02269:	
70–1990—National Electrical Code (also known as ANSI/NFPA 70–1990)	28.350; 28.370; 28.865
302–1989—Pleasure and Commercial Motor Craft	28.335; 28.340; 28.345
17–1985—Dry Chemical Extinguishing Systems	28.330
17A–1986—Wet Chemical Extinguishing Systems	28.330
Society of Automotive Engineers (SAE),	
400 Commonwealth Drive, Warrendale, PA 15096;	
SAE J 1475–1984—Hydraulic Hose Fitting for Marine Applications	28.880
SAE J 1942–1989—Hose and Hose Assemblies for Marine Applications	28.405
Underwriters Laboratories, Inc. (UL),	
333 Pfingsten Rd., Northbrook, IL 60062:	
UL 217–1985—Single and Multiple Station Smoke Detectors	28.325; 28.830
UL 710–1990—Exhaust Hoods for Commercial Cooking Equipment	28.330

3. Section 28.50 is amended by adding the following definitions in alphabetical order to read as follows:

§ 28.50 Definition of terms used in this part.

* * * * *

Aleutian trade means the transportation of cargo, including fishery related products, for hire on board a fish tender vessel to or from a place in Alaska west of 153 degrees West longitude and east of 172 degrees East longitude if that place receives weekly common carrier service by water, to or from a place in the United States, except a place in Alaska.

* * * * *

Coast Guard Representative means a person employed at the cognizant U.S. Coast Guard Marine Safety Office or Marine Inspection Office, or an accepted organization, or a similarly qualified organization approved in examining commercial fishing industry vessels. Contact Chief, Vessel and Facility Operating Standard Branch, Commandant, (G–MOS–2), U.S. Coast Guard, 2100 Second Street S.W., Washington, D.C. 20593–0001 for a current list of accepted organizations or similarly qualified organizations.

* * * * *

4. The heading of subpart C is revised to read as follows:

Subpart C—Requirements for Documented Vessels That Operate Beyond the Boundary Lines or With More Than 16 Individuals On Board, or for Fish Tender Vessels Engaged in the Aleutian Trade

5. Section 28.200 is revised to read as follows:

§ 28.200 Applicability.

Each documented commercial fishing industry vessel must meet the requirements of this subpart in addition to the requirements of subparts A and B of this part if it:

(a) operates beyond the Boundary Lines;

(b) operates with more than 16 individuals on board; or

(c) is a fish tender vessel engaged in the Aleutian trade.

6. Part 28 is amended by adding subpart G to read:

Subpart G—Aleutian Trade Act Vessels

Sec.

28.800 Applicability and general requirements.
28.805 Launching of survival craft.
28.810 Deck rails, lifelines, storm rails and hand grabs.
28.815 Bilge pumps, bilge piping, and dewatering systems.
28.820 Fire pumps, fire mains, fire hydrants, and fire hoses.
28.825 Excess fire detection and protection equipment.
28.830 Fire detection system.
28.835 Fuel systems.
28.840 Means for stopping pumps, ventilation, and machinery.
28.845 General requirements for electrical systems.
28.850 Main source of electrical power.
28.855 Electrical distribution systems.
28.860 Overcurrent protection and switched circuits.
28.865 Wiring methods and materials.
28.870 Emergency source of electrical power.
28.875 Radar, depth sounding, and autopilot.

28.880 Hydraulic equipment.
28.885 Cargo gear.
28.890 Examination and certification of compliance.
28.895 Loadlines.
28.900 Post accident inspection.
28.905 Repairs and alterations.

§ 28.800 Applicability and general requirements.

(a) This subpart applies to each fish tender vessel engaged in the Aleutian trade that has not undergone a major conversion and:

(1) Was operated in Aleutian trade before September 8, 1990; or

(2) Was purchased to be used in the Aleutian trade before September 8, 1990, and entered into service in the Aleutian trade before June 1, 1992.

(b) Except as noted otherwise in this subpart, a vessel subject to this subpart must also comply with the requirements of subparts A, B, and C of this part.

(c) Each fish tender vessel engaged in the Aleutian trade that undergoes a major conversion after September 15, 1991 must comply with the additional requirements of subpart D.

(d) A fish tender vessel engaged in the Aleutian trade is subject to inspection under the provisions of 46 U.S.C. 3301 (1), (6), or (7) unless it:

(1) Is not more than 500 gross tons;

(2) Has an incline test performed by a marine surveyor; and

(3) Has written stability instructions posted on board the vessel.

§ 28.805 Launching of survival craft.

In addition to the survival craft requirements in subpart B, each vessel must have a gate or other opening in the deck rails, lifelines, or bulwarks adjacent to the stowage location of each survival craft which has a mass of more than 50 kilograms (110 pounds), so that the survival craft can be manually launched.

§ 28.810 Deck rails, lifelines, storm rails and hand grabs.

(a) Except as otherwise provided in paragraph (d) of this section, deck rails, lifelines, grab rails, or equivalent protection must be installed near the periphery of all weather decks accessible to individuals. Where space limitations make deck rails impractical, hand grabs may be substituted.

(b) The height of deck rails, lifelines, or bulkwarks must be at least 1 meter (39½ inches) from the deck, except where this height will interfere with the normal operation of the vessel, a lesser height may be substituted.

(c) All deck rails or lifelines must be permanently supported by stanchions at intervals of not more than 2.3 meters (7 feet). Stanchions must be through bolted or welded to the deck.

(d) Portable stanchions and lifelines may be installed in locations where permanently installed deck rails will impede normal cargo operations or emergency recovery operations.

(e) Deck rails or lifelines must consist of evenly spaced courses. The spacing between courses must not be greater than 0.38 meters (15 inches). The opening below the lowest course must not be more than 0.23 meters (9 inches). Lower courses are not required where all or part of the space below the upper rail is fitted with a bulwark, chain link fencing, wire mesh, or an equivalent.

(f) A suitable storm rail or hand grab must be installed where necessary in a passageway, at a deckhouse side, at a ladder, and a hatch where an individual might have access.

§ 28.815 Bilge pumps, bilge piping, and dewatering systems.

Instead of meeting the requirements of § 28.255, each vessel to which this subpart applies must meet the following requirements:

(a) Each vessel must be equipped with a fixed, self priming, powered, bilge pump, having a minimum capacity rating of 50 gallons per minute, connected to a bilge manifold and piping capable of draining any watertight compartment, other than tanks and small buoyancy compartments, under all service conditions. Large spaces, such as engine rooms and cargo holds must be fitted with more than one suction line.

(b) In addition, each vessel must be fitted with a fixed secondary or backup bilge pump having an independent and separate source of power from the pump required in paragraph (a) of this section. One of the bilge pumps may be attached to the propelling engine.

(c) A portable bilge pump may substitute for the secondary pump required above, as long as it meets the following:

(1) It must be self priming and provided with a suitable suction hose of adequate length to reach the bilges of each watertight compartment it must serve and be fitted with a built-in check valve and strainer.

(2) The portable pump must be of at least the same minimum capacity as that listed in paragraph (a) of this section and fitted with a discharge hose of adequate length to ensure overboard discharge from the lowest compartment in which it can serve.

(3) The portable pump must also be capable of being quickly and efficiently attached to the vessel's fixed bilge suction main and/or discharge piping (such as with ''camlocks'', etc.) for alternate emergency use.

(d) Except for suction lines attached to an individual pump provided for a separate space, or for a portable pump, each individual bilge suction line must be provided with a stop valve at the manifold and a check valve at some accessible point in the bilge line to prevent unintended flooding of a space.

(e) Each bilge suction line and dewatering system must be fitted with a suitable strainer to prevent clogging of the suction line. Strainers must have an open area of not less than three times the open area of the suction line.

(f) Except for a fire pump required by 46 CFR 28.820, a bilge pump may be used for other purposes.

(g) Each vessel must comply with the oil pollution prevention requirements of 33 CFR parts 151 and 155.

§ 28.820 Fire pumps, fire mains, fire hydrants, and fire hoses.

(a) Each vessel must be equipped with a self-priming, power driven fire pump connected to a fixed piping system. This pump must be capable of delivering an effective stream of water from a hose connected to the highest outlet. The minimum capacity of the power fire pump shall be 50 gallons per minute at a pressure of not less than 60 pounds per square inch at the pump outlet.

(1) If multiple pumps are installed, they may be used for other purposes provided at least one pump is kept available for use on the fire system at all times.

(2) In addition, each vessel must be fitted with a portable fire pump having a minimum capacity of that specified in paragraph (a) of this section, capable of producing a stream of water having a throw of at least 12 meters (39.4 feet) from the nozzle, and capable of being connected to National Standard Fire Hose of the size utilized on board the vessel. If a vessel already has on board a portable pump satisfying the bilge system requirements of § 28.760(c), no additional portable pump is required as long as the portable pump is of sufficient size/capacity, and is properly equipped to handle both fire fighting and flood control.

(b) Each vessel must have a sufficient number of fire hydrants to reach any part of the vessel using a single length of hose.

(c) Each fire hydrant must have at least one length of fire hose connected to the outlet at all times, a spanner, and a hose rack or other device for stowing the hose at all times.

(1) All parts of the firemain located on exposed decks shall either be protected against freezing or be fitted with cutout valves and drain valves.

(2) Firehose shall not be used for any other purpose other than fire extinguishing, drills, and testing.

(3) Each length of fire hose must be a minimum of 3.83 centimeters (1½'') diameter lined commercial fire hose and be fitted with a nozzle made of corrosion resistant material capable of providing a solid stream and a spray pattern.

§ 28.825 Excess fire detection and protection equipment.

Instead of meeting the requirements of § 28.155, each vessel to which this subpart applies must meet the following requirements:

(a) Installation of fire detection and protection equipment in excess of that required by the regulations in this Subchapter is permitted provided that the excess equipment does not endanger the vessel or individuals on board in any way. The excess equipment must, at a minimum, be listed and labeled by an independent, nationally recognized testing laboratory and be in accordance with an appropriate industry standard for design, installation, testing, and maintenance.

(b) An existing fixed gas fire extinguishing system that is in excess of the required fire protection equipment required by subparts A, B, and C of this part, may remain in place and continue in service as long as all parts of the system are maintained in good condition to the satisfaction of the Coast Guard Representative, and subject to the following:

(1) A fixed fire extinguishing system capable of automatic discharge upon heat detection, may only be installed in a normally unoccupied space. For the purpose of this section, the machinery space aboard a fish tender operating in the Aleutian trade is considered occupied.

(2) A fixed fire extinguishing system must:

(i) Be capable of manual actuation from outside the space protected;

(ii) Produce an audible alarm to indicate the discharge of the extinguishing agent for 20 seconds before the extinguishing agent for 20 seconds before the agent is released into the space;

(iii) The branch line valves of all fire extinguishing systems shall be plainly and permanently marked indicating the spaces serviced;

(iv) The control cabinets or spaces containing valves or manifolds for the various fire extinguishing systems shall be distinctly marked in conspicuous red letters at least 5.08 centimeters (2 inches) high:

''HALON FIRE SYSTEM''

''CARBON DIOXIDE FIRE SYSTEM'' or ''FOAM FIRE SYSTEM'', as the case may be;

(v) Instructions for the operation of the system must be located in a conspicuous place at or near all pull boxes, stop valve controls, and in the agent storage space;

(vi) If the space or enclosure containing the supply or controls is to be locked, a key to the space or enclosure shall be in a break-glass-type box conspicuously located adjacent to the opening, and;

(vii) Be equipped with a sign at the alarm stating: ''WHEN ALARM SOUNDS—VACATE AT ONCE. CARBON DIOXIDE BEING RELEASED'', or list other fire extinguishing agent.

(3) Any modification, alteration, or new installation of a fixed gas fire extinguishing system must meet the additional requirements of subpart D of this part.

§ 28.830 Fire detection system.

(a) Each accommodation space must be equipped with an independent modular smoke detector or a smoke actuated fire detecting unit installed in accordance with § 76.33 of this chapter.

(b) An independent modular smoke detector must meet UL 217 and be listed as a ''Single Station Smoke Detector—Also Suitable for Use in Recreational Vehicles''.

§ 28.835 Fuel systems.

(a) Portable fuel systems including portable tanks and related fuel lines and accessories are prohibited except where used for outboard engines or portable bilge/fire pumps.

(b) Each integral fuel tank must be fitted with a vent pipe connected to the highest point of the tank terminating in a 180 degree (3.14 radians) bend on a weather deck and be fitted with a flame screen.

(c) Test cocks must not be fitted to fuel oil tanks.

(d) Valves for removing water or impurities from diesel fuel oil systems are permitted in the machinery space provided they are away from any potential sources of ignition. Such valves shall be fitted with caps or plugs to prevent leakage.

(e) Oil piping drains, strainers and other equipment subject to normal oil leakage must be fitted with drip pans or other means to prevent oil draining into the bilge.

(f) All nonmetallic filters and strainers must be fitted with a metal shield attached to their base in such a way as to prevent direct flame impingement in the case of a fire.

(g) Shutoff valves shall be installed in the fuel supply piping lines, one as close to each tank as practicable, and one as close to each fuel pump as practicable. Valves shall be accessible at all times.

(h) Fuel oil piping subject to internal head pressure from diesel oil in a tank must be fitted with a positive shutoff valve, installed to close against the flow at the tank. This valve is to be capable of remote actuation from outside the space in which the tank/piping is located, accessible at all times, and suitably marked.

(i) With the exception of paragraph (j) and (k) of this section, fuel piping shall be steel pipe, annealed seamless copper, brass, nickel copper, or copper nickel alloy tubing having a minimum wall thickness of 0.9 millimeters (0.035 inches).

(j) Flexible connections of a short length (no more than 762mm, (30 inches)), suitable metallic or nonmetallic flexible tubing or hose is permitted in the fuel supply line at or near the engine to prevent damage by vibration. If nonmetallic flexible hose is used it must:

(1) Not exceed the minimum length needed to allow for vibration;

(2) Be visible, easily accessible, and must not penetrate a watertight bulkhead;

(3) Be fabricated with an inner tube and outer-covering of synthetic rubber or other suitable material reinforced with wire braid;

(4) Be fitted with suitable, corrosion resistant, compression fittings; and

(5) Be installed with two hose clamps at each end of the hose, if designed for use with clamps. Clamps must not rely on spring tension and must be installed beyond the bead or flare or over the serrations of the mating spud, pipe, or hose fitting.

(k) Supply piping that conveys fuel oil or lubricating oil to equipment and is in close proximity of equipment or lines having an open flame or having parts operating above 260° C (500° F) must be of seamless steel.

(l) Existing fuel oil piping may remain in service as long as it is serviceable to the satisfaction of the Coast Guard Representative. Any replacement, alterations, modifications or new installations to the fuel oil piping system must be made in accordance with the material requirements of this section.

§ 28.840 Means for stopping pumps, ventilation, and machinery.

All electrically driven fuel oil transfer pumps, fuel oil unit and service pumps, and ventilation fans shall be fitted with remote controls from a readily accessible position outside of the space

concerned so that they may be stopped in the event of fire occurring in the compartment in which they are located. These controls shall be suitably protected against accidental operation or tampering and shall be suitably marked.

§ 28.845 General requirements for electrical systems.

(a) Electrical equipment exposed to the weather or in a location exposed to seas must be waterproof or watertight, or enclosed in a watertight housing.

(b) Aluminum must not be used for current carrying parts of electrical equipment or wiring.

(c) As far as practicable, electrical equipment must not be installed in lockers used to store paint, oil, turpentine, or other flammable or combustible liquids. If electrical equipment, such as lighting, is necessary in these spaces, it must be explosion-proof or intrinsically safe.

(d) Explosion-proof and intrinsically safe equipment must meet the requirements of § 111.105 of this chapter.

(e) Metallic enclosures and frames of electrical equipment must be grounded.

§ 28.850 Main source of electrical power.

(a) Applicability: Each vessel that relies on electricity to power any of the following essential loads must have at least two electrical generators to supply:

(1) The propulsion system and its necessary auxiliaries and controls;

(2) Interior lighting;

(3) Steering systems;

(4) Communication systems;

(5) Navigation equipment and navigation lights;

(6) Fire protection or detection equipment;

(7) Bilge pumps; and

(8) General alarm system.

(b) Each generator must be attached to an independent prime mover.

§ 28.855 Electrical distribution systems.

(a) Each electrical distribution system which has a neutral bus or conductor must have the neutral bus or conductor grounded.

(b) A grounded electrical distribution system must have only one connection to ground. This ground connection must be at the switchboard.

§ 28.860 Overcurrent protection and switched circuits.

(a) Each power source must be protected against overcurrent. Overcurrent devices for generators must be set at a value not exceeding 115 percent of the generator's full load rating.

(b) Except for a steering circuit, each circuit must be protected against both overload and short circuit. Each overcurrent device in a steering system power and control circuit must provide protection only.

(c) Each ungrounded current carrying conductor must be protected in accordance with its current carrying capacity by a circuit breaker or fuse at the connection to the switchboard or distribution panel bus.

(d) Each circuit breaker and each switch must simultaneously open all ungrounded conductors.

(e) The grounded conductor of a circuit must not be disconnected by a switch or an overcurrent device unless all ungrounded conductors of the circuit are simultaneously disconnected.

(f) Navigation light circuits must be separate, switched circuits having fused disconnect switches or circuit breakers so that only the appropriate navigation lights can be switched on.

(g) A separate circuit with overcurrent protection at the main distribution panel or switchboard must be provided for each radio installation.

§ 28.865 Wiring methods and materials.

(a) All cable and wire must have insulated, stranded copper conductors of the appropriate size and voltage rating of the circuit.

(b) Each conductor must be No. 22 AWG or larger. Conductors in power and lighting circuits must be No. 14 AWG or larger. Conductors must be sized so that the voltage drop at the load terminals is not more than 10 percent.

(c) Cable and wiring not serving equipment in high risk fire areas such as a galley, laundry, or machinery space must be routed as far as practicable from these spaces. As far as practicable, cables serving duplicated essential equipment must be separated so that a casualty that affects one cable does not affect the other. Existing cables and wires may remain as routed; however, any replacement wiring, new cabling and/or alterations must be routed as specified above.

(d) No unused or dead ended cables may remain after the permanent removal or alteration of an electrical device.

(e) Cable and wire for power and lighting circuits must:

(1) For circuits of less than 50 volts, meet 33 CFR 183.425 and 183.430; and

(2) For circuits of 50 volts or greater:

(i) Meet section 310–13 and 310–15 of NFPA 70, except that asbestos insulated cable and dry location cable must not be used;

(ii) Be listed by Underwriters Laboratories Inc. as UL Marine Boat or UL Marine Shipboard cable; or

(iii) Meet § 111.60 of this chapter.

(f) All metallic cable armor must be electrically continuous and grounded to the metal hull or the common ground point at each end of the cable run, except that final sub-circuits (those supplying loads) may be grounded at the supply end only.

(g) Wiring terminations and connections must be made in a fire retardant enclosure such as a junction box, fixture enclosure, or panel enclosure.

(h) Existing cable and wire may remain in place and continue in use as long as it is deemed serviceable to the satisfaction of the Coast Guard Representative. Any new installation, replacement, modification or alteration must be done in accordance with the requirements of this section.

§ 28.870 Emergency source of electrical power.

(a) The following electrical loads must be connected to an independent emergency source of power capable of supplying all connected loads continuously for at least three hours:

(1) Navigation lights;

(2) Fire protection and detection systems;

(3) Communications equipment;

(4) General alarm system; and

(5) Emergency lighting;

(b) The emergency power source must be aft of the collision bulkhead, outside of the machinery space, and above the uppermost continuous deck.

(c) An emergency source of power supplied solely by storage battery must also meet the following requirements:

(1) Each battery must be a lead-acid or alkaline type and be able to withstand vessel pitch, vibration, roll, and exposure to a salt water atmosphere;

(2) A battery cell must not spill electrolyte when the battery is inclined at 30 degrees from the vertical;

(3) Each battery installation must be in a battery room, in a box on dock, or in a well ventilated compartment. The batteries must be protected from falling objects;

(4) Each battery tray must be secured to prevent shifting with the roll and pitch of the vessel and lined with a material that is corrosion resistant to the electrolyte of the battery;

(5) Each battery bank installation must be fitted with its own drip-proof charging system; and

(6) Each deck box used for battery storage must be weathertight, and have holes near the top to allow gas to escape.

§ 28.875 Radar, depth sounding, and auto-pilot.

(a) Each vessel must be fitted with a general marine radar system for surface

navigation with a radar screen mounted at the operating station, and facilities on the bridge for plotting radar readings.

(b) Each vessel must be fitted with a suitable echo depth sounding device.

(c) Except as provided in 33 CFR § 164.15, when the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, and all other hazardous navigational situations, the master or person in charge shall ensure that:

(1) It is possible to immediately establish manual control of the unit's steering:

(2) A competent person is ready at all times to take over steering control; and

(3) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the officer of the watch.

§ 28.880 Hydraulic equipment.

(a) Each hydraulic system must be so designed and installed that proper operation of the system is not affected by back pressure in the system.

(b) Piping and piping components must be designed with a burst pressure of not less than four times the system's maximum operating pressure.

(c) Each hydraulic system must be equipped with at least one pressure relieving device set to relieve at the system's maximum operating pressure.

(d) All material in a hydraulic system must be suitable for use with the hydraulic fluid used and must be of such chemical and physical properties as to remain ductile at the lowest operating temperature likely to be encountered by the vessel.

(e) Except for hydraulic steering equipment, controls for operating hydraulic equipment must be located where the operator has an unobstructed view of the controls for operating hydraulic equipment and the adjacent work area. Protection shall be afforded to the operator of hydraulic equipment against falling or swinging objects and/or cargo.

(f) Controls for hydraulic equipment must be so arranged that the operator is able to quickly disengage the equipment in an emergency.

(g) Hydraulically operated machinery must be fail-safe or equipped with a holding device to prevent uncontrolled movement or sudden loss of control due to loss of hydraulic system pressure. A system is considered to be fail-safe if a component failure results in a slow and controlled release of the load so as not to endanger personnel.

(h) Nonmetallic flexible hose assemblies must only be used between two points of relative motion, limited to the least amount of length that will afford maximum multidirectional movement of the equipment served.

(i) Hose end fittings must comply with SAE J1475, (Hydraulic Hose Fittings For Marine Applications). Field attachable fittings must be installed following the manufacturer's recommended practice (method).

(j) Nonmetallic flexible hose shall be marked with the manufacturer's name or trademark, type or catalog number and maximum allowable working pressure.

(k) Existing hydraulic piping, nonmetallic hose assemblies, and components may be continued in service so long as they are maintained in good condition to the satisfaction of the Coast Guard Representative, but all new installations, or replacements shall meet the applicable specifications or requirements of this section.

§ 28.885 Cargo gear.

(a) The safe working load (SWL) for the assembled gear shall be marked on the heel of each cargo boom, crane, or derrick. These letters and figures are to be in contrasting colors to the background and at least one inch in height. The SWL is construed to be the load the gear is approved to lift, excluding the weight of the gear itself.

(b) All wire rope, chains, rings, hooks, links, shackles, swivels, blocks, and any other loose gear used or intended to be used in cargo loading or unloading must be commensurable with the SWL rating in paragraph (a) of this section. This gear shall be visually inspected by the vessel's captain or his designee at frequent intervals, and in any event not less than once in each operating month.

(c) In addition to the inspection required in paragraph (b) of this section, a biennial, (every second year), thorough examination and proof load test, at a minimum of the SWL rating, shall be performed and witnessed by competent personnel. The proof load applied to the winches, booms, derricks, cranes and all associated gear shall be lifted with the ship's normal tackle with the boom or derrick at the lowest practicable angle. When the load has been lifted, it shall be swung as far as possible in both directions.

(d) After satisfactory completion of the tests and examinations required in paragraphs (b) and (c) of this section, all results and notations together with the date and location of each shall be maintained and available to Coast Guard representatives upon request.

§ 28.890 Examination and certification of compliance.

(a) At least once in every two years each ATA vessel must be examined for compliance with the regulations of this subchapter by the ABS, a similarly qualified organization, or a surveyor of an accepted organization.

(b) Each individual performing an examination under paragraph (a) of this section, upon finding the vessel to be in compliance with the requirements of this chapter, must provide written certification of compliance to the owner or operator of the vessel.

(c) Each certification of compliance issued under paragraph (b) of this section must:

(1) Be signed by the individual that performed the examination;

(2) Include the name of the organization the individual performing the examination represents or the name of the accepted organization the individual belongs to; and

(3) State that the vessel has been examined and found to meet the specific requirements of this chapter.

(d) A certification of compliance issued under paragraph (b) of this section must be retained on board the vessel until superseded.

(e) A copy of the certification of compliance issued under paragraph (b) of this section must be forwarded by the organization under whose authority the examination was performed to the Coast Guard District Commander (Attention: Fishing Vessel Safety Coordinator) in charge of the district in which the examination took place.

§ 28.895 Loadlines.

(a) A fish tender vessel of not more than 500 gross tons, engaged in the Aleutian trade, is not subject to the loadline provisions of 46 U.S.C. Chapter 51 if it is not on a foreign voyage and the vessel:

(1) operated in this trade before September 8, 1990; or

(2) was purchased to be used in this trade before September 8, 1990 and entered into service before June 1, 1992; and

(3) has not undergone a major conversion; and

(4) has not had a loadline assigned at any time before November 16, 1990.

(b) The exemption from the loadline provision of 46 U.S.C. Chapter 51 set forth in paragraph (a) of this section expires on January 1, 2003.

§ 28.900 Post accident inspection.

The requirements for providing notice and reporting of marine casualties are contained in part 4 of this chapter. The owner of or master of the vessel shall ensure that the survey guidance provided by a Coast Guard Representative is effectively carried out, that the material and the workmanship

of such repairs or renewals are in all respects satisfactory, and that the vessel complies in all respects with the regulations in this part.

§ 28.905 Repairs and alterations.

No repairs or alterations affecting the safety of the vessel with regard to the hull, machinery, or equipment, shall be made without the notification of a Coast Guard Representative.

Dated: September 18, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–26303 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

Calling Number Identification Service—Caller ID; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (47 CFR 64.1601, 64.1603 and 64.1604), which were published Monday, June 5, 1995 (60 FR 29489). The regulations relate to delivery requirements and privacy restrictions, customer notification and effective date of privacy provisions relating to Calling Party Number.

EFFECTIVE DATE: The amendments to §§ 64.1600, 64.1602 and 64.1604 published at 60 FR 29489, June 5, 1995, are effective April 12, 1995. The stay of §§ 64.1601 and 64.1603 issued at 60 FR 15496, March 24, 1995, is lifted and the sections are revised as of December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Marian Gordon (202–418–2337) or Mike Specht (202–418–2378), Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of these corrections revised Section 64.1604 on the effective date of certain portions of 47 CFR Part 64 applicable to operators of public telephones and partylines participating in offering services providing caller party number, ANI, or change number on interstate calls. Also included is a correction to the amendatory instructions regarding lifting the stay of Sections 64.1601 and 64.1603.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification. Accordingly, 47 CFR Part 64 is corrected by making the following correcting amendments:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Section 4, 48 Stat. 1066, as amended, 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 226, 227, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201–4, 218, 225, 226, 227, unless otherwise noted.

2. On page 29489, in the first column, in the effective date language in the first sentence, ''The provisions of Sections 64.1600 and 64.1602 are effective April 12, 1995,'' is revised to read ''The provisions of Sections 64.1600, 64.1602 and 64.1604 are effective April 12, 1995.''

3. On page 29490, in the second column, amendatory instruction 3 is corrected to read as follows:

''3. The stay issued at 60 FR 15496, March 24, 1995, is lifted and Section 64.1601 is revised to read as follows:''

4. On page 29491, in the first column, amendatory instruction 5 is corrected to read as follows:

''5. The stay issued at 60 FR 15496, March 24, 1995, is lifted and Section 64.1603 is revised to read as follows:''

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–26270 Filed 10–23–95; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 60, No. 205
Tuesday, October 24, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 308, 310, 318, 320, 325, 326, 327, and 381

[Docket No. 95–046N]

Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Issue Papers

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed Rule; issue papers.

SUMMARY: On September 13–15, 1995 and September 27–29, 1995, the U.S. Department of Agriculture held issue-focused public meetings on the Food Safety and Inspection Service's (FSIS) proposed rule, ''Pathogen Reduction, Hazard Analysis and Critical Control Point (HACCP) Systems.'' At the meetings, FSIS made available issue papers on agenda topics. Those issue papers are published in this notice.

DATES: The comment period for the proposed rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' (60 FR 6674, February 3, 1995), which reopened August 11, 1995 (60 FR 41029 August 11, 1995), will close, as announced in the Federal Register (60 FR 45380, August 31, 1995), on October 30, 1995.

ADDRESSES: Send an original and two copies of written comments to: FSIS Docket Clerk, DOCKET 93–016P, Docket Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Paula Cohen, Director, Regulations Development, Policy Evaluation and Planning Staff, FSIS, USDA, Room 3812, South Agriculture Building, Washington, DC 20250, (202) 720–7164.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture held issue-focused public meetings on September 13–15, and 27–29, 1995, on FSIS' proposed rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems.'' The purpose of the meetings was to provide an opportunity for interested persons to directly discuss the key concerns that were raised during the comment period on the proposed rule, as well as the Agency's thinking about options under consideration in response to those concerns.

For the meetings, FSIS prepared brief issue papers on agenda items that were discussed. The issue papers are: Issue Paper 1. ''Regulatory Shift to Performance Standards—'Layering';'' Issue Paper 2. ''Overview of HACCP Proposal FSIS Oversight of HACCP Changing Role of Inspectors Under HACCP;'' Issue Paper 3. ''Pathogen Reduction Performance Standards;'' Issue Paper 4. ''Carcass Cooling Standards for Red Meat and Poultry;'' Issue Paper 5. ''Specific Economic Considerations and Issues;'' Issue Paper 6. ''Specific Product Considerations Involving Religious, Ethnic, and Cultural Food Handling Practices;'' Issue Paper 7. ''Antimicrobial Treatments in Slaughter Plants;'' and Issue Paper 8. ''Specific Product Considerations Involving International Trade.''

All information received at the issue-focused meetings and received during the reopened comment period will be considered in the development of the final rule for Pathogen Reduction/ HACCP. FSIS is publishing the issue papers so they will be available to persons who were unable to attend the issue-focused public meetings and to enhance the opportunity for comments from all interested parties.

The issue papers are published below.

Issue Paper 1. ''Regulatory Shift to Performance Standards—'Layering' ''

I. Objective of Proposal

The goal of the Pathogen Reduction/ HACCP Proposed rule is to adopt and implement an integrated, HACCP-based inspection system that clarifies and maintains a distinction between industry and FSIS responsibilities, targets the most significant hazards, and fosters flexibility, innovation and accountability for improving food safety. However, FSIS recognizes that to achieve this goal, it must also eliminate unnecessary and redundant regulations.

II. Description of Comments

Some commenters argued that the proposed pathogen reduction and HACCP requirements layer an additional set of regulations, and subsequently an additional program of inspection, on the current meat and poultry inspection regulations and inspection activity. Some commenters recommended that, prior to publishing the final rule, FSIS review and revise or eliminate current regulations, directives, and other FSIS guidances so that they are compatible with the proposed pathogen reduction/HACCP requirements.

Some commenters cautioned FSIS not to alter or eliminate current regulatory requirements and inspection procedures until more effective ones are operating in their place.

III. Issues Raised by Comments

FSIS recognizes the need to articulate how regulatory requirements and inspectors' roles would change under the regulatory system that would emerge from the proposed regulatory reforms. Key issues of concern raised by the comments include:

- HACCP clarifies the mutually exclusive roles of industry and Government and, along with responsibility, affords individual plants the flexibility to innovate and make site-specific decisions. The current inspection system makes the inspector responsible for ''approving'' production-associated decisions. How will inspection change under HACCP?
- Under what circumstances will FSIS continue to issue command-and-control-type requirements?
- How should the regulatory system be changed, and at what pace, to eliminate redundant and obsolete requirements, such as prior approval systems and command-and-control requirements?
- Has FSIS identified the regulations that need to be eliminated or changed to be compatible with HACCP? Given that the current inspection system is embedded in current regulations, the essential changes are likely to be extensive. Can all necessary changes be adopted prior to HACCP implementation?
- Will inspectors' roles change as a result of the shift from step-by-step, command-and-control requirements to performance standards? How? How will the transition to the new regulatory system—with plants accountable for meeting FSIS's requirements by methods not necessarily listed in the regulations or inspectional guidelines—be managed?
- What methods of dispute settlement should be available to handle the more

complex decisions that need to be made about compliance with regulations under HACCP?

IV. FSIS Current Thinking About Changes Needed to Address These Issues

Under the proposal in conjunction with the regulatory reforms now in progress, industry would assume full responsibility for production decisions and execution, and FSIS, having set food safety standards and public health objectives, would monitor and enforce plants' compliance with those standards and related requirements and, under HACCP, would verify process control. This would appear to imply the following:

- FSIS must review and revise or eliminate current regulations, directives, and other FSIS guidances to ensure their compatibility with HACCP requirements and the regulatory philosophy HACCP represents.
- Performance standards could be used to eliminate certain command-and-control requirements.
- With the distinct roles and responsibilities of FSIS and industry clearly defined, FSIS would be able to relieve inspectors of many tasks that should be performed by establishments, enabling inspectors to focus on, HACCP-related oversight tasks.
- In-plant inspection would have to be managed so that the skills necessary to evaluate the plant's performance under HACCP would be available in every plant.
- Lines of FSIS supervision and decision making would need to be shortened, clarified, and publicized, particularly with respect to fair, prompt, and effective dispute resolution.
- Unnecessary and redundant regulations would need to be eliminated.

Issue Paper 2. ''Overview of HACCP Proposal FSIS Oversight of HACCP Changing Role of Inspectors Under HACCP''

I. Objective of Proposal

The proposed rule embraced the recommendations of the National Advisory Committee on Microbiological Criteria for Food (NACMCF) concerning ''The Role of Regulatory Agencies and Industry in HACCP.'' Regarding food safety, the NACMCF advised that establishments operate effective HACCP systems, with the government focusing on verification that HACCP plans are working as intended. The Agency's stated intent was to review and revise existing inspection tasks to assure they are focused on the critical control points in HACCP plans. These revised tasks would be incorporated into the Performance Based Inspection System (PBIS) and become part of regular assignments.

FSIS inspectors would play a verification role to ensure that appropriate HACCP plans are in place, are being implemented properly, and are achieving the desired food safety results. This role would require increased activity by FSIS inspectors in the areas of record review, visual process verification, and product sampling. FSIS inspectors would have to develop new skills to carry out these activities within the HACCP framework.

II. Description of Comments

Commenters generally supported the need for government to maintain oversight of meat and poultry production to ensure that industry is using a system of process control that assures safe product. Some commenters stated government needs to relinquish at least some of the role it plays in making decisions about the production process itself; that is, industry should have the responsibility for deciding how meat and poultry products are produced, provided it can demonstrate that it is maintaining process control at the level necessary to produce a safe product, and meets other regulatory requirements. There was general support for HACCP as an acceptable industry process control mechanism, though commenters raised a number of issues concerning specific provisions of the proposed rule. Some commenters stated government requirements should be scientifically supportable and stated as non-prescriptively as possible (as performance standards).

Commenters also raised concerns about the amount of discretion inspectors would have to suspend plant operations due to alleged deficiencies in either the design or operations of a HACCP plan. They expressed concern about the limited amount of procedural due process afforded to establishments faced with suspended operations due to an inspector's judgment on the adequacy of their HACCP program. Some commenters objected to the proposed hearing process and requested a more expedient way to resolve disputes before requiring suspension of operations or withdrawal of inspection. Some urged the Agency to make clear to inspectors that such extreme actions are to be reserved for only those situations in which continued operation of the establishment presents an imminent public health risk. Finally, commenters raised questions concerning the uniformity and depth of HACCP training inspectors should receive.

Some commenters, while supporting the enhancement of industry's responsibility for food safety that is embodied in HACCP and performance standards, expressed concern about how plants would be held accountable for meeting their enhanced food safety responsibilities. These commenters called for vigorous inspectional oversight of HACCP including substantial microbial sampling and testing by FSIS to verify HACCP and enforce performance standards. Some commenters called for retaining current inspection procedures until HACCP is implemented and FSIS can have confidence that alternative procedures will be more effective than current ones. To increase industry accountability, some commenters called for clear delineation of the plant's legal obligations under HACCP, public access to HACCP records, and whistleblower protection for plant and FSIS employees.

III. FSIS Current Thinking on Selected Issues

FSIS recognizes the need to articulate in more detail how FSIS oversight of meat and poultry production operations under a HACCP process control system will change, how FSIS regulatory roles will be altered, and how these changes will affect inspectors' roles. The following issues must be addressed to develop and implement a final rule:

- How will FSIS oversee a plant's operation under HACCP, compared with the current system.
- How should inspector roles be changed to distinguish between industry and government responsibilities.
- How should the inspector's role and priorities be redefined to focus on the greatest public health risks.

A. Transition to a System Focusing on Industry Process Control and Other Systems and Safety Standards

The regulatory environment envisioned by the proposed rule, in which industry would operate under a process control system (HACCP) and inspection personnel would ensure that HACCP is working by overseeing the effectiveness of that process control system in producing safe product and by enforcing performance standards and other requirements, calls for a significant shift in FSIS oversight. This shift would focus regulatory activities on process control and other systems and the enforcement of government safety requirements (to the extent possible issued as performance standards) rather than on prescriptive measures for controlling industry production practices.

The implementation of the proposed requirements would significantly change the roles and responsibilities of Agency personnel performing in-plant

regulatory activities. Inspection roles and responsibilities would shift from DETECTING facility and production problems to VALIDATING and VERIFYING that plants are producing safe meat and poultry products that meet the newly established requirements.

Agency activities and individual inspectors' tasks would need to reflect these proposed new requirements, and would need to be timed to conform to the phase-in schedule for the new requirements. During the transition from the current inspection system to the system envisioned by the proposal, it would be critical to provide for an interface between what FSIS is presently doing and what the Agency would be doing when initial implementation of these requirements occurs. Therefore, FSIS' current thinking about how inspection will change entails determining how existing and familiar systems may be used to support the transition, while the Agency prepares inspectors and supervisors for their changed roles under the new program.

Inspection roles are envisioned to consist of three primary activities—validation, verification, and enforcement. Inspection validation activities would include assessments of whether plants comply with the specific elements of the regulation and that HACCP systems encompass all seven HACCP principles. Inspection verification activities would include an evaluation of records to verify that the establishment is complying with its written HACCP plan along with in-plant visual observations, microbial testing, and other inspectional tasks to ensure that HACCP is being properly implemented and performance standards are being met.

Formal enforcement actions, including retention of products or suspension of operations, would be instituted when inspection personnel identify and document occurrences of direct product contamination, insanitary conditions where the product may have become adulterated or contaminated or where it may have been rendered injurious to health, or failure of the HACCP plan. Lines of supervision and decisionmaking would be shortened and clarified with respect to dispute resolution. FSIS recognizes that the appeal process must be more expeditiously handled under the proposed program.

Inspection activities would be accomplished within the framework of existing support systems. For example, the Performance Based Inspection System (PBIS) would serve as the primary vehicle to schedule, record, and report all validation and verification tasks. The PBIS corrective action system, which consists of the deficiency classification guide and process deficiency record, would be used to identify, document, and act upon occurrences of direct product contamination and system failures. The system would be modified to incorporate all slaughter-related activities, except carcass-by-carcass inspection.

The movement to a HACCP work environment would represent the most significant change to the regulatory process in the history of the inspection program. This would require that the field work force be trained to understand and perform new work tasks and to adapt to the changing regulatory focus. The initial training would focus on three aspects—(1) to equip employees to handle the regulatory tasks associated with the near term initiatives such as verifying the SOP records; (2) to equip employees to understand and appreciate the cultural changes that will take place in a HACCP work environment its effects on their actions; and (3) to equip front line supervisors to lead the cultural change. Subsequent training would be provided on a sequential basis to correspond with the HACCP phase-in schedule. In this way, inspectors would be able to directly apply ''just learned'' knowledge and procedures within days of receiving training. Training would be delivered by Agency personnel at the local level, using standardized materials developed expressly for that purpose.

FSIS shares the objective of some commenters of ensuring that inspectors and plant employees are given a common understanding and approach to HACCP and its application to meat and poultry production. However, FSIS believes it must place full reliance on its inhouse training delivery capabilities rather than participate in joint training sessions with industry personnel at the local level. Given the logistics and timeframes involved in training Agency personnel, the Agency could not accommodate the additional burden of coordinating its training delivery activities with industry. FSIS is, however, committed to sharing its curricula with interested parties, in order to ensure that the scientific and technical principles which undergird HACCP are viewed consistently.

B. Other Changes Beyond the Transition to HACCP

Along the farm-to-table continuum there are several opportunities for Federal, State, and local government regulators to foster or establish standards so industry can reduce the possibilities for product adulteration and subsequent foodborne illness.

For animal production, producer associations could promote the development of quality assurance programs that focus on risk reduction strategies for pathogen control in live animals. Further research by government, industry, and the scientific community is also necessary to acquire the scientific information about pathogen colonization, its characterization, prevalence, and incidence in animal populations, which is necessary for designing effective intervention programs.

For transportation and storage, industry associations could promote, and individual transportation and storage firms could adopt, special systems for handling meat and poultry that ensure minimal growth of pathogenic organisms. Development of Good Manufacturing Practices (GMP's) for this sector to address problems such as sanitation and temperature control and periodic reviews to determine conformance with such GMP's are also envisioned. These reviews would provide the basis for determining rates of industry compliance.

In the retail and restaurant sector, FSIS would continue its ongoing, direct regulatory authority over adulterated and misbranded product. This would include product control actions, such as voluntary destruction, detention, and judicial seizure. It also would include the issuance of letters of warning and referrals to the Department of Justice for injunctions or criminal action.

FSIS would expand its support to State and local inspection and enforcement agencies by: (1) Supporting the development and adoption of model food codes; (2) facilitating the standardization of state and local enforcement protocols in concert with the Food Code; and 3) evaluating state and local food regulatory agency inspection and enforcement programs for meat and poultry processing and handling.

In the area of food handler and consumer education, FSIS would continue its current program and would seek ways to expand its collaboration with all interested parties in government, industry and other private organizations to foster the effective delivery of safe handling messages to consumers in a manner that would improve safe food handling practices.

Issue Paper 3. Pathogen Reduction Performance Standards Microbial Testing

I. Objective of Proposal

The objective of the proposed interim targets for pathogen reduction and daily microbial testing requirement is to establish a measure of accountability for adopting process controls in slaughter plants and plants producing raw ground product that effectively control and reduce harmful bacteria on raw products. *Salmonella* has been selected in the proposed rule to serve as both an indicator of process control and as the basis for a pathogen-reduction performance standard.

II. Description of Comments

The two issues most commonly addressed by the commenters concerning the proposed microbial testing requirements were the proposed selection of *Salmonella* as the indicator organism and the frequency of proposed testing. Commenters generally supported the concept of HACCP-based process control and the goal of reducing harmful bacteria on raw products.

Some commenters supported the proposed use of *Salmonella* as the indicator organism because it is a leading cause of foodborne illness, and, among common enteric pathogens, it is among the most prevalent and relatively simple tests are available to detect it.

Some commenters opposed the use of *Salmonella* as the indicator organism because its low incidence in beef makes it a poor indicator of pathogen reduction in that species; the yes/no test result is a weak measure of process control; and, compared to some non-pathogenic alternatives such as generic *E. coli, Salmonella* tests are more difficult, time-consuming and costly. Some commenters recommended FSIS consider an alternative indicator organism such as generic *E. coli* as a preferable process control indicator organism because it can serve effectively in all species as an indicator of fecal contamination.

Some commenters recommended retaining *Salmonella* as the target or performance standard for pathogen reduction but adding a requirement for *E. coli* testing because it is a preferable tool for verifying process control. Some commenters recommended requiring testing for additional pathogens in selected species or products based on the degree of public health risk posed by the pathogen. With regard to sampling frequency, some commenters supported the one sample per day testing requirement as an efficient means of verifying process control.

The comments received on the frequency of testing centered upon suggestions on the sampling frequency of one test per day for each species and for raw ground product. A sampling protocol based on production volume or product risk was suggested as an alternative. Some commenters opposed the proposed testing requirement stating that it was inadequate to verify process control reliably and recommended more frequent testing that would be more representative of a plant's production. Some commenters recommended basing the frequency of testing on a plant's volume of production and argued that the proposed sampling frequency and moving sum statistical procedure would allow a lack of process control to go undetected for excessive periods.

Some commenters criticized the proposed frequency, noting the cost burden of the testing and its financial impact on businesses, especially for small volume plants and plants producing multiple species and multiple ground products that would require multiple tests. Some commenters recommended less than daily testing or other changes to minimize the financial impact on small business.

Some commenters objected to the proposed test sample collection methodology, including the sample size. Recommendations included adopting the same sample size for all species. Some commenters preferred swab samples to samples taken by knife cuts.

Some commenters stated that proposed end product testing is inconsistent with HACCP principles and that establishments should decide for themselves through hazard analysis whether testing is needed and at what frequency.

III. FSIS Current Thinking on Selected Issues

The concepts of process control, microbiological testing to verify process control, and the establishment of practical measures of accountability for controlling and reducing harmful bacteria on raw products remain central to the FSIS food safety strategy. Based on the comments related to microbial testing, FSIS reviewed whether the pathogen reduction objectives of the rule can be accomplished without requiring near-term microbial testing. FSIS considers some appropriate approach to testing to be necessary as the means of ensuring that every establishment is working toward an acceptable level of pathogen control. The key issues raised by the comments involve how best to implement these concepts.

Relative to concerns about reducing the burden of testing, the Agency is reviewing: (1) The organism to be selected in testing; (2) the necessity for daily testing in every plant, including plants that grind raw meat and poultry obtained from other plants and (3) the necessity for testing each species slaughtered and each ground product produced.

The proposed rule relied on *Salmonella* as both a process control indicator and as the basis for a pathogen reduction performance standard applicable to all species. Based on the comments, FSIS is seriously considering generic *E. coli* as the process control indicator organism and the adoption of a quantitative *E. coli* standard as a measure of process control with respect to the prevention and reduction of fecal contamination in slaughter plants.

If FSIS moves to a quantitative *E. coli* standard as the means of verifying process control, the Agency will also need to resolve what the standard should be (i.e., the number of organisms).

FSIS continues to regard microbiological testing to verify process control to be an establishment's responsibility. FSIS is reconsidering the proposed one test sample per day requirement based on comments questioning both its adequacy and its cost impact on small plants. FSIS is considering alternatives that are based on the volume of production. FSIS is also considering alternatives that would reduce the cost impact of testing on very small-volume plants producing multiple species and multiple products.

FSIS is considering the adoption of pathogen-specific performance standards as a direct measure of accountability for controlling and reducing harmful bacteria on raw meat and poultry products. For example, the proposed interim targets for pathogen reduction based on *Salmonella* (or possibly other pathogens for specific species) could be adopted as performance standards and enforced by FSIS through its own compliance monitoring. Establishments not consistently achieving the targets would be required to take corrective action and could be subject to other regulatory action, as appropriate.

Issue Paper 4. Carcass Cooling Standards for Red Meat and Poultry

I. Objective of Proposal

The objective of the proposed carcass-cooling requirements as a near-term measure in the Pathogen Reduction/ HACCP proposed rule is to ensure that establishments effectively control the

growth of pathogens on meat and poultry carcasses.

II. Description of Comments

Commenters generally supported the need for slaughter plants to chill carcasses as a means of minimizing the growth of harmful bacteria, but some commenters questioned the need for any new near-term regulatory requirements for carcass cooling. These commenters recommended instead that plants address carcass cooling as part of their HACCP plan at the time they implement HACCP. Some commenters opposed the ''command and control'' nature of the proposed requirements and said that relying instead on the incorporation of time and temperature controls in a plant's HACCP plan would provide maximum flexibility to adopt controls consonant with different products and environments.

Some commenters raised concerns about the specific time and temperature requirements in the proposed rule. Other comments included the pros and cons of surface versus internal temperatures as indicators of coldness. Some commenters supported the time and temperature requirements as proposed, noting that these controls are designed to minimize the potential multiplication of bacterial pathogens in carcasses and raw meat products and thus reduce consumer exposure to pathogenic bacteria. Some pointed out that the technology is available and generally being used in plants and that, furthermore, the proposed time and temperature controls are generally being adhered to by many establishments and therefore should not be an overwhelming burden. These commenters stated that the cooling rate proposed by FSIS is based on the best estimate of what is needed to minimize multiplication of pathogenic organisms and what is achievable in a well-controlled meat and poultry establishment.

Some commenters raised concerns about not having the cooling capacity to comply with the proposal and about the prohibitive cost of obtaining the necessary refrigeration equipment. Commenters advocated more realistic requirements that take into consideration plant/product variety, different processing operations, and diverse shipping and receiving norms. Commenters raised questions about disposition of product that did not meet temperature requirements.

Some commenters expressed concern about health problems that could result among their employees from working in a cold environment. Comments related to worker comfort and safety cited studies that concluded many human physical ailments are created or aggravated by cold temperatures. Worker safety was also cited as an issue on the ground that the difficulty of handling and cutting meat at such cold temperatures increases the potential for accidents.

III. FSIS' Current Thinking on Issues Raised by Comments

FSIS considers carcass cooling to control growth of pathogens to be a basic element of a safe food production process. Poultry slaughter plants are currently subject to an FSIS directive on carcass cooling, and many beef slaughter plants take appropriate measures to cool carcasses. FSIS continues to believe there is a need before and after implementation of HACCP for the establishment of some basic standards that can be used to ensure all plants meet carcass cooling standards.

FSIS recognizes the need to take a practical approach that acknowledges the diversity of production practices affected by carcass cooling requirements. FSIS is considering more flexible alternatives to the time and temperature requirements in the proposed rule, including adoption of pathogen growth performance standards (see options below).

FSIS acknowledges the need for a clarification of product disposition options for product that does not meet carcass cooling requirements. This remains under consideration.

IV. Options for Change

In addition to the currently proposed requirements, FSIS is considering the following options:

- Maintain the proposed requirements but raise the 40°F criterion to the highest level that would maintain the pathogen control objective and address at least some concerns about worker comfort and safety and equipment costs. The European Union, for example, uses a 44.6°F standard for red meat to control pathogens during slaughter operations.
- Establish a carcass cooling performance standard expressed as a maximum acceptable level of pathogen growth.
- Rely on microbiological targets, such as the proposed interim targets for pathogen reduction, as performance standards, monitored by periodic microbial testing, and have no specified cooling requirements. This option would provide establishments flexibility to use carcass cooling methods that meet their own needs as long as they meet the end product performance standard.

Issue Paper 5. Specific Economic Considerations and Issues

I. Objective of Proposal

The Pathogen Reduction/HACCP proposal acknowledged that the proposed requirements would have significant economic impact, particularly on small entities. Comments were requested on cost estimates for these impacts as well as on alternative regulatory approaches that could lessen this economic impact.

II. Description of Comments

Several themes emerged from the written comments received and oral statements made during public meetings on the Pathogen Reduction/HACCP proposed rule. A primary concern was that the proposal would have severe negative economic impacts on small businesses. Some commenters opposed mandatory HACCP, daily microbial testing, and stringent time and temperature requirements.

While most commenters supported HACCP in principle, small businesses expressed concern about hazard analysis and plan development costs, equipment purchases, plant personnel training, and records maintenance. Suggested alternatives included voluntary HACCP, a 5-year implementation period, increased financial and technical support, alternative training options, inplant demonstration projects and generic HACCP plans.

Daily microbial testing of carcasses from each species slaughtered and of each type of raw ground product was cited as an unfair burden on small plants that slaughter only a few animals, a variety of species, or produce several different raw ground products. Some commenters proposed a frequency of microbial testing based on production volume or simply once per week or month in small plants. It was also suggested that federally-subsidized laboratories conduct the testing, an indicator organism instead of *Salmonella* be selected, and that either FSIS inspectors or, in the case of State-inspected plants, State inspectors conduct the sampling.

In response to the proposed carcass cooling time and temperature mandates, small businesses voiced a need for more realistic standards that reflect small plant product variety, processing operations, and shipping norms. Some said they would need to purchase additional refrigeration equipment for compliance with the proposed requirements. Others cited the ''command and control'' nature of these proposed standards and argued that

they are impractical restrictions on a variety of their operations. A common theme was that these proposed controls should be restated as guidelines.

Commenters also voiced economic objections to the antimicrobial treatments and asked for greater scientific justification. Comments also included cautions about worker safety and environmental hazards, and requested a change from mandatory to voluntary implementation.

Some commenters asserted that within the small plant category is a subgroup of State-inspected plants with the same concerns as those stated above and additional ones due to their very small size and diverse operations. These commenters requested identification of a ''very small'' sub-category of plants defined as those with annual sales less than $1 million, fewer than 20 employees and limited production volume. Exemptions and implementation delays were requested for plants in the proposed ''very small'' category.

Another issue raised was State-provided implementation assistance for State-inspected plants and whether matching Federal funds would cover State programs that provided more help than USDA regulations required.

III. Issues Raised by Comments

After reviewing the small business concerns expressed in the comments, FSIS is considering whether the food safety and public health objectives of this proposal can be accomplished by means that would reduce the regulatory burden and resulting costs of the proposed requirements on small businesses.

FSIS continues to believe that mandatory HACCP is central to the FSIS food safety strategy and reform of the meat and poultry inspection system. Given this, can FSIS significantly reduce the economic impacts on small business by any of the generally applicable modifications to the proposed rule or by using its available resources to provide implementation assistance?

For example, small business objections to the burden of daily microbial testing of each species and ground product for *Salmonella* require FSIS to determine whether another microorganism, reduced frequency of testing, and/or FSIS assumption of a greater testing role would be equally effective in verifying process control and attaining pathogen performance standards and, at the same time, reduce the economic burden.

Raw product time and temperature specifications and antimicrobial treatments for carcasses are techniques for pathogen reduction that have been criticized as command-and-control regulatory approaches. FSIS is considering whether these proposed requirements can be replaced by a performance standard or otherwise modified to achieve the food safety objectives while mitigating the economic burden on industry, including small plants.

After publication of final Federal meat and poultry Pathogen Reduction/HACCP regulations, all State inspection programs must establish requirements at least equal to the Federal requirements. Due to variations in State regulatory processes, some intrastate inspection programs may match the Federal regulations within a year while others may take two years in cases where inspection program regulations must be approved by the State legislature. Once new regulations are in place, State plants would have to be given adequate time to meet the new requirements. In particular, State implementation of the near-term initiatives would likely occur on a longer time line than that proposed for Federal plants. FSIS is considering ways to minimize any inequity between Federal and State-regulated plants.

Another State-specific concern relates to Federal matching funds for up to 50 percent of State inspection program budgets. The HACCP proposal raises questions about what activities will be covered by matching funds. For example: If State inspection programs provide HACCP training for industry employees in State plants, assist State plant owners in HACCP plan development and implementation, or offer ongoing technical assistance to State plant operators, can/shall Federal matching funds be provided?

A further question is whether certain small businesses should be separately identified from others by defining a new ''very small'' business category. Available data indicate, for example, that among all state-inspected plants, approximately 75 percent employ fewer than 8 employees. Given the likelihood of longer implementation times for most intrastate plants due to the normal process of State compliance with Federal inspection program changes, is there a reasonable justification for longer times for all such ''very small'' plants in terms of attainment of national pathogen reduction and process improvement requirements?

IV. FSIS' Current Thinking on Issues Raised by Comments

To address small business concerns, FSIS proposes to use a three-part regulatory policy that would apply to every Federal and State-inspected plant: (1) Fundamental public health and food safety principles must not be compromised, (2) Regulatory flexibility will be provided to plants by establishing performance standards, and (3) Direct and indirect assistance will be provided by FSIS to small plants that need help in reaching those goals.

FSIS is considering appropriate regulatory flexibility options that would minimize small business impacts as they attain performance goals. In the other issue papers on carcass cooling requirements, antimicrobial treatments, and microbial and testing standards, FSIS has outlined alternatives that could mitigate both the technical and economic considerations raised by small businesses about these proposed requirements. Remaining concerns to be addressed are focused on the HACCP implementation schedule and technical assistance.

HACCP Implementation Schedule

As noted above, FSIS is considering ways to adjust the implementation schedule to ensure that small businesses under Federal regulation and those under State regulation are treated equitably with respect to the time period allowed for compliance with the provisions of the final rule.

HACCP Implementation Assistance

Federal Assistance to Industry: FSIS is considering a program to develop implementation aids that should greatly reduce the uncertainty small plants have expressed about a mandatory HACCP program. These aids would include: (1) Information publications, such as a HACCP Handbook that explains how a plant can effectively and economically incorporate the seven HACCP principles into its operations; (2) training videos and computer programs that present HACCP implementation guidance in alternative formats; (3) models for onsite HACCP training of plant employees; and (4) a catalog of hazards with examples of control measures and generic plans for each slaughter and processing category described in the proposed rule. These materials would provide the means for all plants to meet HACCP regulatory requirements. FSIS is also planning to sponsor inplant demonstration projects to generate real-world information and guidance about near-term and HACCP implementation issues in small businesses.

Federal Assistance to States: FSIS would continue its technical assistance to State programs by including State training officials in Federal training efforts, by facilitating State access to and

use of Federal computer support systems, and by expansion of state/federal cooperative efforts through the Conference for Food Protection, the National Association of State Departments of Agriculture, the Association of Food and Drug officials, and the Meat and Poultry Inspection Advisory Committee. Also, FSIS' plans for inplant demonstration projects referenced above would focus on small plants under State regulation as well as those under Federal regulation.

Issue Paper 6. Specific Product Considerations Involving Religious, Ethnic, and Cultural Food Handling Practices

I. Objective of Proposal

The objective of the Pathogen Reduction/HACCP proposed rule is to take a comprehensive approach to improving the safety of meat and poultry products.

II. Description of Comments

Many commenters identified unique product considerations that they felt were threatened or undermined by certain requirements in the proposed rule. These unique product considerations principally involved religious, ethnic, and cultural issues centered around three product types: kosher products, Chinese poultry, and ''hot'' specialty items usually for Moslem, Chinese, Hispanic, and Hawaiian markets.

Comments related to kosher products identified two specific areas of concern. First, antimicrobial treatments would cause a serious problem under kosher dietary laws if applied before the salting process and would cause practical problems if applied after the salting process. Second, the time and temperature requirements for carcass cooling might significantly shorten the available time for ritual salting, particularly for religious holidays, which might limit the availability of kosher meat. For these reasons, commenters requested exemptions from using antimicrobial treatments and from following proposed time and temperature requirements for meat and poultry products that are certified and sold as kosher.

The Chinese-American community expressed concern about the added cost of whole birds prepared for religious purposes. Commenters requested an exemption for such products.

Other commenters noted that proposed time and temperature requirements for carcass cooling conflict with ''hot pork,'' a process during which hogs are slaughtered and delivered to customers in some ethnic markets with little or no chilling. A similar process is used with lamb, goat, and beef for Moslem customers. An exemption was also requested for these products.

III. FSIS' Current Thinking on Issues Raised by Comments

FSIS is examining how it can provide the regulatory flexibility needed to adequately address the concerns noted above and still achieve its food safety and public health objectives.

FSIS expects the final rule to contain changes that will as a general matter increase industry's flexibility to use alternative technologies and procedures which reduce and control pathogens to meet the microbial performance standards. This approach may help address some of the concerns expressed by religious and cultural groups. If any individual group's unique problems are not adequately addressed by this approach, the agency would consider other alternatives that respect well established religious, ethnic, and cultural practices as much as possible while assuring fundamental public health and food safety objectives are achieved.

Issue Paper 7. Antimicrobial Treatments in Slaughter Plants

I. Objective of Proposal

The objective of the proposal in the Pathogen Reduction/HACCP proposed rule, to require the application of at least one effective antimicrobial treatment in slaughter plants, is to establish a minimum standard of care regarding the use of available technology to reduce pathogens on carcasses leaving slaughter plants and to gain a net reduction in the occurrence of pathogens on carcasses in the near term, while HACCP is being implemented.

II. Description of Comments

Some commenters supported the proposal to mandate the use of at least one antimicrobial treatment, subject to reservations concerning the effectiveness of the available treatments for specific pathogens, the possibility of cross-contamination, and the need to maintain careful, hygienic slaughter practices.

Some commenters opposed the proposed antimicrobial treatments, raising concerns about the ''command and control'' nature of the proposal and the lack of sufficient empirical data to justify mandatory antimicrobial treatments.

To alter the ''command and control'' nature of the proposal, some commenters recommended eliminating the formal approval process for antimicrobial treatments and allowing any treatment that meets stated conditions (such as, ''meets a pathogen reduction standard,'' ''does not adulterate product, create insanitary conditions, or result in misbranded product.'') Other suggestions included accepting irradiation and salt as antimicrobial alternatives. Some commenters stated that use of antimicrobial treatments should be a control measure plants consider during HACCP plan development, not before.

Some commenters noted that certain foreign countries do not permit antimicrobial treatment of meat and poultry products. Acknowledging the proposed exemption for exported product included in the proposed rule, commenters still expressed concern that it was impractical for a slaughter operation to separate domestic and export product.

III. FSIS' Current Thinking on Issues Raised by Comments

FSIS continues to believe antimicrobial treatments in many slaughter plants play an important role in a pathogen reduction strategy. FSIS is reconsidering whether the proposed across-the-board mandate is the optimal approach to fostering adoption of appropriate antimicrobial technologies or whether more flexible alternatives, including reliance on end-product performance standards, would be equally or more effective.

IV. Options for Change

FSIS is considering the following possible alternatives to the proposed antimicrobial treatment requirements:

- Adopt the near-term requirement for slaughter establishments to apply an antimicrobial treatment to meat and poultry carcasses, with modification of some technical details (such as timing application, and proposed requirements for ensuring the efficacy of specific treatments).
- Adopt the near-term requirement for slaughter establishments to apply an antimicrobial treatment to meat and poultry carcasses, with modification of some technical details (such as timing application, and proposed requirements for ensuring the efficacy of specific treatments), but add an exemption option for plants that can demonstrate near-term compliance with process control and/or pathogen reduction performance standards.
- Do not require establishments to apply an antimicrobial treatment to meat and poultry carcasses, but rely instead on appropriate identified performance standards and microbial testing for generic *E. coli, Salmonella* or other pathogens as an incentive to maintain good sanitation and hygienic slaughter practices and to adopt

technologies appropriate for achieving standards in particular plants.

Issue Paper 8: Specific Product Considerations Involving International Trade

I. Objective of Proposal

The objective of the Pathogen Reduction/HACCP proposed rule is to take a comprehensive approach to improving the safety of meat and poultry products while recognizing international agreements.

II. Description of Comments

Many commenters identified individual situations involving imported and exported products that they believe were potentially threatened or undermined by certain requirements in the proposed rule.

Commenters involved in the export of meat and poultry products raised objections to the proposed antimicrobial treatment requirements. They stated that European Union (EU) countries would not accept product treated with antimicrobial agents and that Canada would not accept product treated with chlorine at the levels required in the proposal. They recommended that FSIS accept Codex Alimentarius standards in lieu of those in the proposed rule. Commenters also explained that the proposed exemption for exported product was insufficient to address the realities of slaughter operations which make separation of domestic and export product impractical.

Questions were also raised about the requirements for foreign plants exporting meat and poultry product to the U.S. Commenters inquired if all foreign plants exporting products to the U.S. would be required to have HACCP systems, and if so, how would FSIS ensure compliance. Some commenters asked for clarification of ''equivalent standards'' language. They were concerned that domestic producers would be at an economic disadvantage if foreign competitors did not have to implement HACCP to sell product in the U.S.

III. FSIS' Current Thinking on Issues Raised by Comments

After reviewing the comments relating to specific product considerations, FSIS is examining how it can provide the regulatory flexibility needed to adequately address the concerns noted above, meet the requirements of international agreements and still achieve its food safety and public health objectives.

Export Issues

The EU member states and Canada are the only countries, to our knowledge, which restrict the use of antimicrobials on meat and poultry carcasses

Plants producing meat and poultry for export to the EU or Canada can choose to treat carcasses with hot water, which is currently recognized by FSIS, the EU and Canada as an acceptable antimicrobial treatment when applied at 165°F for at least 10 seconds. Use of this particular treatment would also preclude the need to segregate product.

FSIS is also considering alternative approaches for achieving the same objective sought from antimicrobial treatments. Please refer to the previously distributed paper entitled ''Antimicrobial Treatments in Slaughter Plants.'' These alternatives, such as microbial performance standards, were discussed during earlier sessions of the public meetings. However, FSIS recognizes that during consideration of these approaches, the issues related to trade must be addressed.

Import Issues

As a signatory to the NAFTA and GATT agreements, the United States has agreed to permit the importation of meat and poultry products from countries which operate inspection systems judged to be equivalent to that of the United States.

The FSIS current thinking is that countries importing meat and poultry product to the United States would need to: 1) adopt performance standards which achieve levels equivalent to those of the United States, (e.g., microbial targets, chemical tolerances, economic adulterant limits (e.g., excess moisture), aesthetic defect limits (e.g., organ remnants), and 2) insure that process control systems equivalent to HACCP are utilized in the plants in order to meet U.S. performance standards and other regulatory requirements.

FSIS is currently engaged in the process of developing criteria which it will use to determine if foreign plants engaged in export to the United States are utilizing process control systems equivalent to HACCP. FSIS recognizes that societal, cultural, economic and other conditions are not exactly the same in foreign countries as those in the United States and that effective process control systems may vary from country to country.

Officials from some countries have proposed that their plant's current systems of process control which rely heavily on government intervention, control, and oversight are the most cost-effective way for their society and will result in product in full compliance with U.S. standards. Officials from other countries indicate they plan to require plants to use process control systems virtually identical to those being proposed by FSIS. As FSIS moves to establish appropriate criteria for judging equivalency, it will consider the various aspects of these alternative methods of assuring process control as compared to HACCP.

In summary, the current FSIS thinking revolves around (1) establishment of objective, science-based performance standards and (2) evidence that systems of control equivalent to those used in the United States are in place to insure compliance with the standards. Again, FSIS recognizes that during the consideration of these approaches, the issues related to trade must be addressed.

Done at Washington, DC, on October 18, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–26296 Filed 10–23–95; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ANM–21]

Proposed Amendments to Class E Airspace, St. George, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend to St. George, Utah, Class E airspace to accommodate a new Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 34 at St. George Municipal Airport, St. George, Utah. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before December 1, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 95–ANM–21, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT:

James Frala, ANM–535/A, Federal Aviation Administration, Docket No. 95–ANM–21, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ANM–21.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at St. George, Utah, to accommodate a new GPS SIAP at St. George Municipal Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ANM UT E5 St. George, UT [Revised]

St. George Municipal Airport, UT
(Lat. 37°05′29″N, long. 113°35′35″ W)
St. George VOR/DME
(lat. 37°05′17″ N, long. 113°35′31″ W)

That airspace extending upward from 700 feet above the surface within 8.3 miles northeast and 5.3 miles southwest of the St. George VOR/DME 131° and 311° radials extending from 6.1 miles northwest to 16.1 miles southeast, and within 4.3 miles each side of the St. George VOR/DME 183° radial extending from the VOR/DME to 13.5 miles south; that airspace extending upward from 1,200 feet above the surface within the 20.1-mile radius of the St. George VOR/DME, extending clockwise from the 058° radial to the 239° radial, and within 10.1 miles east and 7.4 miles west of the St. George VOR/DME 183° radial extending from the 20.1-mile radius to 32.7 miles south of the VOR/DME; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 37°57′00″ N, long. 114°02′00″ W; to lat. 37°46′30″ N, long. 113°23′00″ W; to lat. 37°38′00″ N, long. 113°22′00″ W; to lat. 37°38′00″ N, long. 113°13′00″ W; to lat. 37°17′00″ N, long. 113°20′00″ W; to lat. 37°12′00″ N, long. 113°30′00″ W; to lat. 37°15′00″, long. 113°34′00″ W; to lat. 37°05°00″ N, long. 113°45°00″ W, thence to the point of beginning.

* * * * *

Issued in Seattle, Washington, on October 13, 1995.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division Northwest Mountain Region.

[FR Doc. 95–26348 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–ANM–23]

Proposed Amendment to Class E Airspace, Sandpoint, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Sandpoint, Idaho, Class E airspace to accommodate new instrument approach procedures and a published IFR departure procedure at Dave Wall Field, Sandpoint, Idaho. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before December 8, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration,

Docket No. 95–ANM–23, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Frala, ANM–535/A, Federal Aviation Administration, Docket No. 95–ANM–23, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

Coments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ANM–23.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Sandpoint, Idaho, to accommodate new instrument approach procedures and a published IFR departure procedure at Dave Wall Field, Sandpoint, Idaho. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration order 7400.9C, Airspace Designations and Reporting Points dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ANM ID E5 Sandpoint, ID [Revised]

Dave Wall Field, Sandpoint, ID
(Lat. 48°17′48″N, long. 116°33′46″W)
Spokane Fairchild AFB, WA
(Lat. 47°37′12″N, long. 117°39′29″W)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Dave Wall Field; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 48°30′00″N, on the east by the Idaho/Montana state boundary, on the south by the north edge of V–120, and on the west by the 45.3-mile radius of the Fairchild AFB and the east edge of V112; excluding Federal airways.

* * * * *

Issued in Seattle, Washington, on October 13, 1995.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 95–26351 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

28 CFR Part 29

[AG Order No. 1993–95]

RIN 1105–AA34

Motor Vehicle Theft Prevention Act Program Regulations

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The United States Department of Justice is publishing a proposed rule to implement the Motor Vehicle Theft Prevention Act of 1994, 42 U.S.C. 14171, by issuing regulations to establish a national voluntary motor vehicle theft prevention program. Under this program, motor vehicle owners may sign a consent form authorizing law enforcement officers to stop their motor vehicle if it is being driven under certain specified conditions and take reasonable steps to determine whether the vehicle is being operated with the owner's consent. There are two program conditions proposed in this rule. Under the first condition, the owner may consent to have the car stopped if it is

operated between the hours of 1 AM and 5 AM. Under the second condition, the owner may consent to have the car stopped if it crosses or is about to cross a United States land border, or if it enters a port. States and localities may elect to participate in the program solely at their option.

DATES: Comments must be submitted on or before December 26, 1995.

ADDRESSES: All comments concerning this proposed rule should be mailed to Mike Dalich, Office of Justice Programs, Department of Justice, 633 Indiana Avenue, N.W., Room 1300, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Mike Dalich, (202) 307–0360; Samuel J. Dubbin, (202) 514–3116; or Geovette Washington, (202) 514–3712.

SUPPLEMENTARY INFORMATION: Section 220001 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–322, 108 Stat. 2074 (codified at 42 U.S.C. 14171), contains the Motor Vehicle Theft Prevention Act (the ''Act''). The Act requires the Attorney General to establish a national voluntary motor vehicle theft prevention program. Under this program, automobile owners may voluntarily sign a consent form that authorizes law enforcement officers to stop the motor vehicle if it is being operated under certain specified conditions and take reasonable steps to determine whether the vehicle is being operated with the owner's consent. Participation in this program is completely voluntary on the part of the vehicle owner, and State and local governments. While the statute authorizes the appropriation of funds to implement this program, funds have not yet been appropriated. The Department of Justice's 1996 budget proposal includes a request for $1,485,000 to implement this program.

This proposed rule is intended to establish a national program and set the conditions under which motor vehicle stops may be authorized under the national program. The rule provides that the Assistant Attorney General for the Office of Justice Programs, or his or her designee, will be responsible for the management and administration of the program and the issuance of guidelines governing the program's implementation.

States and localities may elect to participate in the program by requesting program enrollment materials from the Office and following program requirements set forth in guidelines issued by the Office. States and localities electing to participate will agree to (1) provide interested motor vehicle owners with the consent forms and decals issued under the program and (2) collect the forms and provide the necessary documents to the Office. In turn, participating units of government will authorize law enforcement officials to stop motor vehicles displaying program decals or devices under the specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner. The statute requires, as a condition of participation, each State or locality to agree to take reasonable steps to ensure that law enforcement officials throughout its jurisdiction are familiar with the program, and with the conditions under which motor vehicles may be stopped. Participating States and localities are free to choose one or more of the program conditions established under this rule, and, therefore, need not authorize their law enforcement officers to stop motor vehicles under all the conditions specified hereunder in order to participate.

Participation in this program on the part of States and localities is completely voluntary, and participating jurisdictions may withdraw from the program at any time by sending written notification to the Office. Participating owners also should be notified of the State or locality's decision to terminate the program.

This program is a federal program that operates separately from any existing State and local motor vehicle theft prevention programs; it is not intended to preempt existing State or local laws or programs. Likewise, this program is not intended to preclude States or localities from setting up their own programs with different or additional conditions.

Sections 29.8 through 29.12 of the rule explain how an owner in a participating jurisdiction may enroll his or her automobile in the program and the responsibilities that accompany participation. In order to enroll, the owner of the vehicle must sign a program consent form and register with a participating State or locality. By signing the consent form, the owner states that his or her vehicle is normally not operated under certain specified conditions and consents to have the automobile stopped if participating law enforcement agencies see the car operated under these conditions. Additionally, the owner agrees to display the program decal on his or her vehicle. For each of the conditions, there is a separate consent form and a separate decal.

Section 29.9 requires any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal is affixed to notify the person to whom the motor vehicle is rented or leased about the program prior to transferring possession of the vehicle. Failure to provide such notice to a renter or lessee may result in the assessment of a civil penalty of an amount not to exceed $5,000. The Assistant Attorney General, Civil Division, or his or her designee, shall have the responsibility to enforce the civil penalties hereunder.

Initially, the program will have two sets of conditions. Under the first condition, the owner may consent to have the car stopped if it is operated between the hours of 1 a.m. and 5 a.m. Under the second condition, the owner may consent to have the car stopped if it crosses or is about to cross a United States land border, or if it enters a port. The rule establishes a one-mile limit within which States or localities may enforce the border provision. The one-mile limit is intended to give participating jurisdictions the flexibility to implement the program in a manner most suitable to local conditions. However, jurisdictions are strongly encouraged to establish the boundary as close to the border as is necessary for enforcement purposes without unduly disrupting border community traffic.

The early morning and border crossing conditions have been used successfully in existing State and local programs. The port provision is not, to our knowledge, currently employed in any jurisdiction, but it has been included in these proposed regulations because many States, police departments, prosecutors, and industry representatives have expressed an interest in methods to reduce vehicle theft through ports.

The Act authorizes the Attorney General to add conditions to the program only with the consent of the owner. Accordingly, after the program has begun, new conditions under which a vehicle may be stopped may only be added to an existing program if the owner consents to the new condition or conditions.

At this time based on our consultation with State and local law enforcement organizations, prosecutors, and private industry, the Department of Justice intends to implement this Act with the two basic program conditions outlined above, limited to operation of a vehicle between 1 a.m. and 5 a.m., and operation of a vehicle across a United States land border or into a United States port. The Department is interested, however, in obtaining comments from interested persons concerning other program conditions it

might adopt under the Act through promulgation of future regulations. For example, there are communities which have employed a decal for vehicles which should not be operated between the hours of 10 a.m. and 4 p.m. because the owners commute via mass transit and leave the vehicle in a commuter lot. Please use this proposed rulemaking as an opportunity to supply the Department with comments on the desirability of a commuter decal program, or about other ideas which would help States and localities prevent motor vehicle theft.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a significant regulatory action under Executive Order No. 12866, and therefore, this rule has not been reviewed by the Office of Management and Budget. This rule has no Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order No. 12612.

List of Subjects in 28 CFR Part 29

Administrative practice and procedure, Authority delegations, Crime, Highways and roads, International boundaries, Law enforcement, Motor vehicles, Organization and functions (Government agencies), Searches.

Accordingly, title 28 of the Code of Federal Regulations is proposed to be amended by adding part 29 to read as follows:

PART 29—MOTOR VEHICLE THEFT PREVENTION ACT REGULATIONS

Sec.

29.1 Purpose.
29.2 Definitons.
29.3 Administration by the Office of Justice Programs.
29.4 Election to participate by States and localities.
29.5 Notification of law enforcement officials.
29.6 Limited participation by States and localities.
29.7 Withdrawal from the program by States and localities.
29.8 Motor vehicle owner participation.
29.9 Motor vehicles for hire.
29.10 Owner withdrawal from the program.
29.11 Sale or other transfer of an enrolled vehicle.
29.12 Specified conditions under which stops may be authorized.
29.13 No new conditions without consent.

Authority: 28 U.S.C. 509; 510; 42 U.S.C. 14171.

§ 29.1 Purpose.

(a) The purpose of this part is to implement the Motor Vehicle Theft Prevention Act, 42 U.S.C. 14171, which requires the Attorney General to develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program. The program will be implemented by States and localities, at their sole option.

(b) Under this program, individual motor vehicle owners voluntarily sign a consent form in which the owner

(1) States that the identified vehicle is not normally operated under certain specified conditions and

(2) Agrees to display a program decal or device on the vehicle and to permit law enforcement officials in any jurisdiction to stop the motor vehicle if it is being operated under the specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(c) The regulations set forth in this part establish the conditions under which an owner may consent to having his or her vehicle stopped and the manner in which a State or locality may elect to participate.

§ 29.2 Definitions.

For the purposes of this part:

(a) *The Act* or *the MVTPA* means the Motor Vehicle Theft Prevention Act.

(b) *Owner* means the person or persons whose name(s) appear(s) on the certificate of title or to whom the car is registered.

(c) *The Program* refers to the National Voluntary Motor Vehicle Theft Prevention Program implemented pursuant to the Motor Vehicle Prevention Act.

§ 29.3 Administration by the Office of Justice Programs.

(a) The Assistant Attorney General for the Office of Justice Programs, or his or her designee (the ''Office''), will administer the program.

(b) The Office shall issue guidelines governing the operational aspects of the program. Such guidelines shall include the fees that may be charged to States or localities, or to owners, for the materials such as decals or devices necessary to participate in the program.

§ 29.4 Election to participate by States and localities.

(a) Any State or locality that wishes to participate in the program shall register with the Office and request program enrollment materials. Registration forms are available upon request from the Office. Participation in the program is wholly voluntary on the part of the State or locality.

(b) By electing to participate in the program, a State or locality agrees to do the following:

(1) Make program enrollment materials, including consent forms, available to interested motor vehicle owners;

(2) Collect completed consent forms;

(3) Provide enrolled motor vehicle owners with the decal(s) applicable to their program condition or conditions and instructions governing program participation;

(4) Take the necessary steps to authorize law enforcement officials to stop motor vehicles enrolled in the programs; and

(5) Comply with any other regulation(s) or guideline(s) governing participation in this program.

§ 29.5 Notification of law enforcement officials.

In addition to the actions enumerated in § 29.4(b), as a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials under its jurisdiction are familiar with the program and with the conditions under which motor vehicles may be stopped under the program.

§ 29.6 Limited participation by States and localities permitted.

A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

§ 29.7 Withdrawal from the program by States and localities.

Any participating State or locality may withdraw from the program at any time by sending written notification to the Office and notifying participating owners of the decision to withdraw.

§ 29.8 Motor vehicle owner participation.

In order to participate in this program, the owner(s) of a motor vehicle must sign a program consent form and register with a participating State or locality. If the vehicle is registered to more than one person, both owners must sign the consent form. By enrolling in the federal program, the owner(s) of the motor vehicle—

(a) State(s) that the vehicle is not normally operated under the specified conditions; and

(b) Agree(s) to

(1) Display the program decals or devices on the owner's vehicle;

(2) Permit law enforcement officials in any State or locality to stop the motor vehicle if the vehicle is being operated under the specified conditions and take reasonable steps to determine whether

the vehicle is being operated by or with the permission of the owner;

(3) Expressly advise any permissive user of the vehicle of the existence of this agreement, and that such user will be subject to being stopped by law enforcement officials if the vehicle is being operated under the specified condition(s) even if the officials have no other basis for believing the vehicle is being operated unlawfully; and

(4) Comply with any other regulation(s) or guideline(s) governing participation in this program.

§ 29.9 Motor vehicles for hire.

(a) Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall notify the person to whom the motor vehicle is rented or leased about the program, prior to transferring possession of the vehicle.

(b) The notice required by this section shall be printed in bold type in the rental or lease agreement, and on the envelope in which the rental agreement is placed. The print used in the notice provision of the rental or lease agreement must be larger than the regular type in the agreement. The notice must state that the motor vehicle may be stopped by law enforcement officials if it is operated under the conditions specified by the program in which the car is enrolled even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(c) Failure to provide the notice required by this section to a renter or lessee may result in the assessment of a civil penalty by the Assistant Attorney General, Civil Division, or his or her designee, of an amount not to exceed $5,000. No penalty shall be assessed unless the person charged has been given notice and an opportunity for a hearing of such charge.

§ 29.10 Owner withdrawal from the program.

An owner may withdraw from the program at any time by completely removing the program decal or device from the vehicle. The owner is also encouraged to notify the participating agency in writing of such withdrawal.

§ 29.11 Sale or other transfer of an enrolled vehicle.

Upon the transferral of ownership of an enrolled vehicle, the transferring owner must completely remove the program decal from the vehicle and is encouraged to notify the participating agency in writing of the transfer of ownership of the vehicle.

§ 29.12 Specified conditions under which stops may be authorized.

A motor vehicle owner may voluntarily enroll his or her vehicle(s) and give written consent to law enforcement official to stop the vehicle if it is being operated under any or all the conditions set forth in this section. For each condition, there is a separate consent form and decal or device.

(a) *Time.* A motor vehicle owner may authorize law enforcement officers to stop the enrolled vehicle if it is being operated between the hours of 1 am and 5 am. By enrolling in a program with this condition, the owner must state that the vehicle is not normally operated between the specified hours, and that the owner understands that the operation of the vehicle between those hours provides sufficient grounds for a prudent law enforcement officer reasonably to believe that the vehicle is not being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully.

(b) *Border crossing or port entry.* A motor vehicle owner may authorize law enforcement officers to stop the enrolled vehicle if it crosses or is about to cross a United States land border or if it enters a United States port. For purposes of this section, the phrase ''about to cross a United States land border'' means the vehicle is operated within one mile of a United States land border. Participating States or localities may implement his provision in accordance with local conditions, provided that a participating State or locality may not extend the applicable geographic area beyond one mile from the United States land border. By enrolling in a program with this condition, the owner must state that the vehicle is not normally driven across a border or into a port, and that the owner understands that the operation of the vehicle within a mile of a United States land border or into a port provides sufficient grounds for a prudent law enforcement officer reasonably to believe that the vehicle is not being operated by or with the consent of the owner even if the law enforcement officer has no other basis for believing that the vehicle is being operated unlawfully.

§ 29.13 No new conditions without consent.

After the program has begun, new conditions under which a vehicle may be stopped may only be added to an existing program if the owner consents to the new condition or conditions.

Dated: October 17, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–26248 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915 and 1926

[Docket No. H–071B]

Occupational Exposure to Methylene Chloride

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; limited reopening of the rulemaking record.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reopening the record for the proposed revision of the methylene chloride (MC) standard (56 FR 57036, November 7, 1991) for comments on recently conducted research regarding MC metabolism. OSHA's proposed MC risk assessment for cancer was based primarily on extrapolations from mouse bioassay data. The proposal and the hearing notice (57 FR 24438, June 9, 1992) solicited input regarding the relevance of metabolic and physiological differences between mice and humans when assessing human cancer risk. As a result, the rulemaking record already contains considerable information, comment and testimony regarding this issue.

The new studies address the potential pathway(s) by which MC metabolites induce lung and liver cancer in mice and draw conclusions regarding the relevance of the mouse data to the assessment of human cancer risk. OSHA has determined that these studies are relevant to full consideration of concerns raised by the MC rulemaking. Therefore, OSHA is reopening the record to allow the public an opportunity to comment.

DATES: Written comments on the materials incorporated through the notice of reopening must be postmarked by November 24, 1995.

ADDRESSES: Comments are to be submitted in quadruplicate to the Docket Office, Docket No. H–071B, U.S. Department of Labor, Room N–2634, 200 Constitution Avenue, NW, Washington, DC 20210. telephone (202) 219–7894. Written comments limited to 10 pages or less in length may also be

transmitted by facsimile to (202) 219–5046, provided that the original and 3 copies are sent to the Docket Office thereafter.

FOR FURTHER INFORMATION CONTACT: Anne C. Cyr, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone (202) 219–8148. Copies of the referenced studies ae available for inspection and copying in the Docket Office and will be immediately mailed to persons who request copies by telephoning Christine Whittaker at (202)219–7174. For electronic copies, contact the Labor News Bulletin Board (202) 219–4784; or OSHA—s WebPage on Internet at http://www.osha.gov/. For news releases, fact sheet, and other short documents, contact OSHA FAX at (900) 555–3400 at $1.50 per minute.

SUPPLEMENTARY INFORMATION:

I. Background

On November 7, 1991, OSHA issued a notice of proposed rulemaking (56 FR 57036) to address the significant risks of MC- induced health effects. The proposed rule required employers to reduce occupational exposure to MC and to institute ancillary measures, such as employee training and medical surveillance, for further protection of MC-exposed workers.

OSHA convened public hearings (57 FR 24438, June 9, 1992) in Washington, DC on September 16–24, 1992 and in San Francisco, CA on October 14–16, 1992. The post-hearing period for the submission of additional briefs, arguments and summations ended on March 15, 1993. On March 11, 1994, OSHA reopened the rulemaking record for 45 days (59 FR 11567) to obtain public input on three documents incorporated into the rulemaking record, one of which examined the relationship between MC exposure and human carcinogenesis. The limited reopening, which ended on April 25, 1994, generated 37 comments.

OSHA relied primarily on the mouse bioassay performed by the National Toxicology Program (NTP) in assessing human cancer risks in the proposed rule. The Preliminary Quantitative Risk Assessment was based on a multistage model which used the applied dose from the NTP study in the dose-response analysis. The proposal and the hearing notice solicited input regarding the extent to which metabolic differences between mice and humans could be taken into account when assessing human cancer risk. The Agency generated a considerable amount of information, comments and testimony regarding this issue at the public hearings and in the post-hearing comment periods. Thus the rulemaking record upon which the final risk assessment will be based already includes substantial data for analysis using either administered-dose or pharmacokinetic models.

In September 1995, the Halogenated Solvents Industry Alliance (HSIA) submitted several recently-completed studies on this issue in which HSIA asserted that species differences in the enzymatic metabolism of MC make the mouse a poor surrogate for estimating human cancer risk. The utility of the mouse data in assessing human risk is one of the important issues in this rulemaking. Therefore, OSHA believes that it is appropriate, even at this late stage of the rulemaking process, to consider the HSIA-submitted studies in the drafting of the final rule. Accordingly, the Agency is reopening the rulemaking record to incorporate these studies and to provide the public with an opportunity to comment.

As discussed above, OSHA has been considering the impact of species differences on the MC risk assessment throughout this rulemaking, and has generated an extensive record over the nearly four years since the proposal was published. While the Agency agrees with HSIA that the new materials should be taken into account, the Agency still believes that every reasonable effort should be made to finish this rulemaking expeditiously. To that end, OSHA has concluded that it is appropriate to allow interested parties 30 days within which to submit any additional comments and information regarding this issue. OSHA will provide interested parties with copies of the newly incorporated materials, upon request, to facilitate full and timely public participation. Requests for copies should be addressed to Christine Whittaker, Room N–3718, Health Standards Programs, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219–7174. Fax: (202) 219–7125.

In addition, OSHA notes that HSIA has submitted data on lung tissue obtained through the Zeneca Toxicology Laboratory in a preliminary communication (Ex. 124) but has not yet submitted a final report of this research. The Agency has determined, given the availability of the preliminary communication, that it would be inappropriate to delay the reopening until the final report was received. HSIA has indicated that the report will be submitted during the reopening period. As with the materials already docketed, OSHA will provide copies of that report, upon request, when it becomes available.

The materials added to the record consist of a transmittal letter from HSIA and seven technical submissions as discussed below.

Exhibit 117 Letter from Peter E. Voytek, Ph.D., of the Halogenated Solvents Industry Alliance to Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, September 5, 1995

This letter introduces the HSIA studies covered by the notice of reopening and requests that OSHA ''reopen the rulemaking record for the limited purpose of obtaining public comment (and additional scientific peer review, to the extent OSHA deems it appropriate) on this evidence.'' In particular, the HSIA letter states that the mice used in studies on which OSHA's risk assessment is based ''are uniquely sensitive at high exposure levels to methylene chloride-induced lung and liver cancer, and that other species, including humans, are not at similar risk.'' The letter summarized the basis for this interpretation as follows:

> As a result of this research program, it appears that there are no foreseeable conditions of human exposure in which the carcinogenic effects seen in mice could be expected to occur in man. Given the unique metabolism of methylene chloride by mice, the mouse cannot be considered an appropriate model for human risk assessment. The risk assessment that is the basis for the methylene chloride standard, which is in turn based on the increased liver and lung tumor incidence observed in the mouse bioassay, must be discarded in favor of scientific data that are relevant to human risk.

OSHA requests that commenters review the following technical studies to assess whether the conclusions summarized above are appropriate, in light of the evidence contained therein, considering factors such as: (1) The relevance, reliability, and sensitivity of the assays used (e.g., the DNA single-strand break assay reported in Exhibit 120 and the mRNA assay reported in Exhibit 124); (2) the existing evidence in the record indicating quantitative differences in MC metabolism between mice and humans; (3) the weight of evidence contributed by these *in vitro* studies evaluated in light of the other *in vitro* and *in vivo* information already in the record; and (4) other relevant factors. The Agency also requests that commenters address the extent to which these studies might also support alternative conclusions.

Exhibit 118 ''Methylene Chloride Induced Mouse Liver and Lung Tumours'', T. Green, Zeneca Central Toxicology Laboratory, July 31, 1995

This document summarizes the available information regarding the metabolism of methylene chloride in mice, rats, hamsters and humans. The researcher characterized this information as follows: ''These results provide evidence that the mouse is unique in its response to methylene chloride and that it cannot therefore be considered an appropriate model for human health assessment.''

Exhibit 119 ''Methylene Chloride: an inhalation study to investigate toxicity in the mouse lung using morphological, biochemical and Clara cell culture techniques,'' J.R. Foster, T. Green, L.L. Smith, S. Tittensor, and I. Wyatt, Toxicology 91 (1994) 221–234

This study reports MC metabolism by the cytochrome P–450 (CYP) and glutathione S-transferase (GST) pathways in mouse lung tissue, with particular reference to the Clara cell. The researchers reached the following conclusions:

1. Exposure levels of 1000 ppm MC and greater produced increased levels of DNA synthesis in Clara cells isolated from exposed mice in culture compared to controls, indicating that these cells are primed to respond when exposed to MC;
2. A minimum dose of between 1000–2000 ppm of MC is required to cause vacuolation [the development of cavities] in the Clara cell when given for 6 hours; and
3. The only biochemical change which correlated with exposure to MC was lung levels of non-protein sulfhydryl compounds;

Exhibit 120 ''Methylene chloride-induced DNA damage: an interspecies comparison,'' R.J. Graves, C. Coutts and T. Green, Carcinogenesis, vol. 16 no. 8 pp. 1919–1926, 1995

The researchers measured DNA damage in lung and liver cells from mice, rats, hamsters and humans. They observed increased DNA single strand (ss) breaks in mouse liver cells, after exposure to 4000–8000 ppm MC for 6 hours and in mouse lung cells after exposure to 2000–6000 ppm MC. No increase in ss breaks was detected in rat livers after exposure to 4000 ppm for 6 hours or in rat lungs after exposure to 4000 ppm for 3 hours. Increased numbers of ss breaks were also not detected in hamster and human liver cells after exposure to MC *in vitro* at concentrations up to 90 and 120 mM. In experiments on isolated mouse Clara cells, the authors observed increased DNA ss breaks in cells exposed to concentrations of MC of 5 mM and above. According to the authors, the study suggests that humans, rats and hamsters are insensitive to MC-induced liver cancer, because those species lack the high level of GST metabolic activity found in the mouse Clara cell.

Exhibit 121 ''Isolation of two mouse theta glutathione S-transferases active with methylene chloride, G.W. Mainwaring, J. Nash and T. Green, Zeneca Central Toxicology Laboratory, 1995.

The researchers used a variety of chromatography methods to isolate two mouse glutathione S-transferases (MT–1 and MT–2) metabolizing MC, comparing the observed enzyme activity with that detected in rat GST (GST 5–5 and GST 12–12). The authors stated as follows:

The difference seen in total methylene chloride metabolizing activity between rat and mouse in vivo, or in cytosol fractions, is more than 10 fold which does not appear to be attributable to a higher specific activity of mouse MT–1 compared to rat GST 5–5. At present the labile nature of rat GST 12–12 and mouse MT–2 preclude an assessment of the relative activities of these enzymes in the two species. However, it seems probable that the higher activity in the mouse is attributable to greater expression of the one or both enzymes in that species.

Exhibit 122 ''Mouse Liver glutathione S-Transferase Mediated Metabolism of Methylene Chloride to a Mutagen in the CHO/HPRT Assay,'' R.J. Graves and T. Green, Zeneca Central Toxicology Laboratory, 1995

This study investigated the mutagenicity of MC in mammalian cells by inducing mutations at the HPRT locus of CHO cells in mouse livers through exposure to MC GST metabolites, formaldehyde (a MC metabolite) and 1,2-dibromoethane (1,2-DBE) (the reference genotoxin).

Based on a comparison of the mutagenic effects of the three compounds, particularly on the lack of MC-induced DNA-protein cross-linking in this experimental system, the authors concluded that formaldehyde does not play a major role in MC mutagenicity. Accordingly, the researchers viewed the results of this study as supporting the hypothesis that the DNA ss breaks induced by MC, and the resultant DNA mutations, are caused by interaction of S-chloromethyl glutathione with DNA.

Exhibit 123 ''DNA Sequence Analysis of Methylene Chloride-Induced HPRT Mutations in CHO Cells: Comparison with the Mutation Spectrum Obtained for 1,2-Dibromethane and Formaldehyde,'' R.J. Graves, P. Trueman, S. Jones and T. Green, Zeneca Central Toxicology Laboratory, 1995

The researchers compared the spectrum of DNA mutations induced by exposure to MC with the mutations induced by formaldehyde and 1,2-DBE. The results provided a spectrum analysis of MC and 1,2-DBE-induced mutagenesis in mammalian cells and extended the previous observation of formaldehyde mutagenesis in human lymphoblasts. The results suggested to the researchers that formaldehyde-induced DNA damage can contribute to MC mutagenicity, but that the majority of the mutations were derived from other types of DNA damage, probably via an interaction of S-chloromethylglutathione with DNA. The researchers noted that a glutathione conjugate also plays a role in the mutagenicity of 1,2-DBE. The increases above background mutation frequency detected through this study were 24.7-fold for 1,2-DBE, 4.7-fold for formaldehyde, and 8-fold for MC.

Exhibit 124 ''The distribution of glutathione S-transferase 5–5 in the lungs and livers of mice, rats and humans'' [Preliminary communication, T. Green, 1995]

This preliminary communication summarizes the results of a study comparing the distribution of the glutathione S-transferase (GST) isozyme putatively responsible for metabolizing methylene chloride in the lungs and livers of mice, rats and humans. The distribution of enzyme was visualized using oligonucleotide anti-sense probes complementary to the nucleotide sequences for the transferases. The results indicated that the GST-specific mRNA could be found in lungs and livers of all three species. Mouse liver cells (particularly the nuclei) and mouse lung cells appeared to stain more heavily for the GST mRNA than the lung or liver cells from rats or humans. Although the amount of GST-specific mRNA was not quantified in this study, the authors interpreted the data to suggest that, ''* * * mouse tissues are stained much more heavily than sections from either rat or human.'' Based on the distribution of the GST mRNA, the author concluded that,

The most significant findings are the presence of very high concentrations of GST 5–5 mRNA in specific cells and nuclei of mouse liver and lung. Metabolism of

methylene chloride at high rates and within nuclei to a reactive but highly unstable glutathione conjugate is believed to facilitate alkylation of DNA by this metabolite. The lack of high or nuclear GST 5–5 concentrations in rat and human tissue, provides an explanation for the lack of genotoxicity in these species.

II. Public Participation

Comments

Written comments regarding the materials incorporated into the MC rulemaking record through this notice must be postmarked by November 24, 1995. Four copies of these comments must be submitted to the Docket Office, Docket No. H–071B, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 219–7894. All materials submitted will be available for inspection and copying at the above address. Materials previously submitted to the Docket for this rulemaking need not be resubmitted.

III. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655), and 29 CFR Part 1911.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 95–26228 Filed 10–23–95; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AB52

Safety Requirements Governing Production Platforms and Pipelines

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Minerals Management Service (MMS) withdraws the proposed rule governing production platforms and pipelines in the Outer Continental Shelf (OCS). The major provision of the proposed rule was to require shutdown valves (SDV) on departing pipelines. MMS anticipates reviewing all its regulations governing offshore pipelines in the near future following the completion of a new Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and Department of Transportation (DOT). MMS has decided that this issue can be better addressed during that review and subsequent rulemaking.

FOR FURTHER INFORMATION CONTACT: William S. Hauser, Engineering and Standards Branch, telephone (703) 787–1600.

SUPPLEMENTARY INFORMATION: By Federal Register Notice dated May 16, 1994 (59 FR 25377), MMS proposed revising certain design and safety equipment requirements for production platforms and pipelines in the OCS. MMS proposed the regulations following an internal review of the circumstances that led to the 1988 Piper Alpha platform fire in the North Sea and a 1989 pipeline and platform fire in the Gulf of Mexico. The proposed rule would have required lessees to install SDV's on all new and major modifications of existing pipelines departing from production platforms. The proposed rule would not have required lessees to retrofit all existing pipelines because installation of the valves in pipelines which are being used in ongoing operations can pose a safety hazard.

Ten oil and natural gas producers, two oil and gas companies, one Government agency, one consultant, and four trade organizations representing oil and gas producers, pipeline companies, and drilling contractors commented on the proposed rule. The comments addressed a number of technical and engineering considerations. Commenters also pointed out that in some cases the purpose of the SDV could be achieved by flow safety valves which are being used by a majority of OCS lessees.

The DOI and DOT are in the process of revising the MOU that establishes each department's responsibilities for offshore pipelines. Upon completion of the MOU, MMS and DOT will examine the regulatory requirements for all offshore pipelines under their jurisdictions, including the requirements contained in the previously proposed rulemaking. This comprehensive review will likely lead to a revision and restructuring of the current pipeline rules in Subpart J, Pipelines and Pipeline Rights-of-Way. Accordingly, MMS is withdrawing the proposed rule and will wait until the MOU is completed, and the new responsibilities are delineated, so that it can develop comprehensive and consistent pipeline rules. In the interim, MMS is working cooperatively with offshore operators to ensure that the principles in the proposed rule are followed and that the safety of offshore operations is not compromised.

The withdrawal of the rule will not diminish the safety of offshore operations. MMS and industry have been working cooperatively to ensure that all new pipeline construction and major modifications of existing pipelines are consistent with the standards and practices of the proposed rule. (As noted, the retrofitting of existing operating pipelines is generally not recommended for safety reasons.)

The efforts to ensure offshore safety include the development of the American Petroleum Institute Recommended Practice for the Development of a Safety and Environmental Management Program for OCS Operations and Facilities (API RP 75). This recommended practice addresses a broad range of safety and environmental hazards in the design, construction, startup, operation, inspection, and maintenance of drilling and production facilities in the OCS including those covered in the proposed rule. MMS is actively monitoring the adoption and implementation of API RP 75 by OCS operators.

Dated: October 9, 1995.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 95–26301 Filed 10–23–95; 8:45 am]

BILLING CODE 4310–MR–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK6–1–6587b; FRL–5293–6]

Approval and Promulgation of State Implementation Plans; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Alaska implementing an oxygenated gasoline program in the Municipality of Anchorage. This SIP revision was submitted to satisfy the requirement of section 211(m) of the Clean Air Act, as amended (the ''Act''), which requires all carbon monoxide (CO) nonattainment areas with a design value of 9.5 parts per million or greater based generally on 1988 and 1989 air quality monitoring data to implement an oxygenated gasoline program. In the Final Rules Section of this Federal Register, the EPA is approving the State's SIP

revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by November 24, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

The Alaska Department of Environmental Conservation, 410 Willoughby, suite 105, Juneau, AK 99801–1795.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–0180.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action which is located in the rules section of this Federal Register.

Dated: August 30, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–26317 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WA41–1–7114b; FRL–5283–7]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the Regulations of the Northwest Air Pollution Authority (NWAPA) for the control of air pollution in Island, Skagit, and Whatcom Counties, Washington, as revisions to the Washington State Implementation Plan (SIP). In accordance with state law, NWAPA rules must be at least as stringent as the Washington Department of Ecology (WDOE) statewide rules.

DATES: Comments on this proposed rule must be received in writing by November 24, 1995.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air Programs Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day: U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101, and the Washington State Department of Ecology, P.O. Box 47600, PV–11, Olympia, WA 98504–7600.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, Air Programs Branch (AT–082), EPA, Region 10, Seattle, Washington 98101, (206) 553–6917.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: August 8, 1995.

Charles Findley,

Acting Regional Administrator.

[FR Doc. 95–26201 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 10

[CGD 85–089]

RIN 2115–AB99

Training in the Use of Automatic Radar Plotting Aids (ARPA)

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: This rulemaking was initiated to established a requirement for training in the use of ARPA for licensed deck officers on vessels fitted with ARPA units. Existing International Maritime Organization (IMO) guidelines were used in drafting the proposed requirements. These IMO guidelines and other requirements were recently reflected in the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). As a result, the Coast Guard is withdrawing this proposed rulemaking with the intention of initiating a new rulemaking implementing the new STCW requirements when they become effective in February 1997.

DATES: This withdrawal is made on October 24, 1995.

FOR FURTHER INFORMATION CONTACT:

Mr. Christopher Young, Project Manager, Office of Marine Safety, Security and Environmental Protection (G–MOS–1), (202) 267–0229.

SUPPLEMENTARY INFORMATION: On March 7, 1990, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) (55 FR 8155) titled ''Training in the use of Automatic Radar Plotting Aids (ARPA),'' docket number CGD 85–089, which solicited comments on the proposal to require ARPA training. Twenty-two written comments were received. In general, the comments expressed concerns with applicability of the training, specific standards and costs associated with the proposed requirement.

Since the publication of the NPRM, an international conference has adopted amendments to the STCW Convention, including a requirement that officers of the navigational watch on seagoing ships which are fitted with ARPA be trained in the use of radar and ARPA. The amendments are scheduled to come into effect on February 1, 1997.

As a result, the Coast Guard will address ARPA Training requirements when regulations are promulgated to implement the 1995 amendments to the STCW Convention.

Dated: October 13, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–26261 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–84; Notice 01]

RIN 2127–AF70

Federal Motor Vehicle Safety Standards; Head Restraints

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule proposes to delete one of two alternative performance requirements for head restraints. That alternative involves a testing procedure that is more cumbersome than the one in the other alternative and has rarely, if ever, been used by manufacturers. Accordingly, removing this alternative would not adversely affect the manufacturers. Further, removal would simplify the language of the standard. This document also proposes to amend several sections of Standard No. 202 to reduce the administrative burdens of this standard. This proposal would clarify the test procedures by replacing the ''rearmost portion of the head form'' with a reference to the portion of the head form in contact with the head restraint. This proposal would also specify that head restraints on bench-type seats are loaded simultaneously during compliance testing. NHTSA believes that these amendments would reduce confusion and allow manufacturers to certify compliance with lower test costs.

DATES: Comments must be received by December 26, 1995.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Edward Jettner, Frontal Crash Protection Division, Office of Vehicle Safety Standards, NPS–12, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone: (202) 366–4917, fax (202) 366–4329.

For legal issues: Mary Versailles, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone: (202) 366–2992, fax (202) 366–3820.

SUPPLEMENTARY INFORMATION: Pursuant to the March 4, 1994 directive, ''Regulatory Reinvention Initiative,'' from the President to the heads of departments and agencies, NHTSA has undertaken a review of all its regulations and directives. During the course of this review, the agency identified several requirements and regulations that are potential candidates for amendment or rescission. Some of these provisions were found in Federal Motor Vehicle Safety Standard No. 202, ''Head Restraints.''

Rescission

Currently, Standard No. 202 allows manufacturers a choice of two performance requirements which provide equivalent levels of safety. One alternative, found in S4.3(b) and S5.2, requires the head restraint to have minimum dimensions and to not displace more than 4 inches when a 3,300 inch pound moment is applied to the head restraint. The other alternative, found in S4.3(a) and S5.1, limits rearward displacement of the head restraint to less than 45 degrees during a forward acceleration of at least 8g applied to the seat supporting structure. The second alternative involves a testing procedure that is more cumbersome than the first alternative and subsequently has rarely, if ever, been used. Because this alternative has rarely been used, NHTSA believes that removing this alternative will simplify the regulatory language of the standard without affecting the vehicle manufacturers.

Amendments

The agency also identified several sections of Standard No. 202 which would be amended to reduce the administrative burdens of this standard.

First, during agency compliance testing, questions have occasionally arisen regarding what is the ''rearmost portion of the head form.'' Therefore, the agency is proposing to clarify the standard by replacing the reference to ''rearmost portion of the head form'' with a reference to the portion of the head form in contact with the head restraint.

Second, to reduce compliance testing costs, the agency is proposing to specify that head restraints on bench-type seats are to be loaded simultaneously during testing. If this proposal were adopted, the driver's and right passenger head restraint could be tested in a single test instead of in two separate tests. Under the current test procedure, a load that will produce a 3,300 inch pound moment is applied to the head restraint. That load is then increased until either a 200 pound load is applied or the seat back fails. If simultaneous loads were to cause the seat back to fail before the 200 pound load was applied, this proposal might theoretically allow manufacturers to install less strong head restraints. However, NHTSA has never had a seat back fail during its compliance testing for Standard No. 202. Because the total load would be less than seats are required to withstand by Standard No. 207, *Seating Systems*, NHTSA does not believe that testing head restraints simultaneously would result in a seat or seat failure. Therefore, this amendment would not result in a lessening of the safety requirements of the standard. However, manufacturers could experience minor cost savings as a result of running one test of both head restraints simultaneously, rather than two separate tests.

The agency also wishes to remind the public that it is in the midst of research to determine whether, and if so, how, Standard No. 202 might be upgraded to further reduce whiplash injuries. The results of that research will form the content of a separate notice regarding possible amendments to this standard.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures. The agency has determined that the economic impacts of this proposed rule are so minimal that preparation of a full regulatory evaluation is not warranted. Since the cost of testing would be on a per vehicle basis, test savings of not more than $100 should result because of reduction in test set-up times.

Regulatory Flexibility Act: NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA does not anticipate a significant economic impact from this rulemaking action on any entities, including small entities.

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this proposed rule.

National Environmental Policy Act: NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism): NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform: This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.202 would be amended by removing S4.3, S5.1, and S5.2 and by revising S4.1, S4.2, and S5, to read as follows:

§ 571.202 Standard No. 202; Head restraints.

* * * * *

S4.1 Except for school buses, a head restraint that complies with S4.2 shall be provided at each outboard front designated seating position. For school buses, a head restraint that complies with S4.2 shall be provided for the driver's seating position.

S4.2 Each head restraint, when adjusted to its fully extended design position, shall comply with S4.2(a) through S4.2(d):

(a) When measured parallel to the torso line, the top of the head restraint shall not be less than 27.5 inches above the seating reference point.

(b) When measured either 2.5 inches below the top of the head restraint or 25 inches above the seating reference point, the lateral width of the head restraint shall be not less than:

(1) 10 inches for head restraints installed on bench-type seats; or

(2) 6.75 inches for head restraints installed on individual seats.

(c) When tested in accordance with S5, any portion of the head form in contact with the head restraint shall not be displaced to more than 4 inches perpendicularly rearward of the displaced extended torso reference line during the application of the load specified in S5(c).

(d) When tested in accordance with S5, the head restraint shall withstand the load specified in S5(d) until one of the following occurs:

(1) Failure of the seat or seat back; or

(2) Application of a load of 200 pounds.

S5. *Demonstration procedure.* Compliance with S4.2 shall be demonstrated in accordance S5(a) through S5(d) with the head restraint in its fully extended design position. Test loads shall be applied simultaneously to head restraints that are installed on bench type seats.

(a) Place a test device, having the back pan dimensions and torso line (centerline of the head room probe in full back position) of the three dimensional SAE J826 (May 1987) manikin, at the manufacturer's recommended design seated position.

(b) Establish the displaced torso reference line by applying a rearward moment of 3,300 in. lb. about the lateral axis through the seating reference point to the seat through the test device back pan located in S5(a).

(c) After removing the back pan, using a 6.5 inch diameter spherical head form or a cylindrical head form having a 6.5 inch diameter in plan view and a 6-inch height in profile view, apply a rearward initial load 2.5 inches below the top of the head restraint that will produce a 3,300 in. lb. moment about the lateral axis through the seating reference point.

(d) Gradually increase the load specified in S5(c) to 200 pounds or until the seat or seat back fails, whichever occurs first.

Issued on October 17, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–26157 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 60, No. 205
Tuesday, October 24, 1995

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

Commodity Credit Corporation

Notice of Request for Extension for and Revision to a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection in support of the General Regulations Governing the Peanut Warehouse Storage, Loan and Handler Operations.

DATES: Comments on this notice must be received on or before December 26, 1995 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Gary S. Fountain, Agricultural Marketing Specialist, Tobacco and Peanuts Division, Consolidated Farm Service Agency, USDA, P.O. Box 2415, Washington, D.C. 20013–2415; telephone (202) 720–9106.

SUPPLEMENTARY INFORMATION:

Title: Peanut Warehouse Contracts, Application and Approval, Examination Reports, Bond, Warehouse Receipts and Drafts.

OMB Control Number: 0560–0014.

Expiration Date of Approval: December 31, 1995.

Type of Request: Extension and Revision of a Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Number 0560–0014, as identified above, is needed to enable CCC to effectively administer the price support program for peanuts. The forms provide CCC with information on storage facilities, handler and producer operations and collateral pledged as security for peanut price support loans that have been advanced pursuant to law. The information collection allows CCC to contract for warehouse storage and related services and to monitor and enforce all program provisions in 7 CFR part 1446. Information that is needed by CCC to monitor the disposition of contract additional peanuts is also obtained from the collection.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .208 hours per response.

Respondents: Farms, Small businesses or other Organizations.

Estimated Number of Respondents: 150,000.

Estimated Number of Responses per Respondent: 1.73.

Estimated Total Annual Burden Hours on Respondents: 54,118.

Requests for copies of this information collection and comments regarding the accuracy of the burden estimate, suggested methods to minimize the burden, including the use of automated collection techniques, other forms of information technology, or any other aspect of this collection should be sent to the individual named in the Additional Information or Comments paragraph.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., on October 13, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–26234 Filed 10–23–95; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 775]

Expansion of Foreign-Trade Zone 104, Savannah, GA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Savannah Airport Commission, grantee of Foreign-Trade Zone No. 104, requesting authority to expand its general-purpose zone in the Savannah, Georgia, area, within the Savannah Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on April 12, 1995 (Docket 14–95, 60 FR 19570, 4/19/95);

Whereas, notice inviting public comment was given in the Federal Register and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary

[FR Doc. 95–26329 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 776]

Grant of Authority for Subzone Status, Columbia Specialties, Inc.; (Room Air Conditioners, Dehumidifiers) Columbia, TN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Metropolitan Nashville Port Authority, grantee of Foreign-Trade Zone 78, for authority to establish special-purpose subzone status at the room air conditioner and dehumidifier manufacturing plant of Columbia Specialties, Inc., in Columbia, Tennessee, was filed by the Board on October 28, 1994, and notice inviting public comment was given in the Federal Register (FTZ Docket 33–94, 59 FR 56034, 11–10–94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 78G) at the Columbia Specialties, Inc., plant in Columbia, Tennessee, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–26330 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 781]

Grant of Authority for Subzone Status, Marathon Oil Company (Oil Refinery) Robinson, Illinois

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Bi-State Authority (Lawrence County, Illinois), grantee of Foreign-Trade Zone 146, for authority to establish special-purpose subzone status at the oil refinery complex of Marathon Oil Company, in Robinson, Illinois, was filed by the Board on May 19, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 25–95, 60 FR 27956, 5–26–95); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 146D) at the Marathon Oil Company oil refinery complex, in Robinson, Illinois, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

—Petrochemical feedstocks and refinery by-products (examiners report, Appendix D);
—Products for export; and,
—Products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–26335 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 777]

Approval of Export Processing Activity, Silicon Valley Solutions, Inc. (Personal Computers) Within Foreign-Trade Zone 18, San Jose, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, San Jose Distribution Services, operator of FTZ 18, San Jose, California, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Silicon Valley Solutions, Inc., to manufacture personal computers for export within FTZ 18 (filed 8–8–95, FTZ Docket A(32b1)–15–95; Doc. 53–95, assigned 9/19/95);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is for export only (§ 400.32(b)(1)(ii); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, Therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–26331 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 778]

Approval of Export Manufacturing Activity, Lotte U.S.A., Inc. (Chewing Gum) Within Foreign-Trade Zone 43, Battle Creek, Michigan

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u),

the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the City of Battle Creek, Michigan, grantee of FTZ 43, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Lotte U.S.A., Inc., to manufacture chewing gum under zone procedures for export within FTZ 43, Battle Creek, Michigan (filed 3–31–95, FTZ Docket A(32b1)–4–95; Doc. 54–95, assigned 9–21–95);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is for export only (§ 400.32(b)(1)(ii)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, Therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28, and subject to the restriction that all foreign merchandise admitted to the zone for the Lotte U.S.A., Inc., operation shall be reexported.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–26332 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 779]

Grant of Authority for Subzone Status, Uno-Ven Company (Oil Refinery), Will County, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Illinois International Port District, grantee of Foreign-Trade Zone 22, for authority to establish special-purpose subzone status at the oil refinery complex of UNO-VEN Company, at sites in Will County, Illinois, was filed by the Board on March 31, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 12–95, 60 FR 18579, 4–12–95); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 22I) at the UNO-VEN Company oil refinery complex, in Will County, Illinois, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000–#2710.00.1050 and #2710.00.2500 which are used in the production of:

—Petrochemical feedstocks and refinery by-products (examiners report, Appendix D);

—Products for export; and,

—Products eligible for entry under HTSUS #9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–26333 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 780]

Grant of Authority for Subzone Status, Mobil Corporation (Oil Refinery), Jefferson/Liberty Counties, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Foreign-Trade Zone of Southeast Texas, Inc., grantee of Foreign-Trade Zone 115, for authority to establish special-purpose subzone status at the oil refinery complex of Mobil Corporation, located at sites in Jefferson/Liberty Counties, Texas, was filed by the Board on May 16, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 24–95, 60 FR 27719, 5–25–95); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 115B) at the Mobil Corporation oil refinery complex, in Jefferson/Liberty Counties, Texas, at the locations described in the application, subject to the FTZ Act and the Board's

regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–#2710.00.1050 and # 2710.00.2500 which are used in the production of:

—Petrochemical feedstocks and refinery by-products (examiners report, Appendix D);
—Products for export; and,
—Products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–26334 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 782]

Revision of Grant of Authority, Subzone 122A, Coastal Refining and Marketing, Inc. (Oil Refinery), Corpus Christi, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board) authorized subzone status at the oil refinery of Coastal Refining and Marketing, Inc., in Corpus Christi, Texas, in 1985 (Subzone 122A), Board Order 310, 50 FR 38020, 9/19/85);

Whereas, the Port of Corpus Christi Authority, grantee of FTZ 122, has requested, pursuant to § 400.32(b)(1)(i), a revision (filed 8/18/95, A(32b1)–16–95; FTZ Doc. 56–95, assigned 9/27/95) of the grant of authority for FTZ Subzone 122A which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the request has been reviewed and the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation of the Executive Secretary, and approves the request;

Now Therefore, the Board hereby orders that, subject to the Act and the Board's regulations, including § 400.28, Board Order 310 is revised to include the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery (Subzone 122A) shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to Subzone 122A, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000–#2710.00.1050 and #2710.00.2500 which are used in the production of:

—Petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
—Products for export; and,
—Products eligible for entry under HTSUS #9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option for Subzone 122A is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 13th day of October 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–26336 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–839]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 24, 1995.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Michelle Frederick or Sunkyu Kim, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5288, (202) 482–0186 or (202) 482–2613, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department of Commerce's (the Department) regulations are in reference to the provisions as they existed on December 31, 1994.

Final Determination

We determine that certain partial-extension steel drawer slides with rollers (drawer slides) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination of sales at LTFV on May 30, 1995 (60 FR 29571, June 5, 1995), the following events have occurred:

On June 8, 1995, the three respondents, Guangdong Metals and Minerals Import and Export Group Corporation (GDMC), Taiming Metal Products Co., Ltd. (Taiming), and Sikai Hardware & Electronic Equipment Manufacturing Co., Ltd. (SHEEM), jointly submitted clerical error allegations to the Department's preliminary determination. While the Department found that a clerical error was made in the preliminary determination for GDMC, because the clerical error was not significant, as defined in 19 CFR 353.15, no revision to the preliminary determination was made.

On June 15, 1995, Tung Wing (Hardware) Industrial Company submitted a letter to the Department stating that it is a manufacturer of the subject merchandise in the PRC and gave notice of appearance as an interested party. It also requested a public hearing in this investigation. On the same day, three interested parties, Liberty Hardware Mfg. Corp., Armstrong Furniture, and Sauder Woodworking also requested a public hearing.

Additional publicly available published information on surrogate values was submitted by the petitioner and the respondents on July 6 and 10, 1995, respectively. The petitioner also submitted pre-verification comments on

July 6, 1995. The respondents submitted information on steel scrap offsets on July 10, 1995.

In July and August 1995, we verified the respondents' questionnaire responses. Reports concerning these verifications were issued in August 1995. On August 22, 1995, the respondents submitted a letter requesting that a public hearing not be held. The petitioner as well as the interested parties, Liberty Hardware Mfg. Corp., Armstrong Furniture, and Sauder Woodworking, also agreed that a public hearing should not be held. On August 31, 1995, Tung Wing (Hardware) Industrial Company withdrew its request for a public hearing.

The petitioner and the respondents filed case briefs on September 1, 1995, and rebuttal briefs on September 11, 1995. On September 5, 1995, the respondents submitted a letter requesting that the Department reject the petitioner's case brief in its entirety claiming that it contained new factual information. Specifically, the respondents objected to petitioner's submission of information regarding the type of rivets used in making drawer slides. The petitioner submitted rebuttal comments to the respondents' request on September 8, 1995. After reviewing petitioner's submission and the record in this investigation, the Department has determined that the information regarding rivets as submitted by the petitioner in the case brief did not constitute new factual information (*see,* Memorandum to File from Case Analyst dated September 11, 1995).

On September 6, 1995, we requested that each respondent submit revised computer files incorporating corrections found at verification. On September 16, 1995, we received revised computer files from each respondent.

Scope of Investigation

The subject merchandise in this investigation is certain partial-extension steel drawer slides of any length with rollers. A drawer slide is composed of two separate drawer slide rails. Each rail has screw holes and an attached polymer roller. The polymer roller may or may not have ball bearings. The subject drawer slides come in two models: European or Low-Profile and Over-Under or High-Profile. The former model has two opposing rails that provide one channel along which both rollers move and the latter has two opposing rails that provide two channels, one for each roller. For both models of drawer slides, the two opposing rails differ slightly in shape depending on whether the rail is to be affixed to the side of a cabinet or the side of a drawer. A rail may also feature a flange for affixing to or aligning along the bottom of a drawer.

Drawer slides may be packaged in an assembly pack with two drawer slides; that is, four rails with their attached rollers, or in an assembly pack with one drawer slide; that is, two rails with their attached rollers; or individually; as a drawer slide rail with its attached roller. An assembly pack may or may not contain a packet of screws.

Not included in the scope of this investigation are linear ball bearing steel drawer slides (with ball bearing in a linear plane between the steel elements of the slide), roller bearing drawer slides (with roller bearings in the wheel), metal box drawer slides (slides built into the side of a metal or aluminum drawer), full extension drawer slides (with more than four rails per pair), and industrial slides (customized, high-precision slides without polymer rollers).

The subject merchandise is currently classifiable under subheading 8302.42.30 of the *Harmonized Tariff Schedule of the United States* (HTSUS). It may also be classified under 9403.90.80. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (''POI'') is May 1, 1994, through October 31, 1994.

Best Information Available

As stated in the preliminary determination, we have based the duty deposit rate for all other exporters in the PRC (the ''PRC-Wide Rate'') on best information available (''BIA''). The evidence on record indicates that the responding companies do not account for all exports of the subject merchandise. On January 19, 1995, the Department sent full questionnaires to the PRC's Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the China Chamber of Commerce for Machinery and Electronics Products Importers/Exporters (the Chamber). The Department requested that the questionnaire be transmitted to all companies that produce drawer slides for export to the United States and to all companies that exported drawer slides to the United States during the POI. Although requested, the Department never received confirmation that either MOFTEC or the Chamber had forwarded the questionnaire.

The evidence on record indicates that not all producers of drawer slides for export to the United States or exporters of drawer slides to the United States responded to our questionnaire. Specifically, the petitioner has provided in the petition, submitted on October 31, 1994, price quotes on drawer slides obtained from a non-respondent PRC company. Additionally, on February 17, 1995, the Department received a phone call from a U.S. importer of drawer slides from the PRC. The importer indicated that the PRC exporter from which he buys drawer slides was not identified by the petitioner or the Department (*see,* preliminary determination concurrence memorandum of May 30, 1995). Also, as stated above in the *Case History,* Tung Wing (Hardware) Industrial Company has identified itself as a manufacturer of drawer slides in the PRC in a letter submitted to the Department on June 15, 1995.

Because information has not been presented to the Department to prove otherwise, other PRC exporters not participating in this investigation are not entitled to separate dumping margins. In the absence of responses from all exporters, therefore, we are basing the country-wide deposit rate on BIA, pursuant to section 776(c) of the Act. (*See, e.g., Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Ukraine,* 61 FR 16433 (March 30, 1995) (''*Pure Magnesium from Ukraine*'')).

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns margins based on less adverse assumptions to those respondents who cooperated in an investigation and margins based on more adverse assumptions for those respondents who did not cooperate in an investigation. *See Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, Italy, Japan, Romania, Sweden, Thailand and the United Kingdom,* 54 FR 18992, 19033 (May 3, 1989). When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, the Department assigns to that company the higher of (a) the highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation.

In this investigation, because the evidence indicates that not all PRC exporters of drawer slides responded to our questionnaire, we are assigning to any PRC company, other than those specifically identified below, the PRC-Wide deposit rate. In this investigation,

that rate is the highest margin alleged in the petition, as recalculated by the Department for purposes of the initiation, because it is higher than the highest calculated rate of any respondent. (*See Initiation of Antidumping Duty Investigation: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 59 FR 60773 (November 28, 1994)).

Separate Rates

In the preliminary determination in this case, we found that each of the three respondents qualified for separate rates. The facts, as analyzed in the preliminary determination, were verified as accurate. No comments were received objecting to those findings, nor has any information come to our attention to alter our conclusion. Therefore, we are assigning the three respondents separate rates for the final determination. For discussion of our separate rates analysis in this case see the *Preliminary Determination.*

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy country (NME) in all past antidumping investigations. Given that no information has been provided in this proceeding that would lead us to conclude otherwise, in accordance with section 771(18)(c) of the Act, we continue to treat the PRC as an NME for purposes of this investigation.

Surrogate Country

In the preliminary determination in this case, we determined that India is the preferred surrogate country for purposes of calculating the factors of production. *See* Section 773 (c)(4) of the Act. No comments were received objecting to our determination, nor has any information come to our attention to alter our conclusion. Therefore, we are using India as the preferred surrogate country for the final determination. Although India is the preferred surrogate country, we have resorted to Indonesia for a certain surrogate value where an Indian value was determined to be inappropriate. *See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC,* 58 FR 48833, 48835 (September 20, 1993) (''*Helical Spring Lock Washers*'') and *Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China,* 59 FR 55625, 55629 (November 8, 1994) (''*Certain Cased Pencils*'').

Fair Value Comparisons

To determine whether sales of drawer slides from the PRC to the United States by Taiming, SHEEM, and GDMC were made at less-than-fair-value prices, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

United States Price

United States price was calculated on the basis of purchase price, as described in the preliminary determination, in accordance with section 772 (b) of the Act. Pursuant to findings at verification, minor adjustments were made to foreign inland freight, foreign brokerage and handling, the date of shipment, and the date of sale for certain sales reported by Taiming. For SHEEM, minor adjustments were made to the date of shipment and the date of payment for certain sales. In addition, we revised our calculation of foreign inland freight by valuing this charge in the surrogate country for all sales in the POI (*see* Comment 6 below). In the case of GDMC, minor adjustments were made to the reported date of shipment for certain sales.

Foreign Market Value

In accordance with section 773(c) of the Act, we calculated FMV based on factors of production cited in the preliminary determination, making adjustments based on our findings at verification. To calculate FMV, the verified factor amounts were multiplied by the appropriate surrogate values for the different inputs. We have used the same surrogate values used in the preliminary determination with certain revisions as discussed below (*see,* also, concurrence memorandum of October 18, 1995).

In our preliminary determination, we valued factory overhead, including energy, based on industry group income statements for ''Processing and Manufacture—Metals, Chemicals, and Products thereof'' from the September 1994 Reserve Bank of India Bulletin (1994 *RBI*). For the final determination, although we based the factory overhead calculations principally on the 1994 *RBI,* we did not use in our calculations the 1994 *RBI* figure for ''Power and fuel.'' Instead, we used the actual verified energy consumption figures provided by the respondents, which are specific to the drawer slides industry and more appropriate than energy consumption figures for a more general industry group (*see* Comment 5 below). To value electricity, we used the average Indian state electricity rates, as published in the June 1994, edition of *Current Energy Scene in India* by the Centre for Monitoring the Indian Economy, Pvt. Ltd. This information was used because, out of all the available sources, it is the most contemporaneous to the POI.

To value steel rivets, we used in our preliminary determination public information from the August 1994 *Monthly Statistics of the Foreign Trade of India, Imports* (*Indian Import Statistics*). Since the preliminary determination, the respondents have provided information which led us to question the reliability of the value for steel rivets provided in the *Indian Import Statistics.* Based on a comparison of the Indian import value used in the preliminary determination to other values on the record, we determined that the Indian import value for steel rivets does not provide a reliable basis for valuing the factor. Therefore, we have valued this input using Indonesian import statistics (*see* Comment 2 below).

For Taiming, SHEEM, and GDMC, we adjusted the factor value for cold-rolled steel to exclude the cost of ocean freight. In our preliminary determination, we added ocean freight to the surrogate value for cold-rolled steel. For the final determination, we determined that it was inappropriate to add ocean freight to the cost of cold-rolled steel when we are using a surrogate country domestic price to value the steel (*see* Comment 3 below).

In addition, for Taiming, SHEEM, and GDMC, we adjusted labor hours and consumption figures of certain factors to reflect verified information. We also used the verified distances between factory and input supplier to calculate foreign inland freight. In the case of GDMC, we used the POI consumption of plastic packing strip instead of plastic bags because it was discovered at verification that the company had misreported plastic packing strip as plastic bags.

Verification

As provided in section 776(b) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by the respondents.

Interested Party Comments

Comment 1: Surrogate Value for Cold-Rolled Steel

The petitioner argues that in our final margin calculations, the Department should value the cold-rolled steel based on public information provided by the petitioner in its July 6, 1995, submission. The petitioner provided copies of excerpts from the *Iron and Steel Newsletter*, June–October 1994, published in India by Galkrishna Binani, on behalf of the Asian Industry & Information Services P. Limited. The cold-rolled steel prices as contained in the newsletter reflect wholesale prices for cold-rolled sheet in Bombay for the period June through October, 1994. The petitioner asserts that this data is more accurate than the data used in the preliminary determination because it is (1) contemporaneous with the POI, and (2) is more reflective of the price that a manufacturer of drawer slides would pay for steel.

The respondents contend that we should reject the petitioner's data on steel for the following reasons: (1) The data pertains to the price of cold-rolled sheet, not cold-rolled coil which was used by all three respondents in producing drawer slides; and (2) the price data does not specify the thickness of the steel. The respondents assert that the Department should continue to use the data used in the preliminary determination.

DOC Position. We agree with the respondents. In our preliminary determination, we used public information from the 1994 edition of *Statistics for Iron & Steel Industry in India,* published by the Steel Authority of India Limited (SAIL). We continue to use this source in our final determination instead of the data provided by the petitioner because it provides prices for steel that most closely resembles the specifications of the product used by the respondents. Although the surrogate data provided by the petitioner is more contemporaneous to the POI than the SAIL data, we adjusted the SAIL data for inflation in an effort to accurately reflect the price of cold-rolled steel during the POI. We note that there is no factual information on record to support the petitioner's argument that the prices provided in the *Iron and Steel Newsletter* are more reflective of the price that a manufacturer of drawer slides would pay for steel.

Comment 2: Surrogate Value for Steel Rivets

The respondents contend that the surrogate value for rivets used in the preliminary determination is aberrational because (1) it results in calculations in which the cost of rivets is almost as high as the cost of steel used to produce the subject merchandise; and (2) it unreasonably exceeds all other known values for rivets, including price quotes obtained from Indian rivet manufacturers; actual prices paid for rivets by one of the respondents and the petitioner; Indian export data; and Indonesian import data. The aberrational value, the respondents claim, probably results from the small volume of rivets imported into India.

The petitioner argues that we should continue to value rivets based on Indian import data used in the preliminary determination. As support for not finding the value aberrational, the petitioner cites to the *Pure Magnesium from Ukraine,* where the Department determined that the primary surrogate value was not aberrational. The petitioner asserts that the Indian import data fulfills all of the Department's requirements for using publicly available, published information (PAPI) in NME investigations.

Moreover, the petitioner claims that the production of drawer slides requires a specific type of high-end rivet, known as a wheel rivet, which is far more expensive than standard rivets. This information was submitted in petitioner's case brief along with a diagram of a wheel rivet and a standard ''round-headed'' rivet. The petitioner asserts that prices the respondents have submitted in their July 10, 1995, submission are not applicable to wheel rivets and therefore should not be used as surrogate value for rivets. Specifically, the Indian domestic price quotes as obtained by the respondents are for ''round-head'' rivets, as referenced on the invoice. Additionally, the Indian domestic industry data reports values for ''tubular'' rivets. Therefore, the petitioner claims that the price data provided by the respondents are not relevant for purposes of valuing rivets for drawer slides. Furthermore, the petitioner argues that the petitioner's own rivet costs are not relevant to the costs of rivets that would be incurred by Indian producers of drawer slides or the respondents because of the different production process of rivets in the U.S.

DOC Position. We agree with the respondents that the Indian import value for rivets used in the preliminary determination is inappropriate and, therefore, is not a reliable factor to use as the surrogate value for rivets.

For purposes of establishing the reliability of the Indian import value used in the preliminary determination, we determined that it would be inappropriate to compare the Indian import value to the price quotes from Indian manufacturers of rivets as well as the Indian domestic industry data, as submitted by the respondents on July 10, 1995, because both data specifically pertain to prices for ''round-headed'' or ''tubular'' rivets. From the petitioner's submission regarding the type of rivets used in the production of drawer slides and our observations at verification, we have determined that the respondents utilized wheel rivets in producing drawer slides sold to the U.S. during the POI. Additionally, with respect to actual acquisition price of rivets obtained by Taiming, we note that there is no information on the record indicating whether the Hong Kong supplier actually manufactured the rivets. Absent evidence that the rivets Taiming purchased were actually sourced in a market economy, it would be inappropriate to use the actual purchase price to value the rivets. (*See Final Determination of Sales at Less Than Fair Value: Ferrovanadium and Nitrided Vanadium from the Russian Federation* 60 FR 27957, 27962 (May 26, 1995) (''*Ferrovanadium from Russia*'') (In NME proceedings, our practice has been to determine whether a good or service obtained through a market economy transaction is, in fact, sourced from a market economy rather than merely purchased in it)).

Accordingly, to determine whether the Indian import value for rivets is reliable, we compared the Indian import value to the remaining values for rivets on the record (*i.e.*, Indian export price data; Indonesian import price data; and the petitioner's own cost for rivets as provided in the supplement to the petition submitted on November 15, 1994). We disagree with the petitioner's claim that the U.S. price is not relevant in determining the reliability of the Indian import data (*see Certain Cased Pencils,* 59 FR at 55633). As stated in *Certain Cased Pencils,* ''where, as here, questions have been raised about PAPI with respect to particular material inputs in the chosen surrogate country, it is the Department's responsibility to examine that PAPI.'' *Id.* A comparison of the Indian import value and the remaining values on the record indicates that the Indian import value is at least several times higher than the remaining values. Based on this comparison, we find that the Indian import value for rivets is not reliable. (*See,* also, concurrence memorandum of October 18, 1995.)

The petitioner's reliance on *Pure Magnesium from Ukraine* in support of its position is misplaced. In *Pure*

Magnesium from Ukraine, unlike this investigation, the evidence on the record did not support a finding that the primary surrogate value for an input was questionable. In this investigation, however, the prices used for comparisons from the sources discussed above, including the petitioner's own price for wheel rivets, demonstrate that the Indian import value is not reliable.

In our final calculations, we used the import statistics from our second surrogate country, Indonesia, to value rivets. Although Indonesia is not the first choice surrogate country in this investigation, in past cases, the Department has used values from other possible surrogate countries for inputs where the value from the first choice surrogate country was determined to be unreliable. (*See Certain Cased Pencils*, 59 FR at 55629 and *Helical Spring Lock Washers*, 58 FR at 48835.) In addition, the Indonesian import value is preferable over the other values we have on record (*i.e.*, Indian export statistics and the petitioner's own cost) because it is the Department's practice in selecting surrogate values (1) To use public information over privately obtained prices, wherever possible (*see Helical Spring Lock Washers*, 58 FR at 48835); and (2) not to use the Indian export prices because India maintains non-specific export subsidies (*see*, Memorandum from David Mueller, Director, Office of Policy, to Gary Taverman, Acting Director, Office of Antidumping Investigations, dated January 25, 1995). The Indonesian import value does not pertain to a specific type of rivet. However, the Indonesian import value is in line with the petitioner's own cost of wheel rivets as provided in the petition.

Comment 3: Ocean Freight

The respondents argue that the Department should not add ocean freight to the costs of cold-rolled steel. In the preliminary determination, the Department rejected the actual acquisition prices for cold-rolled steel coil used by the respondents in the production of subject merchandise, which included expenses for transporting the steel to the PRC. The Department instead used publicly available, published data based on domestic Indian prices for steel coil and added a surrogate ocean freight value to that amount. The respondents contend that the Department made an error in adding ocean freight to the domestic Indian surrogate price. They argue that the addition of ocean freight is inconsistent with the Department's past practice. In support of their position, the respondents cite to *Certain Cased Pencils* and *Final Determination of Sales at Less Than Fair Value: Coumarin from the PRC*, 59 FR 66895 (December 28, 1993) (*Coumarin*).

The petitioner urges the Department to uphold its preliminary determination and add ocean freight to the cost of steel. The petitioner asserts that adding ocean freight costs to the surrogate Indian domestic steel price is consistent with the Department's practice.

DOC Position. We agree with the respondents that the ocean freight costs should not be added to the surrogate Indian domestic steel price. For the reasons discussed in the preliminary determination, we have rejected the respondents' actual experience in obtaining steel. Therefore, we must use a surrogate value methodology. As a surrogate value, we used a domestic Indian price for steel. Because we used a surrogate value that represents a domestically sourced input, it is inappropriate to include ocean freight.

Comment 4: Steel Scrap Offset

The petitioner argues that we should reject the scrap offsets reported by all three respondents on the grounds that the data concerning scrap offsets was untimely filed. The petitioner points out that all three respondents provided information regarding the scrap offset only seven days before verification, and even then, failed to provide any supporting documentation.

In addition, the petitioner claims that all three respondents failed to provide sufficient evidence at verification to justify the accuracy of the amount of scrap sales as submitted on July 10, 1995.

Each respondent claims that the amount of steel scrap offset for the POI was verified as reported in their submission of July 10, 1995. Therefore, they request that the Department make adjustments in the final calculations to adjust for steel scrap offsets.

DOC Position. We agree with the petitioner in part. We disagree with the petitioner that the respondents' submission on steel scrap offsets was untimely filed. The last day for submitting new information on the record in this investigation was July 10, 1995, seven days prior to the beginning of verification (*see* 19 CFR 353.31 (a)(i)). As the respondents submitted information on scrap offsets on July 10, 1995, the information was timely filed.

With respect to GDMC, we agree with the petitioner that the respondent has not provided information to support their claim that the reported amount of scrap sold specifically pertained to the sales of subject merchandise. SEW produced drawer slides for sales to the U.S. and domestic market during the POI. At verification, no methodology for allocating the total amount of steel scrap between the U.S. and domestic markets was provided. Therefore, we have no way of allocating the amount of scrap between the two markets. Accordingly, we did not allow any adjustments for steel scrap in our final calculation (*see*, also, concurrence memorandum of October 18, 1995).

With respect to Taiming, we also agree with the petitioner. Taiming reported that it used 1.15 mm steel to produce drawer slides sold to the United States during the POI. However, the copies of payment vouchers provided at verification to support the amount of reported steel scrap sold did not identify 1.15 mm steel. Therefore, we conclude that there is not sufficient evidence to support a finding that the reported amount of scrap sold pertained to the production of drawer slides sold to the U.S. Accordingly, we did not allow any adjustments for steel scrap in the final calculation (*see*, also, concurrence memorandum of October 18, 1995).

In the case of SHEEM, we agree with the petitioner that the respondent has failed to provide support for the reported amount of scrap sold during the POI. SHEEM reported the total amount of scrap generated, rather than the amount of steel scrap sold during the POI. At verification, company officials provided two invoices indicating sales of steel scrap sold during the POI. However, SHEEM was not able to support its claim that these two invoices represented the total amount of scrap sold during the POI. Accordingly, we did not allow any adjustments for steel scrap in our final calculation (*see* concurrence memorandum of October 18, 1995).

Comment 5: Energy

The respondents argue that the calculation of factory overhead should exclude the energy components from the 1994 *RBI* data. Instead, the respondents urge the Department to use the figures for energy based on the respondents' actual usage.

The respondents claim that the use of energy components as provided in 1994 *RBI* is inaccurate. They assert that in light of the fact that the Department has concluded that the drawer slides industry is not energy intensive, it should not rely on the factory overhead figure in the 1994 *RBI* because 42 percent of that figure consists of energy element.

In the preliminary determination, energy was treated as a component of factory overhead. The Department's

calculation of factory overhead was based on statistics provided in the 1994 *RBI* data. Inasmuch as the Department determined that the drawer slides industry is not an energy-intensive industry, the Department included a value for energy in its calculation of the percentage of factory overhead.

The petitioner contends that the respondents failed to provide any support for their conclusion that the energy factor could not reflect a non-energy intensive industry.

DOC Position. We agree with the respondents. The *RBI* statistics on which we relied at the preliminary determination pertain to a broad category of industries, some of which are considered to be energy-intensive (*e.g.*, automobiles, and other transport equipment). In our final determination, we used the actual verified energy consumption figures provided by the respondents, which are specific to the drawer slides industry and more appropriate than energy consumption figures for a more general industry group. To value electricity, we used the average Indian state electricity rates, as published in the June 1994, edition of *Current Energy Scene in India* by the Centre for Monitoring the Indian Economy, Pvt. Ltd. (*See*, also, concurrence memorandum of October 18, 1995.)

Comment 6: Foreign Inland Freight Expenses for SHEEM

The respondent requests the Department to revise its calculation of foreign inland freight. SHEEM contends that the Department incorrectly calculated foreign inland freight in the preliminary determination by computing a cost based on an amount of actual inland freight paid on a single shipment. SHEEM argues that instead of using the cost of a single shipment, the Department should use either SHEEM's actual freight expenses as reported to the Department or a surrogate country cost to value foreign inland freight.

DOC Position. We agree with the respondent. For all shipments made during the POI, SHEEM used one freight forwarding company to handle both the shipment from the factory to the Guangzhou port and the shipment from the Guangzhou port to Hong Kong. Because the transportation services were sourced from a company which is located in China and is a joint venture company between a Chinese company and a Hong Kong company, we conclude that the inland transportation charges SHEEM paid do not reflect a market economy based price (*see, Ferrovanadium from Russia*). Therefore, in our final determination, we applied a surrogate country cost to value foreign inland freight for all U.S. sales made during the POI.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) and 735(c)(4)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of drawer slides from the PRC that are entered, or withdrawn from warehouse for consumption, on or after June 5, 1995, which is the date of publication of our notice of preliminary determination in the Federal Register. The imports of subject merchandise that are sold by Taiming, SHEEM, and GDMC and manufactured by producers whose factors formed the basis for the zero margin will be excluded from an antidumping duty order should one be issued. Under the Department's NME methodology, the zero rate for each exporter is based on a comparison of the exporter's U.S. price and FMV based on the factors of production of a specific producer (which may be a different party). The exclusion, therefore, applies only to subject merchandise sold by the exporter and manufactured by that specific producer. Merchandise that is sold by the exporter but manufactured by other producers will be subject to the order, if one is issued. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV exceeds the USP as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Taiming/Taiming	0.00
Taiming/Any other manufacturer	55.69
SHEEM/SHEEM	0.00
SHEEM/Any other manufacturer	55.69
GDMC/Second Experimental Workshop	0.00
GDMC/Any other manufacturer	55.69
"PRC-Wide" Rate	55.69

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine whether these imports are causing material injury, or threat of material injury, to the U.S. industry within 45 days. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: October 18, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–26328 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

Modernization Transition Committee (MTC)

ACTION: Notice of Public Meeting.

TIME AND DATE: October 30, 1995 from 8:30 a.m. to 5:00 p.m.

PLACE: This meeting will take place at the DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD, 20852.

STATUS: The meeting will be open to the public. There will be a public comment period from 2:30–3:30 p.m. Seating is available for approximately 50 people.

MATTERS TO BE CONSIDERED: This meeting will cover: the Secretary of Commerce's Team Report on Adequacy of NEXRAD Coverage and Degradation of Weather Services under the National Weather Service Modernization for 32 Areas of Concern.

CONTACT PERSON FOR MORE INFORMATION: Ms. Julie Scanlon, National Weather Service, Modernization Staff, 1325 East-West Highway, SSMC2 #9332, Silver Spring, Maryland 20910. Telephone: (301) 713–1413.

Dated: October 19, 1995.

Nicholas R. Scheller,

Manager, National Implementation Staff.

[FR Doc. 95–26349 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment Export Visa Requirements for Certain Silk Apparel and Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

October 18, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of export licenses/commercial invoices printed on light green guilloche paper.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, 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).

The Governments of the United States and the People's Republic of China have agreed to amend the existing export visa requirements to provide for the use of export licenses/commercial invoices, issued by the Government of the People's Republic of China, for shipments of goods produced or manufactured in China and exported from China on and after January 1, 1996, which are printed on light green guilloche patterned background paper. The light green form replaces the purple export license/commercial invoice currently in use. The visa stamp is not being changed at this time. The Chinese Embassy in Washington, DC, will continue to issue the white pre-printed replacement visa now in use.

Shipments of textile and apparel products which are produced or manufactured in China and exported from China during the period January 1, 1996 through February 28, 1996 may be accompanied by a visa printed on either the purple or light green background paper.

See 59 FR 35324, published on July 11, 1994; and 60 FR 22567, published on May 8, 1995.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 18, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directives issued to you on July 5, 1994 and May 3, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. Those directives establish export visa arrangements for certain silk apparel and cotton, wool, man-made fiber, silk blend, and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China.

Effective on January 1, 1996, you are directed to amend the July 5, 1994 and May 3, 1995 directives to provide for the use of export licenses/commercial invoices issued by the Government of the People's Republic of China which are printed on light green guilloche patterned background paper. The light green form will replace the purple form currently being used. The Chinese Embassy in Washington, DC, will continue to issue the white pre-printed replacement visa now in use.

To facilitate implementation of this amendment to the export licensing system, I request that you permit entry of textile products, produced or manufactured in China and exported from China during the period January 1, 1996 through February 28, 1996, for which the Government of the People's Republic of China has issued either a purple or light green export license/commercial invoice.

Goods exported on and after March 1, 1996 must be accompanied by an export visa issued by the Government of the People's Republic of China on the light green license/invoice form only.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

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,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–26272 Filed 10–23–95; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Carbon Monoxide Detectors; Public Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Commission will conduct a public hearing on January 23 and 24, 1996, to receive scientific, medical, and other technical information about carbon monoxide (CO) detectors and a voluntary standard for CO detectors. The Commission seeks written submissions and oral presentations from individuals, associations, or firms with substantiated information or technical comments on these topics. The Commission will use the information obtained from this hearing to evaluate an existing voluntary standard for CO detectors and to develop information for consumers about the reliability of CO detectors.

DATES: The hearing will begin at 9:30 a.m. on January 23, 1996, and will conclude on January 24, 1996. Written comments and requests to make oral presentations must be received by the Office of the Secretary not later than January 9, 1996. Persons desiring to make oral presentations at this hearing must submit a written abstract of their presentations not later than January 9, 1996. The Commission reserves the right to limit the number of persons who testify and the duration of their testimony.

ADDRESSES: The hearing will be in room 420 of the East-West Towers Building, 4330 East West Highway, Bethesda, Maryland. Written comments, requests to make oral presentations, and abstracts of oral presentations should be captioned ''Carbon Monoxide Detectors'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the purpose or subject matter of the hearing, call or write Elizabeth Leland, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0962, extension 1321. For information about the schedule for submission of written comments, requests to make oral presentations, and submission of abstracts of oral presentations, call or write Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207;

telephone (301) 504–0800, extension 1232

SUPPLEMENTARY INFORMATION: Carbon monoxide (CO) is a colorless, odorless gas, produced by the incomplete combustion of solid, liquid, and gaseous fuels. Household appliances fueled with gas, oil, kerosene, or wood may produce CO.

Breathing CO causes symptoms ranging from headaches and dizziness to nausea, vomiting, and disorientation. At very high levels, CO can cause loss of consciousness and death. In 1992, the last year for which complete data are available, an estimated 212 deaths resulted from carbon monoxide poisoning. In 1994, there were an estimated 3,900 incidents involving one or more persons treated in hospital emergency rooms for CO poisoning.

Standard for CO Detectors

In the early 1990's CO detectors became available for use in the home. In 1992, Underwriters Laboratories, Inc. (UL) published a standard, UL 2034, for CO detectors. The Commission staff worked with UL to develop this standard. Since publication of UL 2034, the Commission has encouraged homeowners to install CO detectors certified to meet the standard, and has urged organizations which publish model building codes to adopt provisions requiring the installation of CO detectors in new residential buildings. The Commission estimates that between seven and eight million CO detectors are now in use.

Unexplained CO Detector Alarms

Early in 1994, the Commission began receiving information about incidents in which fire fighters or utility employees responded to calls after a CO detector sounded an alarm but were unable to detect the presence of CO or a harmful level of CO.

In June, 1994, the Commission, the Environmental Protection Agency, the American Gas Association, the Gas Research Institute, and the National Association of State Fire Marshals co-sponsored a CO Detector Workshop. The purpose of this workshop was to raise and find ways to resolve questions about why CO detectors would sound an alarm when CO either could not be detected or could be detected at a level which is not harmful. One outgrowth of the workshop was the formation of non-governmental task forces to address the following specific issues:

- Technical guidance for response personnel;
- Field and laboratory testing;
- Consumer and professional education;
- Standards evaluation;
- Action levels; and
- Data gathering and coordination.

The task forces are expected to complete their work in December, 1995, and file final reports in March, 1996.

Chicago Experience

While the task forces have been working, additional information from widespread use of CO detectors has become available from the city of Chicago, Illinois. In 1993, the city of Chicago adopted an ordinance requiring installation of CO detectors bearing the mark of a nationally recognized testing laboratory in all homes heated by a fossil fuel-burning furnace or appliance. This ordinance became effective on October 1, 1994.

Fire departments in Chicago reported that between October 1 and December 31, 1994, they responded to approximately 8,600 calls after CO detectors sounded alarms. In the majority of cases, the responding fire department found no CO present, or a level of CO that was not harmful to health. In December, 1994, UL proposed a series of revisions to its voluntary standard for CO detectors to lessen the likelihood of alarm activations when CO is not present at a detectable or harmful level. Portions of the revised standard became effective on June 1, 1995; the remainder of the standard became effective on October 1, 1995.

Unresolved Questions

Several questions about CO detectors and the UL standard for CO detectors are still unresolved. These questions include, but are not limited to:

- What is the appropriate scope and purpose of a voluntary standard for CO detectors?
- What are the effects of exposure to CO, including exposure at low levels, to healthy individuals and to individuals who might be especially susceptible to the effects of CO?
- What are the anticipated ''normal'' levels of CO in the ambient air inside and outside the home?
- What factors should determine the mandatory activation and mandatory resistance level of CO for CO detectors; what level of CO should activate a detector's alarm; at what level of CO should a CO detector resist activation of the alarm?
- What is the relative reliability of the various CO sensor technologies now available?

Request for Information

To obtain information relevant to these questions, the Commission will conduct a public hearing on January 23 and 24, 1996. The Commission solicits written submissions and oral presentations of scientific, medical, and technical information, documented studies, and analyses from all interested parties on the following topics:

I. Health Effects

A. Health effects of exposure to CO, including exposure at low levels, on healthy individuals and individuals who might be especially susceptible to the effects of CO.

B. Medical opinion about mandatory activation levels of CO for CO detector alarms.

C. Medical opinion concerning early warning signals in addition to activation of CO detector alarms.

II. Analysis of Unexplained Alarm Activation

A. Data and analyses related to unexplained CO detector alarm activation experienced in Chicago during 1994, or in other locations in the United States.

B. Analyses of unexplained activations of CO detector alarms experienced in other countries.

III. Expected Levels of CO

A. Expected levels of CO in a ''typical'' home.

B. Expected levels of ambient CO in outside air in various locations in the United States: on ''usual'' days; in ''rush hour'' periods; during temperature inversions.

IV. CO Detector Standards

CO detector standards issued by governments outside the United States, or by international standards organizations.

V. Human Factors Issues

A. Information relating to the effective communication of a warning signal and an alarm; information relating to a consumer's ability to distinguish different levels of urgency—e.g., an early warning as opposed to an alarm.

B. The effect of unexplained alarms on consumer attentiveness to alarms, particularly CO detector alarms.

C. The effect of consistency:

1. in instructions for installation and use of CO detectors.

2. in warning and alarm sounds for various models of CO detectors.

D. The effectiveness of labeling to influence user behavior.

VI. Needs of Responders to Alarms from CO Detectors

A. Collected information on the extent to which responders in the fire services and gas utility companies around the

country are equipped with appropriate instruments for measuring CO in homes.

B. Collected information on the extent to which educational programs for responders have been developed and implemented around the country.

C. Collected information about the impact on responders of CO detector alarm activations around the country.

VII. Needs of Consumers

A. Numbers of calls received by hotlines operated by manufacturers of CO detectors.

B. Manufacturers' procedures for responding to hotline calls, especially those involving unexplained activations.

Written comments and requests to make oral presentations must be received by the Office of the Secretary not later than January 9, 1996. Persons desiring to make oral presentations at the hearing must submit an abstract of their presentations by January 9, 1996. Abstracts must include the author's affiliation with, or employment or sponsorship by, any professional organization, government agency, or business firm. All data analyses and studies should include substantiation and citations.

The Commission will establish time limits for all presentations, and may impose further limitations on presentations to avoid duplication. At the conclusion of each oral presentation, the Commissioners and selected staff members may question speakers.

Dated: October 18, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–26355 Filed 10–23–95; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0107]

Request for Public Comments Regarding OMB Clearance Entitled Notice of Radioactive Materials

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0107).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Notice of Radioactive Materials. This OMB clearance currently expires on February 28, 1996.

DATES: Comment Due Date: December 26, 1995.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Office of Federal Acquisition Policy, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at FAR 52.223–7, Notice of Radioactive Materials, requires contractors to notify the Government prior to delivery of items containing radioactive materials. The purpose of the notification is to alert receiving activities that appropriate safeguards may need to be instituted. The notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *500*; responses per respondent, *5*; total annual responses, *2,500*; preparation hours per response, *1*; and total response burden hours, *2,500*.

Dated: October 18, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–26222 Filed 10–23–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF DEFENSE

Department of the Army

Patent License, Delta Temax, Inc.

AGENCY: U.S. Army Soldier Systems Command.

ACTION: Notice of prospective exclusive license.

SUMMARY: In accordance with 37 CFR 404.7 (a)(1)(i), announcement is made of a prospective exclusive license of a body heating and cooling system.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent J. Ranucci, Patent Counsel, U.S. Army Soldier Systems Command, Attn: AMSSC–CC (Office of Chief Counsel), Natick, Massachusetts 01760–5035.

SUPPLEMENTARY INFORMATION: The body heating and cooling system was invented by Mr. Stephen Szczesuil and Mr. Rizalah Masadi (U.S. Patent Number 5,320,164 issued June 14, 1994). Rights to this invention are owned by the U.S. Government as represented by the U.S. Army Natick Research, Development and Engineering Center (Natick RD&E Center). Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and Section 207 of Title 35, U.S. Code, the Department of the Army as represented by Natick RD&E Center intends to grant an exclusive license on the body heating and cooling system to Delta Temax, Inc., 320 Boundary Road, Pembroke, Ontario K8A 6W5, Canada. Pursuant to 37 CFR 404.7(a)(1)(i), any interested party may file written objections to this prospective exclusive license arrangement. Written objections should be directed to: Mr. Vincent J. Ranucci, Patent Counsel, U.S. Army Soldier Systems Command, Attn: AMSSC–CC (Office of Chief Counsel), Natick, Massachusetts 01760–5035. Written objections must be filed on or before December 26, 1995.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–26290 Filed 10–23–95; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Minimum Fees for Camp Ground Use

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide information to all known interested parties regarding an adjustment in recreation use fees for camping. The minimum fees for families will range from $3 to $8, depending on services offered and facilities available. This represents an increase for family camping from the previous minimum fees which ranged from $2 to $5. The minimum fees for groups will range from $20 to $50, depending on services offered and facilities available. This represents an increase for group camping from the previous minimum fees which ranged from $10 to $30.

FOR FURTHER INFORMATION CONTACT: Dr. Darrell Lewis, Natural Resources Management Branch, Office of the Chief of Engineers at (202) 761–1788.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with the provisions of Section 327.23 of the regulation governing public use of U.S. Army Corps of Engineers Water Resource Development Projects which appears at Title 36 Code of Federal Regulations. The adjustment in minimum fees is part of a plan to charge fair and equitable fees at all Federal Government recreation areas in compliance with the requirements set by Congress in the Land and Water Conservation Fund Act of 1965, Public Law 88–578, as amended, that requires use fees to be comparable with other Federal and non-Federal public agencies and the private sector. The specific application of the increased minimum fees will be reflected in notices posted at each U.S. Army Corps of Engineers water resource development project impacted. The increasing of the minimum fees charged campers is not considered a significant regulatory action that would have economic impact of $100 million or more.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–26291 Filed 10–23–95; 8:45 am]

BILLING CODE 3710–92–M

Notice of Availability of the Third Annual Report to Congress on the Status of the Harbor Maintenance Trust Fund

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: This notice is to inform the general public of the availability of the ''Third Annual Report to Congress on the Status of the Harbor Maintenance Trust Fund for Fiscal Year 1994.'' Single copies of the report may be obtained free of charge.

FOR FURTHER INFORMATION CONTACT: Mr. DuWayne A. Koch, Policy Review and Analysis Division, Directorate of Civil Works, telephone (202) 761–0120 or write to the attention of CECW–AA; 20 Massachusetts Avenue NW., Washington, DC 20314–1000. Facsimile requests may be transmitted to (202) 761–8839.

SUPPLEMENTARY INFORMATION: The Harbor Maintenance Fee was authorized under Sections 1401 and 1402 of the Water Resources Development Act of 1986, Public Law 99–662. This law imposed a 0.04 percent fee on the value of commercial cargo loaded (exports and domestic cargo) or unloaded (imports) at ports which have had Federal expenditures made on their behalf by the U.S. Army Corps of Engineers since 1977. Section 11214 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–580, increased the Harbor Maintenance Fee to 0.125 percent, which went into effect on January 1, 1991. Harbor Maintenance Trust Fund monies are used to recover up to 100 percent of the Corps eligible Operation and Maintenance expenditures for the maintenance of commercial harbors and channels.

Section 330 of the Omnibus Budget Reconciliation Act of 1992, Public Law 102–580, requires that the President provide an Annual Report to Congress on the Status of the Trust Fund. The release of this report is in compliance with this legislation.

Dated: October 6, 1995.

Approved:

Stanley G. Genega,

Major General, USA Director of Civil Works.

[FR Doc. 95–26289 Filed 10–23–95; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 1995.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Department of Education (ED) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 18, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Revision
Title: Migrant Education Program State Performance Report
Frequency: One Time
Affected Public: State, Local, or Tribal Governments
Reporting Burden:
Responses: 51
Burden Hours: 4080
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: Information will be used to develop estimates for funding purposes of the number of migratory children resident in each State, and to assess and report on the effectiveness of the Migrant Education Program on an ongoing basis.

[FR Doc. 95–26227 Filed 10–23–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 1995.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 19, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Revision

Title: Federal Direct Consolidation Loan Program Application Documents

Frequency: On-Occasion

Affected Public: Individuals or households; business or other for-profit

Annual Reporting and Recordkeeping Burden Hours:

Responses: 3,428,000

Burden Hours: 1,464,200

Abstract: These forms are the means by which a borrower applies for/promises to repay a Federal Direct Loan and a lender verifies an eligible loan to be considered.

[FR Doc. 95–26282 Filed 10–23–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Dispute Resolution; Alternative Dispute Resolution

AGENCY: Department of Energy.

ACTION: Notice of interim policy statement.

SUMMARY: The Department of Energy today publishes an interim Statement of Policy on Alternative Dispute Resolution to further its commitment to the use of alternative dispute resolution for resolving disputes in a fair, timely, and cost efficient manner, and to comply with the Administrative Dispute Resolution Act, 5 U.S.C. § 571 *et seq.* The Department seeks comments from the public, including those persons whose activities the Department regulates, on any aspect of this interim policy and its implementation. At the end of the 30-day comment period, the Department will consider issues raised by interested persons and may modify the interim Statement of Policy.

DATES: Comments on this Statement of Policy should be received on or before November 24, 1995.

ADDRESSES: Comments may be submitted to Phyllis Hanfling, Director, Office of Dispute Resolution (GC–12), U.S. Department of Energy, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Phyllis Hanfling, Director, Office of Dispute Resolution, U.S. Department of Energy, Washington, DC 20585, (202) 586–6972.

SUPPLEMENTARY INFORMATION: The Administrative Dispute Resolution Act (ADRA), 5 U.S.C. § 571 *et seq.*, enacted November 15, 1990, authorizes and encourages federal agencies to employ consensual methods of dispute resolution as alternatives to litigation. Under the ADRA, a federal agency is required to: (1) Designate a senior official as a dispute resolution specialist; (2) establish training programs in the use of dispute resolution methods; (3) adopt a policy on the use of ADR techniques; and (4) review the standard language in agency contracts, grants or other agreements, to determine whether to include a provision on ADR.

Congress enacted the ADRA to reduce the time, cost, inefficiencies and contentiousness that too often are associated with litigation and other

adversarial dispute resolution mechanisms. Experience at other federal agencies shows that ADR can help achieve mutually acceptable solutions to disputes more effectively than litigation or administrative adjudication. In recognition of these virtues, Vice President Gore recommended in September 1993 that federal agencies ''increase the use of alternative means of dispute resolution.'' Report of the National Performance Review, Recommendation REG06 (Sept. 7, 1993).

Therefore, the Department of Energy has adopted the following interim Statement of Policy:

Statement of Policy on Alternative Dispute Resolution

A. Introduction

This statement of Policy addresses the use of alternative dispute resolution (ADR) by the Department of Energy as required by the Administrative Dispute Resolution Act (ADRA), 5 U.S.C. § 571 *et seq.*

The ADRA authorizes and encourages agencies to use mediation and other consensual methods of dispute resolution as alternatives to traditional dispute resolution processes. The ADRA requires agencies to designate a Dispute Resolution Specialist, establish a policy addressing the use of ADR, review contracts and grants for appropriate inclusion of ADR clauses and provide for regular training on ADR.

The initiatives required under the ADRA are supplemented by the Negotiated Rulemaking Act, 5 U.S.C. § 561 *et seq.*, which establishes a framework for use of negotiated rulemaking (''reg neg'') to increase acceptability and improve the substance of rules.

B. Policy

The Department of Energy is committed to the use of ADR as a management tool to prevent or minimize the escalation of disputes, and to resolve disputes at the earliest stage possible in an expeditious, cost effective and mutually acceptable manner. In furtherance of this commitment to the use of ADR, and in compliance with the ADRA, the DOE has designated a Dispute Resolution Specialist and created an Office of Dispute Resolution, with responsibility to encourage and coordinate the ADR efforts of the Department, formulate Department-wide ADR policies, disseminate information about the Department's ADR activities, including pilot programs, and provide assistance, consultation and training within the Department on ADR matters. The Department supports the flexible use of all ADR processes, including mediation, neutral evaluation, reg-neg, partnering, mini-trials and arbitration, where appropriate.

C. Strategic Focus

The Department will strive to maximize use of appropriate ADR techniques in three main areas.

1. Dispute Prevention

The Department believes that ADR techniques can be used as a management tool to prevent conflict from escalating into more serious disputes. For example, faced with significant changes due to realignment of its workforce, this is an important time to provide training of employees and managers in conflict resolution techniques. Mediation and other forms of ADR may be applied to workplace related issues to promote a humane and productive workplace and a reduction in grievances, EEO and whistleblower complaints.

To prevent disputes in the contracting area, the Department may consider ''partnering'' large contracts when appropriate. This technique, used successfully by several other Federal agencies and by private sector companies, fosters cooperative efforts to carry out the objectives of the contract and helps to manage conflict by identifying potential disputes and planning in advance for their resolution.

Finally, ''facilitated negotiations''—mediations with large groups of disparate interests striving to reach a consensual decision on a policy issue—will be encouraged. This may include negotiated rulemakings where appropriate.

2. Early Intervention

Where disputes cannot be avoided, early use of ADR, especially mediation, can nonetheless promote their prompt and efficient resolution and avoid the need for a more formal disposition.

3. Litigation

(a) The ADRA amended Chapter 5 of Title 5, United States Code, to encourage Federal agencies to use ADR to resolve disputes involving their administrative programs when all participants voluntarily agree. DOE will pursue the appropriate use of ADR in administrative litigation, and will consider the use of ADR in such cases when requested by a party to the litigation or by the administrative body hearing the case.

(b) In addition, the Department will provide assistance to the Department of Justice, as requested, in support of DOJ Order 1160.1, ''Promoting the Broader Appropriate Use of Alternative Dispute Resolution Techniques''.

(c) Finally, the Department will encourage and assist its management and operating contractors and their counsel in applying ADR techniques in litigation brought against them.

D. Role of the Dispute Resolution Specialist

The Dispute Resolution Specialist, who also acts as the Director of the Office of Dispute Resolution, serves as a resource to all DOE components and contractors. The Dispute Resolution Specialist shall:

1. Identify categories of disputes and potential disputes that are suitable for ADR;

2. Develop ADR procedures and establish pilot projects for use by the Department in resolving appropriate disputes;

3. Identify categories of agreements, contracts and memoranda of understanding which may be suitable for inclusion of standard ADR clauses;

4. Develop education/training programs for DOE personnel in ADR techniques and applications, including conflict management and resolution skills. This shall include:

(a) Introductory ADR training to assure that executives, managers and supervisors understand what ADR is, its potential benefits and where to go for assistance;

(b) ADR training for personnel having an identified role in dispute management (e.g., labor/management relations, contract disputes, litigation, administrative adjudication);

(c) Skill training for an internal group of mediators.

5. Institute procedures to support more systematic use of ADR within DOE.

6. Disseminate information on ADR techniques and their applicability within DOE.

7. Ensure that procedures are in place for evaluation of ADR results, including numbers of resolutions, satisfaction of the participants and estimated cost savings.

E. Reporting and Consultation

The Dispute Resolution Specialist may be consulted to assist in determining whether and when ADR should be used, selecting the appropriate ADR process, choosing a neutral and preparing for the ADR process. Departmental components that employ ADR processes shall report annually to the Dispute Resolution Specialist concerning their use of ADR, including the final outcome of all ADR activities, so that she/he can maintain relevant statistics.

F. Periodic Evaluation

DOE believes that its ADR policy should continue to evolve. To that end, it has determined to periodically evaluate the ADR program and the steps taken toward its effective implementation. The Dispute Resolution Specialist will report annually to the General Counsel and the Secretary on the Department's progress in implementing this policy and will recommend any necessary revisions.

In addition, pursuant to Section 3(a) of the ADRA, the Dispute Resolution Specialist will consult with the Administrative Conference of the United States and the Federal Mediation and Conciliation Service concerning steps to develop and strengthen the Department's ADR capabilities.

DOE welcomes and encourages input on the use of ADR from both within and outside the Department.

Issued in Washington, DC on September 18, 1995.

Robert R. Nordhaus,

General Counsel.

[FR Doc. 95–26343 Filed 10–23–95; 8:45 am]

BILLING CODE 6450–01–P

DOE Implementation Plan for Recommendation 95–1 of the Defense Nuclear Facilities Safety Board, Improved Safety of Cylinders Containing Depleted Uranium

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board published Recommendation 95–1, concerning Improved Safety of Cylinders Containing Depleted Uranium in the Federal Register on May 15, 1995 (60 FR 25893). Section 315(e) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(e) requires the Department of Energy to transmit an implementation plan to the Defense Nuclear Facilities Safety Board after acceptance of the Recommendation by the Secretary. The Department's implementation plan was sent to the Safety Board on October 16, 1995, and is available for review in the Department of Energy Public Reading Rooms.

DATES: Comments, data, views, or arguments concerning the Implementation Plan are due on or before November 24, 1995.

ADDRESSES: Send comments, data, views, or arguments concerning the implementation plan to: Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Mr. Ray Hunter, Deputy Director of the Office of Nuclear Energy, Science and Technology, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on October 16, 1995.

Mark B. Whitaker,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

The Secretary of Energy

Washington, DC 20585.

October 16, 1995.

The Honorable John T. Conway,
Chairman, Defense Nuclear Facilities Safety Board, Suite 700, 625 Indiana Avenue NW., Washington, DC 20004

Dear Mr. Conway: This letter forwards the Department's implementation plan for addressing the issues raised in the Defense Nuclear Facilities Safety Board's Recommendation 95–1.

The implementation plan presents an aggressive program of corrective actions. The Department is proceeding on all activities identified in my June 29, 1995, acceptance letter. We expect that there will be further cylinder management program improvements as the commitments in the implementation plan are completed.

The implementation plan was prepared by Mr. Ray A. Hunter, Deputy Director of the Office of Nuclear Energy, Science and Technology, in coordination with other senior Department managers. This plan was developed in liaison with Defense Nuclear Facilities Safety Board staff. We appreciate your staff's dedication and support of the development of this plan.

Sincerely,

Hazel R. O'Leary.

Enclosure

[FR Doc. 95–26342 Filed 10–23–95; 8:45 am]

BILLING CODE 6450–01–P–M

Office of Fossil Energy

[FE Docket No. 95–63–NG]

Williams Energy Services Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Williams Energy Services Company (WESCo) authorization to import up to 200 Bcf of natural gas from Canada. The term of the authorization is for a period of two years, beginning on the date of first delivery.

WESCo's order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., October 11, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–26337 Filed 10–23–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Idaho National Engineering Laboratory (INEL).

DATES: Tuesday, November 14, 1995 from 8:00 a.m. until 6:00 p.m. Mountain Standard Time (MST) and Wednesday, November 15, 1995 from 8:00 a.m. until 5:00 p.m. MST. There will be a public comment availability session Tuesday, November 14, 1995 from 5:00 to 6:00 p.m. MST.

The Board will also be participating in a tour of the INEL Site on Monday, November 13, 1995, from 7:30 a.m. to 5:00 p.m. MST.

ADDRESSES: Shilo Inn, 780 Lindsay Boulevard, Idaho Falls, Idaho 83402, (208) 523–1818.

FOR FURTHER INFORMATION CONTACT: Idaho National Engineering Laboratory Information 1–800–708–2680 or Marsha Hardy, Jason Associates Corporation Staff Support 1–208–522–1662.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Meeting Purpose: EM SSAB, INEL will be developing and issuing a recommendation on the *INEL Comprehensive Facility and Land Use Plan*, participating in discussions regarding the Pit 9 cleanup project as a follow-up to the last meeting, and developing issues regarding the EM

budget prioritization for FY 1998 for a future recommendation.

Tentative Agenda

Tuesday, November 14, 1995

7:30 a.m. *Sign-in and Registration*
8:00 a.m. *Miscellaneous Business:*
Old Business
Jerry Bowman—Deputy Designated Federal Official Report
Joy Myers—Chair Report
Member Reports
Chuck Rice, Others
Standing Committee Reports
Budget Committee—Chuck Rice (chair), Larry Boam, Terry Perez
Member Selection Committee—Dean Mahoney (chair), Gen Paroni, Chuck Rice
9:30 a.m. Break
9:45 a.m. *Pit 9*
Committee Members—Chuck Brocious and Brett Hayball, co-chairs; Chuck Rice, Terry Perez, Joel Hamilton; and ex-officios—Jerry Bowman, DOE–ID; Wayne Pierre, EPA; and Bob Ferguson, INEL Oversight
Presentation and discussion: ATSDR study—Mike Brooks, ATSDR
Discussion: Safety/Risk, HEPA Filters, Plutonium Migration
12:00 p.m. Lunch
1:00 p.m. *Comprehensive Facility and Land Use Plan*
Committee Members—Ben Collins (chair), Clarence Bellem, Larry Boam, Brett Hayball, Gen Paroni, and Bob Ferguson (ex-officio)
Presentation and discussion: Mark Arenaz, DOE–ID
3:00 p.m. Break
3:15 p.m. *Comprehensive Facility and Land Use Plan—continued*
Board discussion and recommendation facilitation
5:00 p.m. *Public Comment Availability*

Wednesday, November 15, 1995

7:30 a.m. *Sign-In and Registration*
8:00 a.m. *Miscellaneous Business*
8:45 a.m. *Comprehensive Facility and Land Use Plan*
Finalize recommendation
10:30 a.m. Break
10:45 a.m. *EM Budget Prioritization FY 1998 Issue Development*
Presentation and discussion: Enoch Miles, DOE–ID
12:00 p.m. Lunch
1:00 p.m. *EM Budget Prioritization FY 1998 Issue Development—continued*
Discussion and recommendation facilitation
Potential recommendation
3:00 p.m. Break
3:15 p.m. *Board Work Time*
4:15 p.m. *Meeting Evaluation*

This agenda is subject to change as the Board meeting nears. For current copy of the agenda, contact Woody Russell, DOE-Idaho, (208) 526–0561, or Marsha Hardy, Jason Associates, (208) 522–1662. The final agenda will be available at the meeting.

Public Comment Availability: The two-day meeting is open to the public, with a Public Comment Availability session scheduled for Tuesday, November 14, 1995 from 5:00 p.m. to 6:00 p.m. MST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with its current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Idaho National Engineering Laboratory Information line or Marsha Hardy, Jason Associates, at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays.

Issued at Washington, DC on October 19, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–26340 Filed 10–23–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of Open Subcommittee Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463; 86 Stat. 770) notice is hereby given of the following Advisory Subcommittee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Risk Management and Future Use Subcommittee and Environmental Remediation and Waste Management Program Subcommittee; Savannah River Site.

DATES AND TIMES: Wednesday and Thursday, November 8 and 9, 1995: 5:30 p.m.–9 p.m. Tuesday, November 14, 1995: 5:30 p.m.–9 p.m.

ADDRESSES: The November 8 and 9, 1995, meeting will be held at: Bobby's Barbecue Meeting Room, 1897 Jefferson Davis Highway, Warrenville, South Carolina. The November 14, 1995, meeting will be held at: North Augusta Community Center, 101 Brookside Drive, North Augusta, S.C.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–8074.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Wednesday, November 8, 1995

5:30 p.m. Develop and rank criteria for Fiscal Year 1998 prioritization of SRS activities
7:00 p.m. Conduct paired comparisons of weighted criteria
9:00 p.m. Adjourn

Thursday, November 9, 1995

5:30 p.m. Develop utility functions for each subcriteria for FY 1998 prioritization
9:00 p.m. Adjourn

Tuesday, November 14, 1995

5:30 p.m. Review results of prioritization of SRS Activities using developed criteria
7:00 p.m. Develop recommendation to Department of Energy
9:00 p.m. Adjourn

Public Participation: The meetings are open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The

Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, or by calling him at (803)–725–8074.

Issued at Washington, DC on October 19, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–26341 Filed 10–23–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ST95–3383–000 et al.]

Natural Gas Pipeline Company of America; Notice of Self-Implementing Transactions

October 18, 1995.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and Section 7 of the NGA and Section 5 of the Outer Continental Shelf Lands Act.[1]

The ''Recipient'' column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The ''Part 284 Subpart'' column in the following table indicates the type of transaction.

A ''B'' indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to Section 284.102 of the Commission's Regulations and Section 311(a)(1) of the NGPA.

A ''C'' indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to Section 284.122 of the Commission's Regulations and Section 311(a)(2) of the NGPA.

A ''D'' indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to Section 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to Section 284.147(d) of the Commission's Regulations.

An ''E'' indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to Section 284.163 of the Commission's Regulations and Section 312 of the NGPA.

A ''G'' indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to Section 284.222 and a blanket certificate issued under Section 284.221 of the Commission's Regulations.

A ''G–I'' indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under Section 284.227 of the Commission's Regulations.

A ''G–S'' indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to Section 284.223 and a blanket certificate issued under Section 284.221 of the Commission's Regulations.

A ''G–LT'' or ''G–LS'' indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under Section 284.224 of the Commission's Regulations.

A ''G–HT'' or ''G–HS'' indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.224 of the Commission's Regulations.

A ''K'' indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to Section 284.303 of the Commission's Regulations.

A ''K–S'' indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to Section 284.303 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–3383	Natural Gas P/L Co. of America.	Mobile Natural Gas Inc.	09–01–95	G–S	40,000	N	F	08–03–95	08–08–95
ST95–3384	Panhandle Eastern Pipe Line Co.	Vesta Energy Co	09–01–95	G–S	100,000	N	I	08–15–95	05–31–98
ST95–3385	Colorado Interstate Gas Co.	Tenaska Marketing Ventures.	09–01–95	G–S	3,041	N	I	08–02–95	Indef.
ST95–3386	ONG Transmission Co.	Caprock Pipeline Co. et al.	09–05–95	C	20,000	N	I	08–05–95	Indef.
ST95–3387	Tejas Gas Pipeline Co.	Transcontinental Gas P/L Co.	09–05–95	C	5,000	N	I	05–01–95	Indef.
ST95–3388	Noram Gas Transmission Co.	Noram Energy Services, Inc.	09–05–95	G–S	75,000	Y	F	09–01–95	09–30–95
ST95–3389	Noram Gas Transmission Co.	Polyvend, Inc	09–05–95	G–S	350	N	F	09–01–95	Indef.
ST95–3390	ANR Pipeline Co	Cogen Development Co.	09–05–95	G–S	24,715	N	F	04–01–95	03–31–10
ST95–3391	Northern Natural Gas Co.	Lone Star Gas Co	09–05–95	B	3,000	N	F	05–01–95	05–31–95

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–3392	Northern Natural Gas Co.	Oasis Pipeline Co	09–05–95	B	10,000	N	F	05–01–95	05–31–95
ST95–3393	Northern Natural Gas Co.	Lone Star Pipeline Co	09–05–95	B	5,000	N	F	06–01–95	06–30–95
ST95–3394	Northern Natural Gas Co.	KN Marketing, L.P	09–05–95	G–S	10,000	N	F	06–01–95	06–30–95
ST95–3395	Northern Natural Gas Co.	Anadarko Trading Co	09–05–95	G–S	5,000	N	F	05–28–95	05–31–95
ST95–3396	Northern Natural Gas Co.	Aquila Energy Marketing Corp.	09–05–95	G–S	7,500	N	F	05–27–95	05–31–95
ST95–3397	Columbia Gas Transmission Corp.	Howard Energy Co., Inc.	09–05–95	G–S	50,000	N	I	08–01–95	Indef.
ST95–3398	Noram Gas Transmission Co.	Texas General Land Office.	09–06–95	G–S	200	N	F	09–01–95	Indef.
ST95–3399	Noram Gas Transmission Co.	Amoco Energy Trading Corp.	09–06–95	G–S	30,000	N	F	09–01–95	09–30–95
ST95–3400	Noram Gas Transmission Co.	Mountain Iron & Supply Co.	09–06–95	G–S	343	N	F	09–01–95	Indef.
ST95–3401	K N Interstate Gas Trans. Co.	Northwesteran Public Service Co.	09–06–95	G–S	25,500	N	I	07–01–95	06–30–10
ST95–3402	Trunkline Gas Co	Western Gas Resources, Inc.	09–07–95	G–S	41,400	N	I	08–25–95	Indef.
ST95–3403	Trunkline Gas Co	American Hunter Energy.	09–07–95	G–S	66,758	N	I	08–22–95	Indef.
ST95–3404	El Paso Natural Gas Co.	Natural Gas Trans. Services, Inc.	09–07–95	G–S	50,000	N	I	08–11–95	Indef.
ST95–3405	Mississippi River Trans. Corp.	Universal Resources Corp.	09–07–95	G–S	200	N	I	08–04–95	Indef.
ST95–3406	Mississippi River Trans. Corp.	Conoco, Inc	09–07–95	G–S	10,000	Y	I	08–01–95	Indef.
ST95–3407	Granite State Gas Trans. Inc.	Northern Utilities, Inc	09–07–95	B	230	N	I	07–10–95	07–09–96
ST95–3408	Florida Gas Transmission Co.	CF Industries, Inc	09–08–95	G–S	1,000	N	I	08–29–95	Indef.
ST95–3409	Williams Natural Gas Co.	Utilicorp United, Inc ...	09–08–95	G–S	250,000	N	I	08–14–95	Indef.
ST95–3410	Williams Natural Gas Co.	Integrated Services, Inc.	09–08–95	G–S	850	N	I	08–31–95	Indef.
ST95–3411	Southern Natural Gas Co.	Texican Natural Gas Co.	09–08–95	G–S	5,000	N	I	09–01–95	Indef.
ST95–3412	Southern Natural Gas Co.	Texican Natural Gas Co.	09–08–95	G–S	5,877	N	F	09–01–95	12–31–98
ST95–3413	Natural Gas P/L Co. of America.	Delhi Gas Pipeline Corp.	09–08–95	B	10,000	N	I	06–07–95	Indef.
ST95–3414	Sea Robin Pipeline Co.	Shell Gas Trading Co	09–08–95	G–S	164,000	Y	I	08–012–95	Indef.
ST95–3415	Northern Illinois Gas Co.	Natural Gas P/L Co. of AM., et al.	09–11–95	G–HT	16,667	N	I	09–01–95	10–10–95
ST95–3416	Northern Natural Gas Co.	Aurora Gas Co	09–11–95	G–S	4,200	N	F	07–01–95	07–31–95
ST95–3417	Northern Natural Gas Co.	Twister Transmission Co.	09–11–95	G–S	10,000	N	F	07–02–95	07–31–95
ST95–3418	Northern Natural Gas Co.	Aurora Gas Co	09–11–95	G–S	800	N	F	07–01–95	07–31–95
ST95–3419	Northern Natural Gas Co.	Cibola Corp	09–11–95	G–S	3,574	N	F	07–18–95	10–31–95
ST95–3420	Northern Natural Gas Co.	KN Marketing, L.P	09–11–95	G–S	20,000	N	F	07–21–95	07–19–96
ST95–3421	Northern Natural Gas Co.	Hadson Gas Systems	09–11–95	G–S	5,000	N	I	07–01–95	Indef.
ST95–3422	Northern Natural Gas Co.	Western Gas Resources, Inc.	09–11–95	G–S	23,704	N	F	06–14–95	06–14–95
ST95–3423	Northern Natural Gas Co.	Anadarko Trading Co	09–11–95	G–S	5,000	N	F	06–09–95	06–30–95
ST95–3424	Northern Natural Gas Co.	Westcoast Gas Services (U.S.A.).	09–11–95	G–S	50,000	N	I	06–01–95	Indef.
ST95–3425	Northern Natural Gas Co.	Vastar Gas Marketing, Inc.	09–11–95	G–S	20,914	N	F	06–14–95	06–30–95
ST95–3426	Northern Natural Gas Co.	Aquila Energy Marketing Corp.	09–11–95	G–S	15,000	N	F	06–15–95	06–30–95

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–3427	Northern Natural Gas Co.	Aquila Energy Marketing Corp.	09–11–95	G–S	9,300	N	F	07–01–95	07–31–95
ST95–3428	Transcontinental Gas P/L Corp.	North American Energy, Inc.	09–11–95	G–S	10,000	N	I	08–12–95	Indef.
ST95–3429	Trunkline Co	East Ohio Gas Co	09–12–95	G–S	50,000	N	I	09–01–95	Indef.
ST95–3430	Tennessee Gas Pipeline Co.	Catex Vitol Gas, Inc ..	09–13–95	G–S	10,000	N	F	09–01–95	Indef.
ST95–3431	Tennessee Gas Pipeline Co.	CNG Energy Services Corp.	09–13–95	G–S	15,000	N	F	09–01–95	Indef.
ST95–3432	Midwestern Gas Transmission Co.	Southern Indiana Gas & Electric Co.	09–13–95	G–S	4,975	N	F	09–01–95	Indef.
ST95–3433	El Paso Natural Gas Co.	Western Gas Resources, Inc.	09–13–95	G–S	103,000	N	I	08–17–95	Indef.
ST95–3434	El Paso Natural Gas Co.	Teco Gas Marketing Co.	09–13–95	G–S	100,000	N	I	08–23–95	Indef.
ST95–3435	Koch Gateway Pipeline Co.	H & N Gas, Ltd	09–13–95	G–S	N/A	N	I	09–01–95	Indef.
ST95–3436	Koch Gateway Pipeline Co.	Enron Oil & Gas Co ..	09–13–95	G–S	N/A	N	I	09–01–95	Indef.
ST95–3437	Algonquin Gas Transmission Co.	Boston Edison Co	09–13–95	B	100	N	F	09–01–95	09–30–95
ST95–3438	Algonquin Gas Transmission Co.	Northeast Utilities Service Co.	09–13–95	G–S	132,000	N	F	08–28–95	Indef.
ST95–3439	Equitrans, Inc	CNG Energy Services Corp.	09–13–95	G–S	73,000	N	F	03–28–95	03–27–96
ST95–3440	Delhi Gas Pipeline Corp.	Panhandle Eastern Pipe Line Co.	09–15–95	C	1,200	N	I	08–16–95	Indef.
ST95–3441	Sabine Pipe Line Co .	Tejas Gas Pipeline Co., et al.	09–15–95	B	25,000	N	F	09–01–95	Indef.
ST95–3442	Texas Gas Transmission Corp.	Westlake Chemical Corp.	09–15–95	G–S	72	N	F	09–01–95	Indef.
ST95–3443	Texas Gas Transmission Corp.	Town of Duck Hill	09–15–95	G–S	150	N	I	09–01–95	Indef.
ST95–3444	Valero Transmission, L.P.	Natural Gas P/L Co. of AM., et al.	09–18–95	C	30,000	N	I	08–24–95	Indef.
ST95–3445	Valero Transmission, L.P.	Natural Gas P/L Co. of AM., et al.	09–18–95	C	10,000	N	I	09–01–95	Indef.
ST95–3446	Valero Transmission, L.P.	Tennessee Gas Pipeline Co.	09–18–95	C	5,889	N	I	08–23–95	Indef.
ST95–3447	Valero Transmission, L.P.	Natural Gas P/L Co. of AM., et al.	09–18–95	C	30,000	N	I	09–01–95	Indef.
ST95–3448	Valero Transmission, L.P.	Transcontinental Gas P/L Co., et al.	09–18–95	C	5,000	N	I	09–02–95	Indef.
ST95–3449	Valero Transmission, L.P.	Natural Gas P/L Co. of AM., et al.	09–18–95	C	30,000	N	I	09–01–95	Indef.
ST95–3450	Valero Transmission, L.P.	Natural Gas P/L Co. of AM., et al.	09–18–95	C	30,000	N	I	09–01–95	Indef.
ST95–3451	Valero Transmission, L.P.	Natural Gas P/L Co. of AM., et al.	09–18–95	C	30,000	N	I	09–01–95	Indef.
ST95–3452	Enogex Inc	ANR Pipeline Co., et al.	09–18–95	C	50,000	N	I	06–17–95	Indef.
ST95–3453	El Paso Natural Gas Co.	Richardson Products II, Ltd.	09–18–95	G–S	10,000	N	I	08–30–95	Indef.
ST95–3454	El Paso Natural Gas Co.	Bonneville Fuels Management Corp.	09–18–95	G–S	1,030	N	I	09–01–95	Indef.
ST95–3455	El Paso Natural Gas Co.	Premier Gas Co	09–18–95	G–S	5,150	N	I	09–01–95	Indef.
ST95–3456	El Paso Natural Gas Co.	U.S. Gas Transportation, Inc.	09–18–95	G–S	515	N	I	09–02–95	Indef.
ST95–3457	El Paso Natural Gas Co.	Koch Gas Services Co.	09–18–95	G–S	36,050	N	I	08–20–95	Indef.
ST95–3458	El Paso Natural Gas Co.	Equitable Resources Marketing Co.	09–18–95	G–S	51,500	N	I	08–22–95	Indef.
ST95–3459	National Fuel Gas Supply Corp.	National Fuel Resources.	09–18–95	G–S	25,000	A	I	07–29–95	07–28–15
ST95–3460	National Fuel Gas Supply Corp.	Caparo Steel Co	09–18–95	G–S	8,000	N	F	06–15–95	04–30–00
ST95–3461	Transcontinental Gas P.L Corp.	Hayes Wheels International, Inc.	09–18–95	G–S	4,000	N	I	08–19–95	Indef.
ST95–3462	Public Service Co. of New Mexico.	Transwestern Natural Gas Co., et al.	09–18–95	G–HT	50,000	N	I	08–23–95	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–3463	Gasdel Pipeline System Inc.	Energy Development Corp.	09–18–95	G–S	8,600	N	I	09–01–95	Indef.
ST95–3464	El Paso Natural Gas Co.	Oasis Pipe Line Co ...	09–19–95	B	1,545	N	I	09–01–95	Indef.
ST95–3465	Kern River Gas Transmission Co.	Natural Gas Transmission Services.	09–19–95	G–S	50,000	N	I	08–25–95	Indef.
ST95–3466	Colorado Interstate Gas Co.	Cabot Oil & Gas Marketing Corp.	09–19–95	G–S	601	N	I	09–01–95	Indef.
ST95–3467	Noram Gas Transmission Co.	Delhi Gas Marketing Corp.	09–20–95	G–S	5,000	N	F	04–01–95	04–30–95
ST95–3468	Noram Gas Transmission Co.	Aquila Energy Marketing Corp.	09–20–95	G–S	15,000	N	F	03–01–95	03–31–95
ST95–3469	Noram Gas Transmission Co.	Fina Natural Gas Co .	09–20–95	G–S	20,000	N	F	04–01–95	03–31–97
ST95–3470	Noram Gas Transmission Co.	Koch Gas Services ...	09–20–95	G–S	20,000	N	F	04–01–95	04–30–95
ST95–3471	Noram Gas Transmission Co.	Vesta Energy Co	09–20–95	G–S	200	N	F	04–30–95	Indef.
ST95–3472	Noram Gas Transmission Co.	Noram Energy Services, Inc.	09–20–95	G–S	21,000	Y	F	06–01–95	06–30–95
ST95–3473	Noram Gas Transmission Co.	Noram Energy Services, Inc.	09–20–95	G–S	30,000	Y	F	02–01–95	10–31–96
ST95–3474	Noram Gas Transmission Co.	Scana Hydrocarbons, Inc.	09–20–95	G–S	15,000	N	F	02–01–95	10–31–95
ST95–3475	Noram Gas Transmission Co.	Boyd Rosene and Associates, Inc.	09–20–95	G–S	2,000	N	F	03–01–95	02–28–96
ST95–3476	Noram Gas Transmission Co.	Koch Gateway Pipeline Co.	09–20–95	G–S	50,000	N	I	02–02–95	Indef.
ST95–3477	Noram Gas Transmission Co.	Seagull Marketing Services, Inc.	09–20–95	G–S	20,000	N	I	01–01–95	Indef.
ST95–3478	Noram Gas Transmission Co.	Peoples Natural Gas Co.	09–20–95	G–S	16,000	N	I	04–01–95	Indef.
ST95–3479	Noram Gas Transmission Co.	Noram Energy Services, Inc.	09–20–95	G–S	1,000	Y	F	04–01–95	Indef.
ST95–3480	Noram Gas Transmission Co.	Chevron USA, Inc	09–20–95	G–S	15,000	N	F	04–01–95	04–30–95
ST95–3481	Noram Gas Transmission Co.	Koch Gas Services ...	09–20–95	G–S	10,000	N	F	04–01–95	04–30–95
ST95–3482	Noram Gas Transmission Co.	Noram Energy Services, Inc.	09–20–95	G–S	10,000	Y	F	06–01–95	05–31–96
ST95–3483	Noram Gas Transmission Co.	Noram Energy Services, Inc.	09–20–95	G–S	1,000	Y	F	05–01–95	04–30–95
ST95–3484	Noram Gas Transmission Co.	Noram Energy Services, Inc.	09–20–95	G–S	20,000	Y	F	05–01–95	06–30–95
ST95–3485	Noram Gas Transmission Co.	Industrial Energy Applications, Inc.	09–20–95	G–S	10,000	N	I	07–01–95	Indef.
ST95–3486	Noram Gas Transmission Co.	Pine Bluff Sand & Gravel Co., Inc.	09–20–95	G–S	100	N	I	06–01–95	Indef.
ST95–3487	Noram Gas Transmission Co.	Goodyear Tire & Rubber Co.	09–20–95	G–S	550	N	I	03–01–95	Indef.
ST95–3488	Noram Gas Transmission Co.	Cenergy, Inc	09–20–95	G–S	10,000	N	F	02–01–95	03–31–96
ST95–3489	Noram Gas Transmission Co.	Delhi Gas Marketing Corp.	09–20–95	G–S	5,000	N	F	02–01–95	02–28–95
ST95–3490	Noram Gas Transmission Co.	Amoco Energy Trading Corp.	09–20–95	G–S	6,827	N	F	02–01–95	02–28–95
ST95–3491	Noram Gas Transmission Co.	Aptian Energy Services.	09–20–95	G–S	50,000	N	I	04–01–95	Indef.
ST95–3492	Noram Gas Transmission Co.	Hadson Gas Systems, Inc.	09–20–95	G–S	1,157	N	F	02–01–95	02–28–95
ST95–3493	Noram Gas Transmission Co.	NGC Transportation, Inc.	09–20–95	G–S	30,000	N	F	02–01–95	01–31–96
ST95–3494	Noram Gas Transmission Co.	Enron Capital & Trade Resources.	09–20–95	G–S	10,000	N	F	02–01–95	02–28–95
ST95–3495	Noram Gas Transmission Co.	Vintage Gas, Inc	09–20–95	G–S	2,100	N	I	06–21–95	Indef.
ST95–3496	Noram Gas Transmission Co.	Catex-Vitol Gas, Inc ..	09–20–95	G–S	50,000	N	I	07–01–95	Indef.
ST95–3497	Noram Gas Transmission Co.	Delhi Gas Marketing Corp.	09–20–95	G–S	100,000	N	I	01–01–95	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–3498	Noram Gas Transmission Co.	Aquila Energy Marketing Corp.	09–20–95	G–S	15,000	N	F	04–01–95	03–31–96
ST95–3499	Noram Gas Transmission Co.	Pennunion Energy Services, L.L.C.	09–20–95	G–S	100,000	N	I	05–01–95	Indef.
ST95–3500	ANR Pipeline Co	ANR Storage Co	09–20–95	G–S	N/A	Y	I	09–14–95	Indef.
ST95–3501	ANR Pipeline Co	Global Petroleum Corp.	09–20–95	G–S	N/A	N	F	09–01–95	Indef.
ST95–3502	ANR Pipeline Co	George B. Franklin & Sons.	09–20–95	G–S	400	N	F	09–01–95	09–30–14
ST95–3503	Texas Eastern Transmission Corp.	New Jersey Natural Energy Co.	09–21–95	G–S	40,000	N	I	09–13–95	Indef.
ST95–3504	Channel Industries Gas Co.	El Paso Natural Gas Co., et al.	09–21–95	C	20,000	Y	I	09–01–95	Indef.
ST95–3505	Kern River Gas Transmission Co.	Enron Capital & Trade Resources.	09–21–95	G–S	25,000	N	F	08–28–95	09–30–95
ST95–3506	Tennessee Gas Pipeline Co.	Cincinnati Gas & Electric Co.	09–21–95	G–S	42,000	N	F	09–01–95	Indef.
ST95–3507	Tennessee Gas Pipeline Co.	Cholla Resources, Inc	09–21–95	G–S	3,650	N	I	09–08–95	Indef.
ST95–3508	CNG Transmission Corp.	Long Island Lighting Co.	09–21–95	G–S	50,000	N	I	09–01–95	10–31–95
ST95–3509	CNG Transmission Corp.	Willamette Industries, Inc.	09–21–95	G–S	5,000	N	F	09–01–95	09–30–95
ST95–3510	Natural Gas P/L Co. of America.	Texaco Natural Gas Inc.	09–22–95	G–S	30,000	N	F	09–01–95	09–05–95
ST95–3511	Panhandle Eastern Pipe Line Co.	National Helium Corp	09–22–95	G–S	30,000	Y	F	09–01–95	08–31–96
ST95–3512	Panhandle Eastern Pipe Line Co.	Ball Glass Container Corp.	09–22–95	G–S	1,900	N	F	09–01–95	08–31–98
ST95–3513	Panhandle Eastern Pipe Line Co.	Haeger Potteries of Macomb.	09–22–95	G–S	300	N	F	09–01–95	08–31–98
ST95–3514	Panhandle Eastern Pipe Line Co.	MG Natural Gas Corp	09–22–95	G–S	500	N	F	09–01–95	07–31–96
ST95–3515	Panhandle Eastern Pipe Line Co.	American Cyanamid Co.	09–22–95	G–S	3,500	N	F	09–01–95	09–30–95
ST95–3516	Panhandle Eastern Pipe Line Co.	Anadarko Petroleum Corp.	09–22–95	G–S	35,000	N	F	09–01–95	09–30–95
ST95–3517	El Paso Natural Gas Co.	GPM Gas Corp	09–22–95	G–S	1,751	N	I	09–09–95	Indef.
ST95–3518	Westgas Interstate, Inc.	Associated Intrastate Pipeline Co.	09–22–95	G–S	10,000	N	I	06–07–91	Indef.
ST95–3519	Westgas Interstate, Inc.	Frontier Oil and Refining Co.	09–22–95	G–S	2,000	N	I	09–01–94	Indef.
ST95–3520	Westgas Interstate, Inc.	Associated Intrastate Pipeline Co.	09–22–95	G–S	4,000	N	F	09–01–94	Indef.
ST95–3521	Westgas Interstate, Inc.	Frontier Oil and Refining Co.	09–22–95	G–S	2,000	N	F	10–01–93	Indef.
ST95–3522	Westgas Interstate, Inc.	Cheyenne Light, Fuel and Power Co.	09–22–95	G–S	3,429	N	F	10–01–93	Indef.
ST95–3523	Westgas Interstate, Inc.	Cheyenne Light, Fuel and Power Co.	09–22–95	G–S	6,500	N	I	06–10–92	Indef.
ST95–3524	Westgas Interstate, Inc.	Enron Gas Marketing, Inc.	09–22–95	G–S	13,300	N	I	06–07–91	Indef.
ST95–3525	Columbia Gas Transmission Corp.	National Fuel Gas Distribution Corp.	09–22–95	G–S	7,758	N	F	09–01–95	Indef.
ST95–3526	Columbia Gas Transmission Corp.	Pennsylvania Power & Light Co.	09–22–95	G–S	120,000	N	I	09–01–95	Indef.
ST95–3527	Columbia Gas Transmission Corp.	Seitel Gas & Energy Corp.	09–22–95	G–S	5,000	N	I	09–01–95	Indef.
ST95–3528	Columbia Gas Transmission Corp.	Pennsylvania Power & Light Co.	09–22–95	G–S	N/A	N	I	09–01–95	Indef.
ST95–3529	Pacific Gas Transmission Corp.	Pancanadian Petroleum Co.	09–22–95	G–S	50,000	N	I	08–20–95	Indef.
ST95–3530	Pacific Gas Transmission Corp.	Associated Gas Services, Inc.	09–25–95	G–S	100,000	N	I	08–26–95	Indef.
ST95–3531	Panhandle Eastern Pipe Line Co.	BP Oil Co	09–25–95	G–S	3,000	N	F	09–01–95	10–31–95
ST95–3532	Northern Natural Gas Co.	Mobile Gas Marketing, Inc.	09–25–95	G–S	15,000	N	I	09–01–95	Indef.
ST95–3533	Northern Natural Gas Co.	National Gas & Electric L.P.	09–25–95	G–S	20,000	N	F	09–01–95	09–30–95

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–3534	Northern Natural Gas Co.	Noram Energy Services Inc.	09–25–95	G–S	45,000	N	F	09–01–95	09–30–95
ST95–3535	Northern Natural Gas Co.	AIG Trading Corp	09–25–95	G–S	10,000	N	F	09–01–95	09–30–95
ST95–3536	Northern Natural Gas Co.	Lone Star Gas Co	09–25–95	B	50,000	N	I	07–01–95	Indef.
ST95–3537	Northern Natural Gas Co.	Great Plains Natural Gas Co.	09–25–95	B/G–S	4,200	N	F	09–01–95	3–31–98
ST95–3538	Trailblazer Pipeline Co.	KN Gas Marketing, Inc.	09–26–95	G–S	9,434	N	F	09–01–95	09–30–95
ST95–3539	Trailblazer Pipeline Co.	Koch Gas Services Co.	09–26–95	G–S	18,868	N	F	09–01–95	09–30–95
ST95–3540	Trailblazer Pipeline Co.	Universal Resources Corp.	09–26–95	G–S	10,000	N	F	09–01–95	09–30–95
ST95–3541	Northrn Illinois Gas Co.	ANR Pipeline Co., et al.	09–27–95	G–HT	1,000	N	I	09–14–95	09–24–95
ST95–3542	Mojave Pipeline Co ...	Coastal Gas Marketing Co.	09–27–95	G–S	100,000	N	I	09–22–95	03–20–96
ST95–3543	Tennessee Gas Pipeline Co.	Union Light Heat & Power Co.	09–27–95	G–S	9,000	N	F	09–01–95	Indef.
ST95–3544	Tennessee Gas Pipeline Co.	Essex Northern Utilities, Inc.	09–27–95	G–S	2,455	N	I	12–21–94	01–14–95
ST95–3545	Columbia Gas Transmission Corp.	Union Camp Corp	09–27–95	G–S	500	N	I	09–01–95	Indef.
ST95–3546	Northern Natural Gas Co.	Cenergy, Inc	09–28–95	G–S	10,000	N	F	09–01–95	09–30–95
ST95–3547	Northern Natural Gas Co.	Aquila Energy Marketing Corp.	09–28–95	G–S	11,250	N	F	09–01–95	09–30–95
ST95–3548	Northern Natural Gas Co.	Koch Gas Services ...	09–28–95	G–S	20,000	N	F	09–01–95	09–30–95
ST95–3549	Northern Natural Gas Co.	Cibola Corp	09–28–95	G–S	15,000	N	I	09–01–95	Indef.
ST95–3550	Columbia Gulf Transmission Co.	TEXLA Energy Management, Inc.	09–28–95	G–S	10,000	N	I	09–01–95	Indef.
ST95–3551	Columbia Gulf Transmission Co.	Offshore Busilop Services, LTD Co.	09–28–95	G–S	20,000	N	I	09–01–95	Indef.
ST95–3552	Columbia Gulf Transmission Co.	H&N Gas, LTD	09–28–95	G–S	10,000	N	F	09–01–95	9–30–95
ST95–3553	Great Lakes Gas Transmission L.P.	TransCanada Gas Services Inc.	09–29–95	G–S	13,735	Y	F	09–01–95	11–30–99
ST95–3554	Iroquois Gas Transmission System.	Aquila Energy Marketing Corp.	09–29–95	G–S	576,000	N	I	09–08–95	Indef.
ST95–3555	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	09–29–95	G–S	100,000	A	I	09–01–95	08–31–97
ST95–3556	Tennessee Gas Pipeline Co.	Belden & Blake Corp	09–29–95	G–S	15,000	N	F	09–01–95	08–31–96
ST95–3557	Florida Gas Transmission Co.	ONYX Gas Marketing Co., L.C.	09–29–95	G–S	20,000	N	I	09–01–95	Indef.
ST95–3558	Florida Gas Transmission Co.	Western Gas Resources, Inc.	09–29–95	G–S	50,000		I	09–02–95	Indef.
ST95–3559	Florida Gas Transmission Co.	CNB Olympic Gas Services.	09–29–95	G–S	10,000	N	F	09–01–95	Indef.
ST95–3560	Mississippi River Trans. Corp.	Maxus Gas Marketing Co.	09–29–95	G–S	1,000	N	I	09–01–95	Indef.
ST95–3561	Mississippi River Trans. Corp.	Williams Gas Marketing Co.	09–29–95	G–S	30,000	Y	I	09–13–95	Indef.
ST95–3562	Mississippi River Trans. Corp.	Boyd Rosene and Associates, Inc.	09–29–95	G–S	2,083	Y	I	09–01–95	Indef.
ST95–3563	Public Service Co. of Colorado.	Trailblazer Pipeline Co., et al.	09–29–95	G–HT	20,000	N	I	05–06–93	Indef.
ST95–3564	Public Service Co. of Colorado.	Trailblazer Pipeline Co., et al.	09–29–95	G–HT	10,000	N	I	05–01–93	Indef.
ST95–3565	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	8,000	N	I	10–01–93	Indef.
ST95–3566	Public Service Co. of Colorado.	Colorado Interstate Gas Co.	09–29–95	G–HT	5,500	N	I	05–21–93	Indef.
ST95–3567	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	20,000	N	I	05–28–93	Indef.
ST95–3568	Public Service Co. of Colorado.	Colorado Interstate Gas Co., et al.	09–29–95	G–HT	3,000	N	I	06–01–93	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 sub-part	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date com-menced	Projected termination date
ST95–3569	Public Service Co. of Colorado.	Westgas Interstate, Inc.	09–29–95	G–HT	8,700	N	I	07–27–93	Indef.
ST95–3570	Public Service Co. of Colorado.	Westgas Interstate, Inc.	09–29–95	G–HT	3,429	N	F	08–26–93	Indef.
ST95–3571	Public Service Co. of Colorado.	Westgas Interstate, Inc.	09–29–95	G–HT	6,000	N	F	01–11–94	Indef.
ST95–3572	Public Service Co. of Colorado.	Questar Pipeline Co., et al.	09–29–95	G–HT	1,200	N	I	11–01–93	Indef.
ST95–3573	Public Service Co. of Colorado.	Questar Pipeline Co., et al.	09–29–95	G–HT	1,200	N	I	11–01–93	Indef.
ST95–3574	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	10,000	N	I	04–01–94	Indef.
ST95–3575	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	20,000	N	I	05–01–94	Indef.
ST95–3576	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	25,000	N	I	08–15–92	Indef.
ST95–3577	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	2,000	N	I	10–08–92	Indef.
ST95–3578	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	4,000	N	I	08–25–95	Indef.
ST95–3579	Public Service Co. of Colorado.	Northwest Pipeline Corp.	09–29–95	G–HT	2,000	N	I	05–12–95	Indef.
ST95–3580	Public Service Co. of Colorado.	Westgas Interstate, Inc., et al.	09–29–95	G–HT	25,000	N	I	05–05–95	Indef.
ST95–3581	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	25,000	N	I	06–28–94	Indef.
ST95–3582	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	2,000	N	I	07–01–94	Indef.
ST95–3583	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	2,500	N	I	11–04–92	Indef.
ST95–3584	Public Service Co. of Colorado.	Trailblazer Pipeline Co., et al.	09–29–95	G–HT	25,000	N	I	04–27–93	Indef.
ST95–3585	Public Service Co. of Colorado.	Trailblazer Pipeline Co., et al.	09–29–95	G–HT	25,000	N	I	03–30–93	Indef.
ST95–3586	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	2,000	N	I	01–25–93	Indef.
ST95–3587	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	250	N	I	12–21–92	Indef.
ST95–3588	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	4,500	N	I	04–01–94	Indef.
ST95–3589	Public Service Co. of Colorado.	Northwest Pipeline Corp.	09–29–95	G–HT	7,300	N	I	09–21–92	Indef.
ST95–3590	Public Service Co. of Colorado.	Trailblazer Pipeline Co., et al.	09–29–95	G–HT	25,000	N	I	09–08–92	Indef.
ST95–3591	Public Service Co. of Colorado.	Colorado Interstate Gas Co.	09–29–95	G–HT	20,000	N	I	09–16–89	Indef.
ST95–3592	Public Service Co. of Colorado.	El Paso Natural Gas Co.	09–29–95	G–HT	10,000	N	I	07–13–90	Indef.
ST95–3593	Public Service Co. of Colorado.	Northwest Pipeline Corp.	09–29–95	G–HT	1,000	N	I	05–01–90	Indef.
ST95–3594	Public Service Co. of Colorado.	Northwest Pipeline Corp.	09–29–95	G–HT	2,000	N	I	07–23–91	Indef.
ST95–3595	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	2,500	N	I	10–01–90	Indef.
ST95–3596	Public Service Co. of Colorado.	Northwest Pipeline Corp., et al.	09–29–95	G–HT	8,000	N	I	11–22–91	Indef.
ST95–3597	Public Service Co. of Colorado.	Trailblazer Pipeline Co., et al.	09–29–95	G–HT	2,000	N	I	06–10–93	Indef.
ST95–3598	Public Service Co. of Colorado.	Northwest Pipeline Corp.	09–29–95	G–HT	1,000	N	I	12–03–91	Indef.
ST95–3599	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	10,000	N	I	08–12–92	Indef.
ST95–3600	Public Service Co. of Colorado.	Northwest Pipeline Corp.	09–29–95	G–HT	200	N	I	05–06–92	Indef.
ST95–3601	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	27,000	N	I	09–08–92	Indef.
ST95–3602	Public Service Co. of Colorado.	Trailblazer Pipeline Co.	09–29–95	G–HT	25,000	N	I	07–22–92	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–3603	Public Service Co. of Colorado.	Williams Gas Marketing Co.	08–28–95	G–S	80,000	N	I	06–30–95	Indef.

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with order No. 436 (Final Rule and Notice requesting supplemental comments, 50 FR 42,372, 10/10/85).
[2] Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.
[3] Affilation of reporting company to entities involved in the Transaction. A ''Y'' indicates affiliation, an ''A'' indicates marketing affiliation, and a ''N'' indicates no affiliation.

[FR Doc. 95–26243 Filed 10–23–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP95–421–001]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 18, 1995.

Take notice that on October 16, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective November 1, 1995:

Eighth Revised Sheet No. 20
Eighth Revised Sheet No. 21
Eighth Revised Sheet No. 22
Eighth Revised Sheet No. 24
Third Revised Sheet No. 3904
Second Revised Sheet No. 3905

Koch Gateway states that this filing is submitted in compliance with the Federal Energy Regulatory Commission's (''Commission'') September 29, 1995 order in which the Commission required Koch Gateway to recalculate the proposed surcharges for the recovery of stranded Account No. 191 costs in accordance with Section 32.3 of Koch Gateway's tariff which sets forth the recovery method for stranded costs.

Koch Gateway further states that the Commission ordered Koch Gateway to respond to the protest of the Indicated Shippers regarding the Fuel Use adjustment to Account No. 803. Koch Gateway states that this adjustment was made in its Account No. 191 balance as shown in its supporting schedules in its initial filing.

Koch Gateway also states that copies of its filing are being served upon the official service list as determined by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 of the Commission's Regulations. All such protests should be filed on or before October 25, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 95–26242 Filed 10–23–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. PR95–18–000]

Delhi Gas Pipeline Corporation; Notice of Petition for Rate Approval

October 18, 1995.

Take notice that on September 15, 1995, Delhi Gas Pipeline Corporation (Delhi) filed pursuant to section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a rate of $0.335 per MMBtu for transportation services performed under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Delhi states that it owns and operates non-interconnected pipeline systems in the States of Oklahoma and Texas. Delhi proposes to continue to charge a rate of $0.335 per MMBtu, which rate was previously approved by Commission letter order dated July 21, 1993, in Docket No. PR92–19.

Pursuant to Section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before November 3, 1995. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 95–26241 Filed 10–23–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER95–1455–000]

Long Island Lighting Company; Notice of Filing

October 18, 1995.

Take notice that on September 14, 1995, Long Island Lighting Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 30, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 95–26240 Filed 10–23–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP96–13–000]

CNG Transmission Corporation; Notice of Request Under Blanket Authorization

October 18, 1995.

Take notice that on October 6, 1995, CNG Transmission Corporation (CNGT),

445 West Main Street, Clarksburg, West Virginia 26301, filed a prior notice request with the Commission in Docket No. CP96–13–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a delivery point and appurtenant metering and regulating equipment in Upshur County, West Virginia, to serve Hope Gas, Inc. (Hope) under CNGT's blanket certificate issued in Docket No. CP82–537–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

CNGT proposes to install a 4-inch hot tap and metering and regulating equipment to serve as a delivery point to Hope, a West Virginia local distributor and CNGT affiliate. Hope would operate the metering and regulating equipment as it delivers a maximum of 1,560 Mcf of natural gas per day to the Trus Joist Facility. CNGT states that Hope would fully reimburse CNGT for the estimated $9,484 construction cost of the proposed facilities.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26239 Filed 10–23–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–267–003]

NorAm Gas Transmission Company; Notice of Amended Application

October 18, 1995.

Take notice that on October 10, 1995, NorAm Gas Transmission Company (NGT), formerly Arkla Energy Resources Company, 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP94–267–003 an amended application pursuant to Section 7(b) and 7(c) of the Natural Gas Act for authorization to replace and reroute segments of its Line F in Louisiana and to make other minor pipeline changes, all as more fully set forth in the application on file with the Commission and open to public inspection.

NGT states that it filed an application in Docket No. CP94–267–000 on March 4, 1994, to replace and rearrange an existing mainline pipeline, abandon minor storage and gas supply facilities and make minor mainline enhancements to its pipeline system in Arkansas, Louisiana and Texas. NGT relates that on October 4, 1994, it filed in Docket No. CP94–267–001, an amendment to its application to modify the compression facilities that were originally proposed to be installed and rearranged in the existing Ruston Storage Compressor yard. NGT reports that on April 5, 1995, the Commission issued an order in Docket Nos. CP94–267–000 and CP94–267–001 authorizing the construction, operation, and abandonment of facilities.[1] NGT notes that on May 5, 1995, it filed a request for rehearing and clarification of the April 5, 1995 order and, on June 16, 1995, it requested that the Commission take no further action in this docket pending its evaluation of recent developments that could affect the enhancements and replacements proposed by NGT.

NGT states that it has completed its evaluation and is filing to amend its application to modify its proposed replacements and abandonments and to eliminate nearly all the proposed system enhancements. NGT explains that its original application sought authority to spend approximately $48.6 million to make various replacements and rearrangements. NGT relates that its amended proposal involves a request for authority to spend approximately $23.7 million, a decrease of approximately $25 million, to replace and rearrange parts of its pipeline system.

Any person desiring to be heard or to make any protest with reference to said amended application should on or before November 8, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NGT to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26238 Filed 10–23–95; 8:45 am]

BILLING CODE 6717–01–M

[1] 71 FERC 61,017 (1995).

[Docket No. CP93–685–002]

Tuscarora Gas Transmission Company; Notice of Petition To Amend

October 18, 1995.

Take notice that on October 13, 1995, Tuscarora Gas Transmission Company (Tuscarora), 6100 Neil Road, P.O. Box 30150, Reno, Nevada 89520–3057, pursuant to Section 7(c) of the Natural Gas Act (NGA) filed in Docket No. CP93–685–002 an abbreviated petition to amend its certificate of public convenience and necessity issued on May 31, 1995. Tuscarora proposes to amend its certificate to update the estimated costs of the project and to establish reduced initial transportation rates prior to the in-service date for the pipeline, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Tuscarora says that although construction has proceeded relatively smoothly, the estimated cost of the project has risen approximately 4% from $125.2 million to $130.3 million. Tuscarora says the estimated project cost has increased largely because of unanticipated material and environmental compliance cost increases. Further, Tuscarora says these cost increases have more than absorbed

the contingency component of Tuscarora's initial cost estimate even though lower than projected interest rates for construction financing have generated a lower AFUDC component.

Tuscarora seeks to reduce its proposed initial transportation rates to the following levels:

FT:	
Reservation Charge ($/Month)	$14.6330
Commodity Charge:	
Maximum ($/Dth)	0.0000
Minimum ($/Dth)	0.0000
IT:	
Maximum ($/Dth)	0.4811
Minimum ($/Dth)	0.0000

Tuscarora says these revised initial rates reflect both Tuscarora's increased construction costs and lower long-term debt costs. Tuscarora also states that the amended rates utilize the previously approved levelized cost of service methodology.

Tuscarora anticipates that the pipeline will be placed in service on or about December 1, 1995. Tuscarora requests that the Commission notice and process the petition to amend as promptly as possible, and issue an order approving the proposed changes prior to December 1, 1995.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 25, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulation under the NGA (18 CFR Section 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26237 Filed 10–23–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–178–007, et al.]

Howell Power Systems, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 16, 1995.

Take notice that the following filings have been made with the Commission:

1. Howell Power Systems, Inc.

[Docket No. ER94–178–007]

Take notice that on October 10, 1995, Howell Power Systems, Inc. filed certain information as required by the Commission's January 4, 1994, order in Docket No. ER94–178–000. Copies of Howell Power Systems, Inc.'s informational filing are on file with the Commission and are available for public inspection.

2. TexPar Energy, Inc.

[Docket No. ER95–62–003]

Take notice that on October 2, 1995, TexPar Energy, Inc. (TexPar), filed certain information as required by the Commission's December 27, 1994, order in Docket No. ER95–62–000. Copies of TexPar's informational filing are on file with the Commission and are available for public inspection.

3. St. Joseph Light & Power Company

[Docket No. ER95–642–000]

Take notice that on September 28, 1995, St. Joseph Light & Power Company tendered for filing revised copies of an addendum to its coordination rate schedules which provide for the recovery of the cost of emission allowances.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Central Illinois Light Company

[Docket No. ER95–1469–000]

Take notice that Central Illinois Light Company (CILCO), on September 25, 1995, tendered for filing with the Commission an amendment to its July 31, 1995, filing concerning its Service Agreement with Louis Dreyfus Electric Power, Inc.

Copies of the filing were served on the customer and the Illinois Commerce Commission.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Houston Light & Power Company

[Docket No. ER95–1480–000]

Take notice that on September 25, 1995, Houston Lighting & Power Company (HL&P) tendered for filing amendments to the transmission service agreements (TSA's) filed herein on August 3, 1995.

Copies of the filing were served on West Texas Utilities Company, Southwestern Electric Power Company and Central Power and Light Company and the Public Utility Commission of Texas.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Bangor Hydro-Electric Company

[Docket No. ER95–1556–000]

Take notice that on September 15, 1995, Bangor Hydro-Electric Company (Bangor) tendered for initial filing a rate schedule for the provision of transmission service to Babcock Ultrapower Jonesboro and Babcock Ultrapower West Enfield, two qualifying facilities located in Bangor's service area.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER95–1824–000]

Take notice that on September 21, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing an amendment in the above-referenced docket.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. PECO Energy Company

[Docket No. ER95–1840–000]

Take notice that on September 27, 1995, PECO Energy Company (PECO) filed a Service Agreement dated September 1, 1995, with CINergy Services, Inc. as agent for and on behalf of the CINergy Operating Companies (Cincinnati Gas & Electric Company and PSI Energy, Inc.) (CINergy Services) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CINergy Services as a customer under the Tariff.

PECO requests an effective date of September 1, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to CINergy Services and to the Pennsylvania Public Utility Commission.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power & Light Company

[Docket No. ER95–1841–000]

Take notice that on September 27, 1995, Florida Power & Light Company (FPL) tendered for filing proposed service agreements with Koch Power Services, Inc. for transmission service under FPL's Transmission Tariff No. 2 and FPL's Transmission Tariff No. 3.

FPL requests that the proposed service agreements to be permitted become effective on October 17, 1995, or as soon thereafter as practicable.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Niagara Mohawk Power Corporation

[Docket No. ER95–1847–000]

Take notice that on September 28, 1995, Niagara Mohawk Power Corporation (NMPC) tendered for filing an executed Facilitating Agreement and Berkshire Transaction Agreement between NMPC and Hartford Power Sales L.L.C. (Hartford). The Facilitating Agreement is an umbrella agreement providing for the sale of capacity and/or energy to Hartford as the parties may agree subjection to cost based rate ceilings and floors. The Berkshire Transaction Agreement is the first transaction agreement entered into under the Facilitating Agreement and will facilitate Hartford meeting its supply obligations to Connecticut Light & Power Company.

NMPC requests an effective date of September 29, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Hartford.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26236 Filed 10–23–95; 8:45 am]

BILLING CODE 6717–01–P

Notice of Relocation of Dockets Room and Posting Boards

October 19, 1995.

Effective Monday, October 23, 1995, documents to be filed with the Commission should be submitted to the Office of the Secretary at the Dockets Room, Room 1A, at the Commission's new headquarters at 888 First Street, N.E., Washington, D.C. 20426. The room is located at the east end of the first floor adjacent to the main entrance on First Street.

Also effective October 23, the posting boards for issued orders and notices will be located on the second floor corridor leading to the Public Reference Room (Room 2A, east end of the building, and also relocating on October 23). Documents issued after 5:00 p.m. will be displayed on the boards on the first floor near the Child Development Center entrance.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26283 Filed 10–23–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5319–3]

Agency Information Collection Activities Up for Renewal

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before December 26, 1995.

ADDRESSES: U.S. EPA; Office of Wetlands, Oceans and Watersheds; Oceans and Coastal Protection Division (4504F); 401 M Street, SW; Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Virginia Fox-Norse; phone 202–260–1952; fax 202–260–9960.

SUPPLEMENTARY INFORMATION: *Affected entities:* Entities affected by this action are those municipalities which have applied for a renewal of a 301(h) waiver from secondary treatment requirements, or those with a pending 301(h) waiver application.

Title: Modification of Secondary Treatment Requirements for Dischargers to Marine Waters; ICR #0138.03; OMB control #2040–0088; expiration date: 12/31/95.

Abstract: The 301(h) program involves collecting information from two sources: (1) The municipal wastewater treatment facility, commonly called a publicly owned treatment works (POTW), and (2) the State in which the POTW is located. These sources are seeking a waiver from secondary treatment requirements under the Clean Water Act. Municipalities had the opportunity to apply for a waiver, but that opportunity closed in December, 1982. A POTW seeking to obtain a 301(h) waiver, or reapplying for a waiver, provides application, monitoring, and toxic control program information. The State provides State determination and State certification information. The requirements apply to those who applied to receive this benefit, i.e., a waiver from secondary treatment requirements. Regulations implementing Section 301(h) of the CWA are found at 40 CFR Part 125, Subpart G. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

There are 2 situations where information will be required under the 301(h) program:

Application Revision Information: Section 125.59(d) of 40 CFR allow a POTW to revise its application one time only, allowing a tentative decision by EPA to deny the waiver request. In its application revision, the POTW usually corrects deficiencies and changes proposed treatment levels as well as outfall and diffuser locations. The application revision is a voluntary submission for the applicant, and a letter of intent to revise must be submitted within 45 days of EPA's tentative decision (40 CFR 125.59(f)). EPA needs this information to evaluate revised applications and to determine whether the modified discharge will ensure receiving water quality, biological habitats, and beneficial uses of the receiving waters. Section 125.59(e) requires additional information to show compliance with applicable pretreatment requirements under § 125.65, and primary or equivalent treatment requirements under § 125.60.

Permit Reissuance Information: As the permits with 301(h) waivers reach their expiration dates, EPA must have

updated information on the discharge to determine whether the 301(h) criteria are still being met and whether the 301(h) variance should be reissued. Under 40 CFR 125.59(f), each 301(h) permittee is required to submit an application for a new section 301(h) modified permit within 180 days of the existing permit's expiration date; 40 CFR Part 125.59(c) lists the information required for a modified permit. Section 125.59(e) requires additional information to show compliance with applicable pretreatment requirements under § 125.65, and primary or equivalent treatment requirements under § 125.60. The information that EPA needs to determine whether the POTW's reapplication meets the section 301(h) criteria previously listed is outlined in the questionnaire attached to 40 CFR Part 125, Subpart G. The questionnaire is similar to the two used by POTWs for their original applications.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The burden estimate for the 73 regulated facilities totals 74,863 hours. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: September 29, 1995.

Robert H. Wayland III,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 95–26319 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5319–1]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for public comment.

SUMMARY: Notice is hereby given that a proposed prospective purchaser agreement associated with the Jasper County Superfund Site also known as the Oronogo/Duenweg Mining Belt Site located in Jasper County, Missouri was executed by the Agency on June 29, 1995 and executed by the United States Department of Justice on August 18, 1995. This agreement is subject to final approval after the comment period. The Prospective Purchaser Agreement would resolve certain potential EPA claims under sections 107 and 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), against Rogers Iron and Metal Corporation, the prospective purchaser (''the purchaser''). The settlement would require the purchaser to perform cleanup actions at the property which includes grading and leveling surface mine wastes and construction of a retention basin. The purchaser must comply with the institutional controls selected by the EPA and must provide EPA access to the Site.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

DATES: Comments must be submitted on or before November 24, 1995.

AVAILABILITY: The proposed settlement is available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the proposed agreement may be obtained from Mark Doolan, Remedial Project Manager, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Comments should reference the ''Jasper County Superfund Site Prospective Purchaser Agreement'' and should be forwarded to Mark Doolan, Remedial Project Manager, at the above address.

FOR FURTHER INFORMATION CONTACT: E. Jane Kloeckner, Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7235.

Dated: September 20, 1995.

Dennis Grams, P.E.,

Regional Administrator.

[FR Doc. 95–26323 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5319–2]

Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty to Sanford Metal Processing Co. and Opportunity To Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment.

SUMMARY: EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Sanford Metal Processing Co., located at 990 O'Brien Drive, Menlo Park, California; EPA Docket No. CWA–IX–FY95–37; filed on September 28, 1995, with

Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $65,000 for failure to comply with the categorical pretreatment standards and requirements for electroplaters (40 CFR part 413).

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: September 28, 1995.

John Ong,

Acting Director, Water Management Division.

[FR Doc. 95–26320 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5318–9]

Notice of Proposed Assessment of Clean Water Act Class I Administrative Penalty to Southwest Aluminum Systems Inc. and Opportunity To Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment.

SUMMARY: EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Southwest Aluminum Systems, Inc., located at 50 South 56th Street, Chandler, Arizona; EPA Docket No. CWA–IX–FY95–32; filed on September 29, 1995, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $98,111 for failure to comply with the categorical pretreatment standards and requirements for new source metal finishing (40 CFR part 433).

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: September 28, 1995.

John Ong,

Acting Director, Water Management Division.

[FR Doc. 95–26321 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5318–8]

Notice of Proposed Assessment of Clean Water Act Class I Administrative Penalty to Plymouth Tube Company and Opportunity To Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment.

SUMMARY: EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Plymouth Tube Company, located at 6573 West Willis Road, Chandler, Arizona; EPA Docket No. CWA-IX-FY95–31; filed on September 29, 1995, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $75,000 for failure to comply with the categorical pretreatment standards and requirements for existing source aluminum forming (40 CFR part 467).

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA

will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: September 22, 1995.

Alexis Strauss,

Acting Director, Water Management Division.

[FR Doc. 95–26322 Filed 10–23–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability Council Meeting

October 13, 1995.

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the twelfth meeting of the Network Reliability Council (''Council''), which will be held at the Federal Communications Commission in Washington, DC.

DATE: Thursday, October 26, 1995 at 1:00 p.m.

ADDRESS: Federal Communications Commission, Room 856, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Kimball at (202) 418–2339.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to explore and recommend measures that would enhance network reliability.

The agenda for the twelfth meeting (copy attached) will include an overview of Steering Committee activities and an update on network reliability performance. The recommendations of Focus Group I, Network Performance; Focus Group IV, Essential Services; and Focus Group V, Telecommuting in Emergencies, will be presented for consideration and adoption. The progress of the other NRC focus groups, data collection, and the proposed arrangements for the April 15–18, 1996 Network Reliability Industry Symposium will be discussed.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. The public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–26269 Filed 10–23–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1008–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–1008–DR), dated January 17, 1994, and related determinations.

EFFECTIVE DATE: October 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Leland R. Wilson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Kenneth D. Hutchison as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–26304 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1069–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David Grier of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Bruce P. Baughman as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–26305 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1069–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 11, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–26306 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1069–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida dated October 4, 1995, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

Collier County for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, DisasterAssistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–26307 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1067–DR]

U.S. Virgin Islands; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the U.S. Virgin Islands (FEMA–1067–DR), dated September 16, 1995, and related determinations.

EFFECTIVE DATE: October 7, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint G. Clay Hollister of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Dennis H. Kwiatkowski as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–26308 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1070–DR]

Alabama; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama (FEMA–1070–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama dated October 4, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

The counties of Autauga, Butler, Cherokee, Clarke, Jefferson and Lowndes for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

The counties of Etowah and St. Clair for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–26309 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1070–DR]

Alabama; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama, (FEMA–1070–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama dated October 4, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

The counties of Calhoun, Chambers, Clay, Cleburne, Coosa, Randolph and Talladega for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–26310 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1071–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–1071–DR), dated October 10, 1995, and related determinations.

EFFECTIVE DATE: October 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia dated October 10, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 10, 1995:

The counties of Floyd and Muscogee for Public Assistance (already designated for Individual Assistance and Hazard Mitigation Assistance).

The counties of Clayton and Gwinnett for Individual Assistance and Hazard Mitigation Assistance.

The counties of Dekalb and Stewart for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–26311 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1071–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–1071–DR), dated October 10, 1995, and related determinations.

EFFECTIVE DATE: October 12, 1995

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia dated October 10, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 10, 1995:

The counties of Banks, Barrow, Catoosa, Cherokee, Dawson, Forsyth, Gordon, Hall, Heard, Lumpkin, Meriwether, Paulding, Pickens, Pike, Spalding, Troup and Upson for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

The counties of Clay, Fayette, Polk and Quitman for Public Assistance (already designated for Individual Assistance and Hazard Mitigation Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–26312 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1071–DR]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1071–DR), dated October 10, 1995, and related determinations.

EFFECTIVE DATE: October 10, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 10, 1995, 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 Georgia, resulting from severe thunderstorms, high winds and flooding resulting from Hurricane Opal on October 4, 1995 through October 5, 1995, 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 Georgia.

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, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation 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 Dell Greer 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 Georgia to have been affected adversely by this declared major disaster:

The counties of Bartow, Carroll, Chattooga, Clay, Cobb, Coweta, Dade, Douglas, Fannin, Fayette, Floyd, Fulton, Gilmer, Habersham, Haralson, Harris, Murray, Muscogee, Polk, Rabun, Randolph, and Quitman, Talbot, Towns, Union, Walker, White, and Whitfield for Individual Assistance.

The counties of Bartow, Carroll, Chattooga, Cobb, Coweta, Dade, Douglas, Fannin, Fulton, Gilmer, Habersham, Haralson, Harris, Murray, Rabun, Randolph, Talbot, Towns, Union, Walker, White, and Whitfield for Public Assistance.

The counties of Bartow, Carroll, Chattooga, Clay, Cobb, Coweta, Dade, Douglas, Fannin, Fayette, Floyd, Fulton, Gilmer, Habersham, Haralson, Harris, Murray, Muscogee, Polk, Rabun, Randolph, and Quitman, Talbot, Towns, Union, Walker, White, and Whitfield for Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–26313 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1072–DR]

Alaska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA–1072–DR), dated October 13, 1995, and related determinations.

EFFECTIVE DATE: October 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 13, 1995, 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 Alaska, resulting from severe storms and flooding on September 18, 1995 and continuing, 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 Alaska.

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 and Hazard Mitigation 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 or Hazard Mitigation 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 Robert C. Freitag 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 Alaska to have been affected adversely by this declared major disaster:

The Municipality of Anchorage, Kenai Peninsula Borough and Matanuska-Susitna Borough for Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–26314 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1072–DR]

Alaska; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alaska (FEMA–1072–DR), dated October 13, 1995, and related determinations.

EFFECTIVE DATE: October 17, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 10, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–26315 Filed 10–23–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement,.

Agreement No.: 224–200006–003.

Title: Port of Oakland/DSR-Senator Lines GmbH/Cho Yang Shipping Company, Ltd. Terminal Agreement.

Parties: Port of Oakland, DSR-Senator Lines GmbH, Cho Yang Shipping Company, Ltd.

Synopsis: The proposed amendment extends the term of the Agreement to December 31, 2000, adds certain provisions to include wharfage earned on User's cargo discharged by Hanjin Shipping Co., Ltd., and adds certain compensation provisions relating to tariff compensation.

Agreement No.: 224–200278–001.

Title: Port of Oakland/Hyundai Merchant Marine Co., Ltd. Marine Terminal Agreement.

Parties: Port of Oakland (''Port''), Hyundai Merchant Marine Co., Ltd. (''Hyundai'').

Synopsis: The proposed amendment permits Hyundai to transfer its operations to the Port's other container terminals that are not operated as public facilities. It also extends the term of the Agreement until August 31, 1996.

Dated: October 18, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–26220 Filed 10–23–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses are revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 3176.

Name: Immediate Transportation Company of New York, Inc.

Address: 606 Merrick Road, Lynbrook, NY 11563.

Date Revoked: August 23, 1995.

Reason: Failed to maintain a valid surety bond.

License Number: 3721.

Name: Jotadece International Freight Forwarders, Inc.

Address: 2706–2708 NW., 112th Ave., Miami, FL 33172.

Date Revoked: September 30, 1995.

Reason: Failed to maintain a valid surety bond.

License Number: 3949.

Name: Sterling Cargo International, Inc. dba Sterling International.

Address: P.O. Box 1896, Grapevine, TX 76099.

Date Revoked: October 2, 1995.

Reason: Surrendered license voluntarily.

License Number: 3606.

Name: Professional Shipping Company, Inc.

Address: 9105 NW., 27th Ave., Miami, FL 33147.

Date Revoked: October 2, 1995.

Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95–26219 Filed 10–23–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Neal Palmer Brooks; 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 7, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Neal Palmer Brooks, Homestead, Florida; to retain 11.64 percent of the

voting shares of Community Bank of South Florida, Inc., Homestead, Florida, and thereby indirectly retain shares of Community Bank of Homestead, Homestead, Florida.

Board of Governors of the Federal Reserve System, October 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-26276 Filed 10-23-95; 8:45 am]

BILLING CODE 6210-01-F

BT 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 17, 1995

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. BT Financial Corporation, Johnstown, Pennsylvania; to acquire 100 percent of the voting shares of The Huntington National Bank of Pennsylvania, Uniontown, Pennsylvania.

In connection with this application, the target bank will be merged with and into Applicant's subsidiary bank, Fayette Bank, Uniontown, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Bank Corporation of Georgia, Macon, Georgia; to acquire 100 percent of the voting shares of Effingham Bank & Trust, Rincon, Georgia.

2. Regions Financial Corporation, Birmingham, Alabama; to merge with Metro Financial Corporation, Atlanta, Georgia, and thereby indirectly acquire Metro Bank, Atlanta, Georgia.

Board of Governors of the Federal Reserve System, October 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26277 Filed 10–23–95; 8:45 am]

BILLING CODE 6210–01–F

First Bank System, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Bank System, Inc., Minneapolis, Minnesota; to merge with FirsTier Financial, Inc., Omaha, Nebraska, and thereby indirectly acquire FirsTier Bank, N.A., Omaha, Nebraska; FirsTier Bank, N.A., Norfolk, Nebraska; FirsTier Bank, N.A., Scottsbluff, Nebraska; FirsTier Bank, N.A., Lincoln, Nebraska; Nevada National Bank, Nevada, Iowa; Security Savings Bank, Williamsburg, Iowa; and Valley State Bank, Rock Valley, Iowa.

In connection with this application, Applicant also has applied to acquire FirsTier Insurance, Inc., Omaha, Nebraska, and thereby engage in the sale of credit-related insurance in connection with extensions of credit by the FirsTier Financial, Inc., bank subsidiaries, pursuant to §§ 225.25(b)(8)(i) and (vii) of the Board's Regulation Y; FirsTier Mortgage Company, Omaha, Nebraska, and thereby engage in mortgage lending activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y; and Wyoming Trust Management Company, Gillette, Wyoming, and thereby engage in providing fiduciary and asset management services to individuals and corporations, pursuant to §§ 225.25(b)(3) and (4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26278 Filed 10–23–95; 8:45 am]

BILLING CODE 6210–01–F

First National of Nebraska, Inc.; Application to Engage in Nonbanking Activities

First National of Nebraska, Inc., Omaha, Nebraska (Applicant), has given notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) to engage *de novo* through a wholly owned subsidiary, First Technology Solutions, Inc., Omaha, Nebraska (Company), in designing,

selecting, installing, and testing client/server computer networks (server networks), and providing support services for the operation of such networks. These services would be provided to depository institutions and certain other customers. Applicant proposes to conduct these activities on a nationwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity that the Board, after due notice and opportunity for hearing, has determined by order or regulation to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the ''closely related to banking'' test if it is demonstrated that banks have generally provided the proposed activity, that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

Applicant states that the Board previously has determined by regulation that providing certain data processing and data transmission services and facilities and providing access to such services and facilities by any technological means are closely related to banking for purposes of section 4(c)(8) of the BHC Act. In order to be found to be closely related to banking, the data to be handled must be ''financial, banking, or economic'' in nature, and such activities must be conducted within certain additional limitations established by the Board. *See* 12 CFR 225.25(b)(7) (providing data processing and data transmission services and facilities). Applicant maintains that Company's activities with respect to server networks would be data processing, would relate primarily to financial, banking, or economic data, and would otherwise conform to Regulation Y.

Applicant also states that the Board has determined by order that a bank holding company may engage in these activities with respect to other data as part of its offering of a larger package of data processing services, when nonfinancial data processing is a relatively small part of the package and is a necessary part of providing financial data processing. *See BNCCORP*, 81 Federal Reserve Bulletin 295 (1995). Applicant represents that nonfinancial data processing would be a relatively small part of its proposed activities, and that it is necessary to provide nonfinancial data processing on a client/server network in order to accommodate traditional financial data processing.

In order to approve the proposal, the Board also must determine that the proposed activities to be engaged in by Company ''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.'' 12 U.S.C. 1843(c)(8). Applicant states that its proposal would produce public benefits that outweigh any potential adverse effects. In particular, Applicant maintains that Company's proposed activities would increase the availability of the proposed services to smaller financial institutions (and certain other customers), which frequently lack staff expertise in selecting and supporting the operation of server networks. In addition, Applicant states that the proposed activities would not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the notice and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 7, 1995. Any request for a hearing on this notice must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why 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.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City.

Board of Governors of the Federal Reserve System, October 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26279 Filed 10–23–95; 8:45 am]

BILLING CODE 6210–01–F

South Florida Banking Corp.; 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 7, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. South Florida Banking Corp., Bonita Springs, Florida; to engage *de novo* in making, acquiring, or servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The proposed activities will be performed throughout the State of Florida.

Board of Governors of the Federal Reserve System, October 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26280 Filed 10–23–95; 8:45 am]

BILLING CODE 6210–01–F

Rocky Mountain Bancorporation, Inc.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-24738) published on pages 52185 and 52186 of the issue for Thursday, October 5, 1995.

Under the Federal Reserve Bank of Minneapolis heading, the entry for Rocky Mountain Bancorporation, Inc., is revised to read as follows:

1. Rocky Mountain Bancorporation, Inc., Billings, Montana; to acquire through RMBI Acquisition, Inc., Billings Montana, 100 percent of the voting shares of N.E. Montana Bancshares, Inc., Plentywood, Montana, and thereby indirectly acquire Security State Bank, Plentywood, Montana.

In connection with this application RMBI Acquisition, Inc., as applied to become a bank holding company.

Comments on this application must be received by October 30, 1995.

Board of Governors of the Federal Reserve System, October 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26281 Filed 10–23–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95G–0321]

Amoco Bioproducts Corp.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Amoco Bioproducts Corp. has filed a petition (GRAS 2449) proposing that 25-hydroxyvitamin D_3 be affirmed as generally recognized as safe (GRAS) as a source of vitamin D_3 activity in broiler chicken feed.

DATES: Written comments by January 8, 1996.

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: Sharon A. Benz, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1724.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409(b)(5) (21 U.S.C. 321(s) and 348(b)(5))) and the regulations for affirmation of GRAS status in § 570.35 (21 CFR 570.35), notice is given that Amoco Bioproducts Corp., Amoco Research Center, P.O. Box 3011, Naperville, IL 60566–7011, has filed a petition (GRAS 2449) proposing that 25-hydroxyvitamin D_3 be affirmed as GRAS as a source of vitamin D_3 activity in broiler chicken feed.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 570.30 (21 CFR 570.30) and 570.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Interested persons may, on or before January 8, 1996, review the petition and file comments with the Dockets Management Branch (address above). Two copies of any comments should be filed and should be identified with the docket number found in brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 17, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–26357 Filed 10–23–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), is publishing the following summaries of proposed collections for public comment.

Type of Information Collection Request: Extension; *Title of Information Collection:* Sole Community Home Health Agencies (HHA) at 42 CFR 424.22(b)(2), (f) and (g); *Form No.:* HCFA R–85; *Use:* These regulations implement the rules for participation of HHAs in Medicare and the establishment and review of plans of care for home health services. These regulations make it easier for certain HHAs to meet certification and plan of care requirements. *Frequency:* Annually; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 20; *Total Annual Hours:* 40.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and

recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 13, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 95–26294 Filed 10–23–95; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Yuchi Tribal Organization

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(e) of the revised Federal acknowledgment regulations, which became effective March 28, 1994, notice is hereby given that the Assistant Secretary-Indian Affairs (Assistant Secretary) proposes to decline to acknowledge that the Yuchi Tribal Organization, c/o Melvin George, P.O. Box 1990, Sapulpa, Oklahoma 74067, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the Yuchi Tribal Organization does not meet one of the seven mandatory criteria set forth in 25 CFR 83.7, specifically, criterion 83.7(f). Therefore, the Yuchi Tribal Organization does not meet the requirements necessary for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(e)(1) and 83.10(h) through 83.10(1), any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut or support the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice.

ADDRESSES: Comments on the proposed finding and/or requests for a copy of the report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision should be addressed to the Office of the Assistant Secretary, 1849 C Street, N.W., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 2611–MIB.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary by 209 DM 8.

This proposed finding against acknowledgment of the Yuchi Tribal Organization has been prepared under section 83.10(e) of the acknowledgment regulations. Section 83.10(e) provides for an expedited finding on a single criterion where there is clear evidence, based on the preliminary review, that the petitioner could not meet the requirements of criteria 83.7 (e), (f), or (g).

There was clear evidence, based on the preliminary technical assistance review, that the Yuchi Tribal Organization did not meet the criterion in section 83.7(f). Section 83.7(f), in brief, requires that a petitioner not be principally composed of members of another, already acknowledged tribe. This section also describes conditions which would provide for an exception to this requirement in rare instances. The conditions are that the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with an acknowledged tribe, and that its members have provided written confirmation of their membership in the petitioning group.

The requirement to not be maintaining a bilateral political relationship with a recognized tribe and to have historically been a separate and autonomous Indian tribal entity embody the intent of the regulations to only acknowledge as tribes groups that are in fact politically autonomous of other Indian tribes. In so doing, criterion (f) ''allows for acknowledgment of rare cases where the petitioner has been regarded, erroneously, as part of or associated with another tribe, but has been a separate, autonomous group throughout history,'' while the criterion ''prohibits use of the regulations to acknowledge portions of already recognized tribes'' (59 FR 9289).

The membership roll of the Yuchi Tribal Organization contains 165 names. Of these individuals, 151, or 92 percent, were confirmed to be members of the Muscogee Creek Nation of Oklahoma, a federally recognized tribe. Thus, they are principally members of a recognized tribe.

The Yuchi Tribal Organization members did not meet the requirements for an exception to 83.7(f). Members of the Yuchi Tribal Organization, including its leaders, have consistently participated in the political process of the Muscogee Creek Nation of Oklahoma from 1962 to the present. The group is, therefore, not autonomous within the meaning of the regulations. The conditions of enrollment in the Muscogee Creek Nation require affirmative consent by the enrolled as well as specific action by the Citizenship Board, an independent commission within the Muscogee Creek Nation government. This roll, therefore, demonstrates a bilateral political relationship between those enrolled and the Muscogee Creek Nation. Finally, almost none of the members of the Yuchi Tribal Organization have provided written confirmation that they consent to be members of the Yuchi Tribal Organization.

Based on these factual determinations, we conclude that the Yuchi Tribal Organization does not meet the requirements of criterion 83.7(f) and should not be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.10(h) of the revised regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and interested parties, and is available to other parties upon written request. Comments on the proposed finding and/or requests for a copy of the report should be addressed to the Office of the Assistant Secretary, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 2611–MIB. Commenters may comment on any aspect of the finding or the history and character of the Yuchi Tribal Organization. Third parties must simultaneously supply copies of their comments to the petitioner in order for them to be considered by the Department of the Interior.

During the response period, the Assistant Secretary shall provide technical advice concerning the proposed finding and shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law (83.10(j)(1)). In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party,

hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary in reaching a final determination (83.10(j)(2)).

If third party submissions are received during the regular response period, the petitioner shall have a minimum of 60 days to respond to these submissions. This period may be extended at the Assistant Secretary's discretion if warranted by the nature and extent of the comments (83.10(k)).

At the end of the response periods for comment on this proposed finding, the Assistant Secretary shall consider the written arguments and evidence submitted during the response periods and issue a final determination. The Assistant Secretary shall consult with the petitioner and interested parties to determine an equitable time frame for preparation of the final determination and notify the petitioner and interested parties of the date such consideration begins (83.10(1)). The Assistant Secretary may conduct any necessary additional research and may request additional information from the petitioner and commenting parties (83.10(l)(1)). A summary of the final determination will be published in the Federal Register within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins, as provided in 25 CFR 83.10(l)(2).

Dated: October 6, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–26158 Filed 10–23–95; 8:45 am]

BILLING CODE 4310–02–M

Power Rate Adjustment: Mission Valley Power Utility, Montana; Notice of Rate Increase

SUMMARY: The Bureau of Indian Affairs is increasing the cost of electric power (energy) to customers of Mission Valley Power (MVP), the entity operating the power facility of the Flathead Indian Irrigation Project of the Flathead Reservation. The Bureau of Indian Affairs (BIA) has been informed that the Montana Power Company (MPC), which sells electric power to MVP, has raised its wholesale power rates by approximately 2.0 percent. The MPC increase went into effect on September 5, 1995, and is based on adjustments in the Consumer Price Index pursuant to the Federal Energy Regulatory Commission license for MPC's Kerr Dam Hydroelectric Facility. Accordingly, the BIA is adjusting the local retail power rates charged by MVP to reflect the increased cost of purchased power.

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Portland Area Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, telephone (503) 231–6702; or, General Manager, Mission Valley Power, P.O. Box 890, Polson, Montana 59860–0890. Telephone (406) 883–5361 or 1–800–823–3758 (in-State Watts).

DATES: This rate increase is effective October 24, 1995.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 7, 1946, c. 802, Section 3 (60 Stat. 895; 25 U.S.C. 385c); the Act of May 25, 1948 (62 Stat. 269); and the Act of December 23, 1981, section 112 (95 Stat. 1404). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8. 1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices. The approximate 2.0 percent MPC increase causes the BIA to raise its retail rates to recover $28,000 which is the approximate annual financial impact of that increase. This adjustment is the result of an increase in the electric power rates charged by MPC, one of three sources of electric power marketed by MVP. The MPC increase, which went into effect on September 5, 1995, is based on adjustments in the Consumer Price Index pursuant to the Federal Energy Regulatory Commission license for MPC's Kerr Dam Hydroelectric Facility. The following table illustrates the financial impact of the new retail rates on each rate class:

Rate class	Present rate	New rate
Residential:		
Basic Charge	$11.00/mo. (includes 125kwh)	No change.
Energy Charge	$0.04817/kwh (over 122 kwh)	$0.04828.
#2 General:		
Basic Charge	$11.00/mo. (includes 107 kwh)	No change.
Energy Charge	$0.05604/kwh (over 107 kwh)	$0.05615.
Irrigation:		
Horsepower Charge	$11.25/HP	$11.30/HP.
Energy Charge	$0.03638/kwh	$0.03642.
Minimum Seasonal Charge	$132.00 or $6.00/HP, whichever is greater	No change.
Small & Large Commercial:		
Basic Charge	None	No change.
Monthly Minimum	$38.00	No change.
Demand Rate	$4.50/KW of billing demand	$4.51/KW.
Energy Rate	$0.04305/kwh—First 18,000 kwh	$0.04345.
	$0.03588/kwh—Over 18,000 kwh	$0.03592.
Area Lights:		
Area light installed on existing pole or structure:		
7,000 lumen unit, M.V.*	$7.00	$7.00.
20,000 lumen unit, M.V.*	$10.00	$10.00.
9,000 lumen unit, H.P.S.	$6.50	$6.50.
22,000 lumen unit, H.P.S.	$8.75	$8.75.
Area light installed with new pole:		
7,000 lumen unit, M.V.*	$8.75	$8.75.
20,000 lumen unit, M.V.*	$11.50	$11.50.
9,000 lumen unit, M.V.*	$8.25	$8.25.
22,000 lumen unit, H.P.S*	$10.50	$10.50.

Rate class	Present rate	New rate
Street Lighting (metered):		
Basic Charge	$11.00/mo (includes 107kwh)	$11.00.
Energy Charge	$0.0560/kwh (over 107 kwh)	$0.05615.
Street Lighting (Unmetered)	This rate class applies to municipalities or communities where there are ten or more lighting units billed in a group. This rate schedule is subject to a negotiated contract with MVP.	No change.

*Continuing service only.

A notice of proposed rate change was published in the Federal Register on September 18, 1995 (60 FR 48345–48347). A 30-day comment period was allowed. The Bureau received no comments.

Dated: October 17, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–26326 Filed 10–23–95; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[NM–030–7122–03–8546]

Proposed Expansion of the Continental Mine in Grant County, New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Notice of Scoping Meeting.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the BLM, Las Cruces District Office, will be directing the preparation of an EIS to be prepared by a third party contractor. The EIS will describe the potential impacts of Cobre Mining Company's proposed Continental Expansion Project at its Continental Mine located approximately 3 miles north of the town of Hanover in Grant County, New Mexico. The proposed development would occur partially on patented Cobre land and partially on Federal land administered by the BLM and the U.S. Forest Service (USFS).

The public is invited to participate in the planning process. A public scoping meeting will be held at the following time and location:

TIME/DATE/LOCATION: 7:00 p.m., November 15, 1995, Grant County Courthouse Bldg., Third Floor Conference Room, 201 North Cooper Street, Silver City, New Mexico.

DATES: Written comments on the scoping process will be accepted through November 27, 1995.

ADDRESSES: Comments should be sent to Chuck O'Donnell, BLM, Las Cruces District, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Chuck O'Donnell, BLM Las Cruces District Office, at (505) 525–4373.

SUPPLEMENTARY INFORMATION: On April 12, 1995, Cobre Mining Company submitted a Plan of Operations (POO) to expand mining activities at the Continental Mine. It was determined by the BLM that the preparation of an EIS would be required for these operations. A Memorandum of Agreement (MOA) between Cobre Mining Company, the BLM, and the USFS outlining the responsibilities of each party has been executed.

Cobre is currently engaged in mining ore using open pit and underground mining methods. The primary production metal is copper, with the potential for zinc, silver, gold and magnetite recovery as a by-product. Ore is crushed and processed via milling on-site. Tailings material generated in the milling process is discharged to an on-site tailings pond.

The copper mineralization within the Hanover Mountain deposit is predominantly chalcocite, and is economically recoverable by acid heap leaching techniques, followed by solvent extraction (SX) and electrowinning (EW) to produce cathode copper.

Development of Hanover Mountain will take place on land owned by Cobre, and will eventually extend onto BLM land. Expansion of the Continental pit and underground working will occur on or beneath property owned by Cobre, and on or beneath land administered by BLM and the USFS.

Proposed activities and facilities for the Continental Expansion Project include: open pit mining at Hanover Mountain, expansion of the Continental open pit, development of additional underground mining operations, ore crushing and conveying, waste rock disposal, heap leaching, solvent extraction, electrowinning, ancillary facilities, including a truck stop, change rooms, water supply, electrical substation and power distribution.

The Hanover Mountain ore body will be mined using conventional open pit mining techniques and equipment. The planned rate of ore mining of Hanover Mountain is 10 million tons per year. The primary waste rock disposal area for the Continental Expansion Project is located west of Hanover Mountain. Waste rock disposal for current mining operations occurs on two waste rock dumps located south and east of the current Continental Pit. Placement of approximately 88 million tons of waste rock is planned on 233 acres, of which 179 acres are administered by the BLM. Additional waste rock capacity of a combined 82 million tons is planned on Cobre patented land. Waste rock will also be used to stabilize leach pad sites, for haul roads and process facilities, and to shape and stabilize existing mine waste rock dumps. Ore from the proposed Hanover Pit will be delivered to a primary crusher. Crushed ore will be stockpiled and reclaimed to a secondary crushing plant. Crushing facilities will be located north of the existing office facilities on Cobre patented land.

Ore crushed to nominal one-inch size will be conveyed and stacked onto a lined leach pad. A drip emitter or spray irrigation system will be placed over the ore pile, and acidic solution will be percolated through the ore for 90 to 120 days. A pad liner and drainage pipes will collect and drain the solution to a pregnant leach solution (PLS) pond. The PLS will be pumped to a SX/EW facility for copper recovery.

The primary area for leaching will be the Fierro area, with a design capacity of approximately 92 million tons. The Fierro leach pad will be developed in phases, with the initial phase taking place on Cobre property. Later phases of development will expand the 177-acre leach pad to include 50 acres of land administered by the BLM. Additional leaching capacity of up to 89 million tons may be developed south of the existing Continental Pit, which encompasses 67 acres of BLM land.

The SX/EW plant will be located entirely on Cobre patented land on the east side of County Road 3–5, north of the Fierro town site.

As the Hanover Pit expands toward its design limit, it will become necessary to re-route drainage from the upper portion of Hanover Creek around mining

operations. This may be accomplished through either gravity flow or pumping through either a pipeline or a relocated stream channel.

In order to ensure continued access to lands north of the Continental Mine, the expansion of the Hanover Pit will also require the relocation of County Road 3–5 around mining operations. Surface mining operations currently conducted at the Continental Mine produce approximately 10,000 tons of ore per day from the Continental Pit. Exploratory drilling has indicated that economic ore reserves recoverable by open pit mining techniques occur around the perimeter of the existing Continental Pit. Based on these results, the existing pit is proposed to be expanded. Expansion of the pit will include additional land owned by Cobre, and BLM land, and may also include approximately 7 acres of USFS land.

Cobre also currently conducts underground mining activities at the Continental Mine site. Between 2,000 and 5,000 tons per day of ore are crushed in an underground crushing facility. The crushed ore is transported to the surface and is sent to either the #1 Mill by conveyor or to the #2 Mill stockpile by truck for processing.

Due to the nature and depth of mining activities and the rock stability in the mining area, no subsidence has occurred, and none is expected to occur.

Reclamation of the site will comply with BLM provisions of an approved reclamation plan and plan of operations. It is anticipated that the New Mexico Mining Act regulations will also be instrumental for ultimate closure requirements. The BLM and the USFS will determine ''post mining land use'' for the portions of the pit areas, the waste rock dumps, and the leach pads located on Federal land.

The objective of the reclamation plan will be to minimize public safety hazards, and to provide for long-term protection of the environment and restoration of the site to a condition consistent with planned long-term land use. Major components of the reclamation plan are anticipated to include: rinsing the leach heaps to remove residual copper-bearing solution; recontouring the top surfaces of the leach heaps and the waste rock dumps; removal of buildings, equipment and foundations; recontouring roads, building sites and other disturbed areas; protection of natural stream channels and permanent diversion ditches at strategic points to ensure long-term stability; and blocking access to the open pits. An evaluation of the stability of proposed slopes of the reclaimed open pit, waste rock dump slopes, and heap leach slopes will be performed. After initial dewatering and drying, the tailings will be re-contoured and capped.

The EIS will address the resources of geology and minerals, soils, water resources, vegetation, wildlife, range management, air quality, visual resources, reclamation, land use, access, recreation, wilderness, cultural resources, social and economic values, transportation and noise. The BLM has identified the following potentially significant impacts as requiring additional analysis: quality of post-mining surface and ground water generated by the Continental and Hanover open pits; potential impacts to surface and ground water from acid mine drainage from the mine's waste rock dumps; potential impacts to ground water from the mine's tailings impoundment; potential impacts of the diversion of Hanover Creek; potential impacts of the re-routing of County Road 3–5.

Because these issues were determined to require special investigation, it is anticipated that the majority of work for other resources will be limited to summarizing and incorporating by reference data and analyses from existing environmental studies as prescribed in 40 CFR § 1500.4 and § 1500.5. Additional investigation may be indicated for other resources after review of existing data and comments received during the scoping process.

BLM's scoping process for the EIS will include: (1) identification of issues to be addressed; (2) identification of viable alternatives; and (3) notifying interested groups, individuals, and agencies so that additional information concerning these issues can be obtained. The scoping will consist of a news release announcing the start of the EIS process; letters of invitation to participate in the scoping process; and a scoping document which further clarifies the proposed action and significant issues being considered to be distributed to those on the mailing list and available upon request.

Dated: October 18, 1995.

Linda S. C. Rundell,

District Manager, Las Cruces.

[FR Doc. 95–26295 Filed 10–23–95; 8:45 am]

BILLING CODE 4310–FB–P

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 14, 1995. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by November 8, 1995.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Gila County

Rye Creek Ruin Platform Mound Complex Archeological District, Address Restricted, Rye vicinity, 95001311

Maricopa County

Sears—Kay Ruin, Address Restricted, Carefree vicinity, 95001310

Pima County

Kentucky Camp Historic District, Address Restricted, Sonoita vicinity, 95001312

COLORADO

Denver County

Highlands Masonic Lodge, 3220 Federal Blvd., Denver, 95001337

El Paso County

El Pomar Estate, 1661 Mesa Ave., Colorado Springs, 95001328

Larimer County

Harmony Mill, 131 Lincoln Ave., Fort Collins, 95001327

Mesa County

Loma Community Hall, 1341 Co. Rd. 13, Loma, 95001338

Morgan County

Fort Morgan City Hall, 110 Main St., Fort Morgan, 95001339

CONNECTICUT

Fairfield County

Agudas Achim Synagogue (Historic Synagogues of Connecticut MPS), 320–324 Madison Ave., Bridgeport, 95001340

Bikur Cholim Synagogue (Historic Synagogues of Connecticut MPS), 1545 Iranistan Ave., Bridgeport, 95001341

Bradley Edge Tool Company Historic District, Roughly, Lyons Plains Rd. N and S of jct. with White Birch Rd., Weston, 95001347

Ein Jacob (Ayn Yacob) Synagogue (Historic Synagogues of Connecticut MPS), 746 (aka 748) Connecticut Ave., Bridgeport, 95001342

Kettle Creek Historic District, Roughly, Weston and Old Weston Rds. N of Broad St., Weston, 95001348

Hartford County

Temple Beth Israel (Historic Synagogues of Connecticut MPS), 701 Farmington Ave., West Hartford, 95001343

Litchfield County

Calhoun—Ives Historic District, 79—262 Calhoun St. and 11 and 12 Ives Rd., Washington, 95001344
Sunny Ridge Historic District, 2, 20 Nettleton Hollow Rd., 145 Old Litchfield Rd., 6 Romford Rd. and 10—32 Sunny Ridge Rd., Washington, 95001346
Washington Green Historic District, Roughly, along Ferry Bridge, Green Hill, Kirby, Roxbury, Wykeham and Woodbury Rds., Parsonage Ln. and The Green, Washington, 95001345

IOWA

Adair County

Loucks Grove Church, 7 mi. N of jct. of IA 25 and IA 92, then 3 mi. E and 1.5 mi. N on unnamed co. rd., Greenfield vicinity, 95001314

Fayette County

Clermont Public School, 505 Larrabee St., Clermont, 95001316

Lee County

Sample, Hugh W. and Sarah, House, 205 N. Second St., Keokuk, 95001318

Pottawattamie County

Shea, John J. and Agnes, House, 309 S. 8th St., Council Bluffs, 95001315

Wapello County

McHaffey Opera House, 414 Elm St., Eldon, 95001317

LOUISIANA

Vermilion Parish

Caldwell House, 105 E. Vermilion St., Abbeville, 95001321

NEW MEXICO

Eddy County

Archeological Site No. AR 03–08–03–195 (Ring Midden Sites of the Guadalupe Mountains MPS), Address Restricted, Queen vicinity, 95001319
Archeological Site No. AR–03–08–03–232 (Ring Midden Sites of the Guadalupe Mountains MPS), Address Restricted, Queen vicinity, 95001320

NEW YORK

Greene County

DuBois Stone House, 347 W. Main St., Catskill, 95001336
DuBois, Benjamin, Stone House—Captain Martin Stone House, 347 W. Main St., Catskill, 95001333

Kings County

Baptist Temple, 360 Schermerhorn St., Brooklyn, 95001334

Ulster County

Shuart—Van Orden Stone House, 41 Allhusen Rd., Plattekill, 95001335

OHIO

Belmont County

Brick Tavern House, US 40 W of St. Clairsville, Richland Township, St. Clairsville vicinity, 95001330

Champaign County

Mt. Tabor Church Building, Cemetery and Hitching Lot, OH 245, 300 meters S of jct. with Mt. Tabor Rd., Salem Township, West Liberty vicinity, 95001329

Marion County

King, George W., Mansion—Etowah, 429 Mount Vernon Ave., Marion, 95001331

OREGON

Multnomah County

Kennedy, John D., Elementary School, 5736 NE Thirty-third St., Portland, 88003472

TENNESSEE

Shelby County

East Buntyn Historic District, Roughly bounded by Central and Southern Aves. and Ellsworth and Greer Sts., Memphis, 95001332

WEST VIRGINIA

Jefferson County

Altona, WV 51 W of Charles Town, Charles Town vicinity, 95001322

Marion County

Mannington Historic District, Roughly bounded by High, Clarksburg and Howard Sts. and Buffalo Cr., Mannington, 95001313

Marshall County

Price, Bushrod Washington, House, 1803 Virginia St., Moundsville, 95001326

Pendleton County

Circleville School, WV 28, Circleville, 95001323

Pocahontas County

Traveller's Repose, Jct. of US 250 and WV 92 and WV 28, Bartow, 95001325

Randolph County

Downtown Elkins Historic District, Roughly bounded by Railroad Ave., Fifth St., Randolph Ave., Henry Ave. and First St., Elkins, 95001324

[FR Doc. 95–26299 Filed 10–23–95; 8:45 am]

BILLING CODE 4310–70–P

Notice of Inventory Completion of Native American Human Remains in the Possession of the Colorado Historical Society, Denver, CO

AGENCY: National Park Service, Interior

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of an inventory of human remains in the possession of the Colorado Historical Society, Denver, CO.

The inventory and assessment of these human remains has been made by the Colorado Historical Society staff and representatives of the Pawnee Tribe of Oklahoma.

The human remain consists of one human scalplock. No known individual was identified. The scalplock was acquired in 1881 by John B. Hamilton at Pawhuska, Oklahoma as part of a collection associated with an Osage tribal leader, Black Dog, and identified in the extant documentation as the scalplock of a Pawnee. The scalplock was subsequently acquired by Dr. and Mrs. S. Julian Lamme and loaned to the Colorado Historical Society in 1944. Part of the scalplock was turned over by the Lammes in March 1957 to Kohlberg's, a Denver antique dealer, for sale. In April 1957, a portion of this item was discovered in the Colorado Historical Society collections and purchased from the heirs of Dr. and Mrs. S. Julian Lamme.

Based on the above mentioned information, consultations with the Pawnee Tribe, and the history of conflict between the Osage and the Pawnee during the 19th century (including Black Dog's lifetime), officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these human remains and the Pawnee Tribe of Oklahoma.

This notice has been sent to officials of the Pawnee Tribe of Oklahoma. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these human remains should contact Anne Wainstein Bond, Curator of Material Culture, Colorado Historical Society, 1300 Broadway, Denver, CO 80203, phone (303) 866–4691 before November 24, 1995. Repatriation of these remains may begin after this date if no additional claimants come forward.

Dated: October 18, 1995

Richard C. Waldbauer

Acting Departmental Consulting Archeologist

Archeology and Ethnography Program

[FR Doc. 95–26267 Filed 10–23–95; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Border Environment Cooperation Commission; Notice of Meeting

AGENCY: Border Environment Cooperation Commission (BECC).

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces a special public meeting of the BECC Board of Directors on Wednesday, November 15, 1995 from 9:00 a.m. to

1:00 p.m. at the Airport Hilton Hotel in El Paso, Texas.

FOR FURTHER INFORMATION CONTACT: Tracy Williams, Public Relations Officer, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, Texas 79913; Tel: (011–52–16) 29–23–95; Fax: (011–52–16) 29–23–97; E-mail: BECC1@itsnet.com. or Mr. M.R. Ybarra, Secretary to the United States Section of the International Boundary and Water Commission (915) 534–6698.

SUPPLEMENTARY INFORMATION: The International Boundary and Water Commission, United States and Mexico, announces that the Border Environment Cooperation Commission (BECC) cordially invites all interested persons to attend a special public meeting of the Board of Directors on Wednesday, November 15, 1995, from 9:00 a.m. to 1:00 p.m. at the Airport Hilton Hotel in El Paso, Texas. The primary focus of the meeting will be to clarify the El Paso, Texas Wastewater Reclamation and Reuse Project. A preview of projects which may be considered for certification during the January 18, 1996 public meeting of the Board of Directors will also be presented.

Proposed Agenda

—Report from the General Manager
—Public Comments
—Presentation for Certification of El Paso Water Reclamation and Reuse Project
—Preview of Projects which may be Recommended for Certification at the January 18, 1996 Public Meeting of the Board of Directors
—Status of Technical Assistance Program
—Advisory Council Comments
—Comments by Board of Directors

Projects which could be considered for certification at the January 18, 1996 public meeting, provided they comply with fundamental BECC criteria include:

—Wastewater Treatment Plants, Cd. Juarez, Chihuahua
—Wastewater Treatment Plant for the FINSA Industrial Park, Matamoros, Tamps.
—Increased Water Supply and Sanitation, Nogales, Sonora
—New Water Supply and Wastewater Treatment Project, Naco, Sonora
—Upgrade of Existing Wastewater System, Somerton, Arizona
—Upgrade of Water Distribution and Sewage Collection Systems, Douglas, Arizona
—Tire Recycling Project, Mexicali, Baja California
—Environmental Improvements and Urban Development, Phase III, Tijuana, B.C.

Any member of the public interested in submitting written comments to the Board of Directors on the projects proposed for certification should send written material to the BECC staff 15 days prior to the scheduled public meetings. Anyone interested in making a brief statement to the Board may do so during the public meetings.

Dated: October 16, 1995.

M.R. Ybarra,

Secretary, US IBWC.

[FR Doc. 95–26263 Filed 10–23–95; 8:45 am]

BILLING CODE 4710–03–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–63]

David D. Miller, M.D.; Grant of Restricted Registration

On June 28, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David D. Miller, M.D., (Respondent) of Bartlesville, Oklahoma, notifying him of an opportunity to show cause as to why DEA should not deny his pending application for registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that: (1) In September 1992, the Respondent delivered one-eighth ounce of marijuana, a Schedule I controlled substance, to an Oklahoma State undercover officer, and in October 1992, he surrendered two to three ounces of marijuana to the same officer, after admitting that he had been obtaining marijuana locally for several years and had been a user of marijuana since his college days; (2) on October 12, 1992, the Respondent entered a plea of *nolo contendere* to a felony charge of unlawful distribution of a controlled dangerous substance-marijuana, and the Oklahoma Eleventh Judicial District Court deferred the imposition of sentence for five years, placing the Respondent on probation for that period; (3) on October 12, 1992, the Oklahoma Bureau of Narcotic and Dangerous Drugs ordered the suspension of the Respondent's controlled dangerous substances registration, but reinstated it in April 1993; (4) on December 3, 1992, the Oklahoma Board of Medical Licensure determined that the Respondent's conduct violated the State Medical Practice Act and suspended the Respondent's license to practice medicine, but reinstated it and placed the Respondent on five years probation beginning April 8, 1993; and (5) on January 2, 1993, the Respondent voluntarily surrendered his DEA Certificate of Registration; BM0852423, for cause.

On July 25, 1994, the Respondent filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Oklahoma City, Oklahoma, on November 29, 1994, before Administrative Law Judge Paul A. Tenney. At the hearing, the Respondent was represented by counsel, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On January 17, 1995, Judge Tenney issued his Findings of Fact, Conclusions of Law, and Recommended Ruling, recommending that DEA grant the Respondent's application for a DEA Certificate of Registration with certain limitations. Neither party filed exceptions to his decision, and on February 17, 1995, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Findings of Fact, Conclusions of Law, and Recommended Ruling of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that during the hearing before Judge Tenney, a Special Agent of the Oklahoma Bureau of Narcotics testified that in 1992, he opened a criminal investigation of the Respondent. With the assistance of a nurse, on September 1, 1992, the Agent received marijuana from the Respondent. The parties stipulated that marijuana is a Schedule I controlled substance pursuant to 21 C.F.R. 1308.11(d). On October 1, 1992, the Agent asked the Respondent to come to the Washington County Sheriff's Office in Bartlesville, Oklahoma, and after being notified of the investigation and the potential charges, the Respondent voluntarily turned over approximately two to three ounces of marijuana to the Agent. After rights advisement, the Respondent also told the Agent that he

had had a problem with marijuana, and that he had smoked it since his student days.

The Agent also testified that during the course of the investigation he had not received any information that the Respondent was growing or selling marijuana, or that he had violated any laws concerning the prescription of narcotics. Further, he testified that the Respondent was very cooperative throughout the investigation.

As a result of the Agent's investigation, the Respondent was charged with unlawful distribution of a controlled dangerous substance—marijuana. On October 14, 1992, the Respondent entered a plea of *nolo contendere* to the charge of unlawful distribution, and on that same day the Court deferred judgment and imposition of sentence, placed the Respondent on five years' probation, ordered him to serve 100 hours of community service, and fined him $500.

On November 21, 1992, the Oklahoma State Board of Medical Licensure and Supervision (the Board) suspended the Respondent's medical license, and on April 8, 1993, the Board terminated the suspension, imposed a five-year probation, and reinstated his license. The Respondent is required to comply with sixteen conditions incident to his probation, to include prohibiting the Respondent from prescribing, administering or dispensing any controlled substances for his personal use, requiring the Respondent to submit blood or urine samples for testing and analysis at the request of any investigator or agent of the Board, requiring the Respondent to provide proof of his continued compliance with his recovery treatment plan, and requiring the Respondent to notify any hospital where he holds staff privileges of the terms and conditions of the Board's probation order. The probationary period was ordered to run from April 8, 1993, until April 8, 1998.

Also, on October 12, 1992, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (Bureau) suspended the Respondent's registration authorizing him to prescribe, administer, and dispense controlled substances, but in April 1993, the Bureau reinstated his registration with limitations that remained in effect until November 1, 1993. His registration subsequently was renewed with the same restrictions as those imposed by the Board. On January 2, 1993, the Respondent voluntarily surrendered, for cause, his DEA Certificate of Registration.

During the hearing before Judge Tenney, the Respondent testified that he was licensed as a physician in 1980, and that he has a sub-specialty in obstetrics and surgical gynecology. The record contains evidence that his level of medical care has been ''excellent,'' that his technical skills are above-average, that he has remained current in his knowledge of the practice of his sub-specialty, and that there have been no adverse reports concerning the quality of his care.

The Respondent also testified that from October 1992 until April 1993, he voluntarily sought and received five months of treatment at the Talbott-Marsh Recovery Campus in Atlanta, Georgia. This treatment center worked primarily with physicians, and the Respondent was discharged with a recommendation that he return to the type of medical practice he had left in Oklahoma. The record contains evidence that such graduates from this treatment center experience a very high success rate with a minimal possibility of relapse. Since his release from the treatment center, the Respondent has submitted to random urinalysis drug screenings multiple times per month, and all screenings have been ''negative'' for controlled substances. Further, the Respondent has complied with the provisions of his Continuing Care Contract, to include filing quarterly monitoring reports and submitting to random urine or blood drug screening tests. The Respondent also participates in counseling, to include support groups and individual counseling from a psychiatrist. Finally, the record contains ten affidavits from individuals such as the Respondent's colleagues, treating healthcare providers, and the District Attorney for the Eleventh Judicial District of Oklahoma, all attesting to their beliefs that the Respondent's receipt of a DEA Certificate of Registration would not be a threat to the public health and safety.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration, if he determines that granting the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether an application for registration should be granted or denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989). The issue becomes whether the Government has proven by a preponderance of the evidence that registration of the Respondent by the DEA is inconsistent with the public interest. See Timothy H. Reese, M.D., Docket No. 93–4, 59 FR 39792, 39793–94 (1994) (denying an application for DEA Certificate of Registration because the preponderance of the evidence established ''that it is unlikely that Respondent would competently or reliably discharge the obligations inherent in a DEA registration, and further concluded that it would not be in the public interest to grant his application.''). Here, factors one, three, four, and five are relevant in assessing the public interest.

As to factor one, although the Board suspended the Respondent's license to practice medicine shortly after his court proceedings, and the Bureau also suspended his registration to handle controlled substances, the record also demonstrates that both the Board and the Bureau subsequently reinstated the Respondent's license and certificate, with certain limitations. Therefore, the State licensing boards have reinstated the Respondent's privileges, provided he comply with specified conditions and limitations.

As to factors three and four, the record establishes that the Respondent entered a plea of *nolo contendere* to the charge of unlawful distribution of marijuana in an Oklahoma State court, and such evidence established a *prima facie* case under factor three. See Clinton D. Nutt, D.O., 55 FR 30,992 (1990); see also *Sokoloff* v. *Saxbe,* 501 F2d 571 (2d Cir. 1974) (discussing *nolo contendere* pleas and the Controlled Substance Act). Further, the acts committed by the Respondent which formed the basis of this charge, unlawful possession and distribution of marijuana in September and October 1992, demonstrate his noncompliance with applicable State or Federal laws relating to controlled substances. 823(f)(4).

As to factor five, the Respondent readily and candidly acknowledged his

long-term substance abuse problem in 1992. However, he sought in-patient treatment and long-term follow-on outpatient treatment of his problem. The record demonstrates that his treatment program has a high success rate, and that throughout his post-treatment time the Respondent has remained drug-free. Further, both through testimony from colleagues presented at the hearing, and through documentary exhibits provided, the Respondent has shown that his medical competency has been excellent, his technical skills above-average, and no adverse reports have been submitted concerning his quality of care. As noted by Judge Tenney, the record reflects that ''[a] heterogeneous group of individuals from the fields of medicine and law enforcement concluded that the Respondent is no longer any threat to the public health and safety.''

The Deputy Administrator emphasizes that this order should in no way be read to condone any illicit use or distribution of marijuana. As Judge Tenney succinctly noted, ''[t]he use or distribution of marijuana is a criminal act, and should be punished as such. The purpose of this proceeding, however, is not to punish but to protect the public interest. See Denis C. Chan, M.D., 55 FR 8,205 (1990); Leo R. Miller, M.D., 53 FR 21,931 (1988).'' Therefore, consistent with these findings, and the fact that the Oklahoma Board and Bureau have levied limitations upon the Respondent's practice of medicine and handling of controlled substances, the Deputy Administrator finds that granting the Respondent's application for a DEA Certificate of Registration, with the following limitations, would be consistent with the public interest: (1) The Respondent's controlled substance handling authority shall be limited to the writing of prescriptions only, and he shall not dispense, possess, or store any controlled substance, except that the Respondent may administer controlled substances in a hospital and may possess controlled substances which are medically necessary for his own use, and which he has obtained pursuant to a written prescription from another licensed practitioner (unless the substance is legitimately obtainable without a prescription); (2) the Respondent shall not prescribe any controlled substances for his own use; (3) the Respondent shall maintain a log, recording the date the prescription was written, patient's name, name and amount of the controlled substance(s) prescribed, and the pathology for which the prescription was written, of all controlled substance prescriptions he has written, and upon request by the Special Agent in Charge, or his designee, of the nearest DEA office, submit or otherwise make available the log for inspection; (4) the Respondent shall comply with any and all restrictions, limitations, or conditions imposed by the Oklahoma Board of Medical Licensure and Supervision and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control until such authorities remove them; (5) until the Oklahoma Board terminates the Respondent's probationary period on his medical license, the Respondent shall submit, upon the request of the Special Agent in Charge, or his designee, of the nearest DEA office, copies of the results of his random urine or blood screening tests. These restrictions shall remain in place for three years beginning on the date of this order.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 21 CFR 0.100(b) and 0.104, hereby orders that the application of David D. Miller, M.D., for a DEA Certificate of Registration for a practitioner be, and it hereby is granted subject to the limitations enumerated above. This order is effective November 24, 1995.

Dated: October 13, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–26223 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–11]

Albert L. Pulliam, M.D.; Denial of Application

On October 26, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Alert L. Pulliam, M.D., (Respondent) of Houston, Texas, notifying him of an opportunity to show cause as to why DEA should not deny his pending application for a DEA Certificate of Registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest.

Specifically, the Order to Show Cause alleged that: (1) On three separate occasions between September 1988 and December 1988, the Respondent issued controlled substance prescriptions to an undercover DEA Special Agent for other than legitimate medical purposes and outside the scope of his professional practice, and on one of those occasions the Respondent knowingly accepted stolen merchandise in exchange for prescriptions; (2) on December 21, 1988, the Respondent was indicted on nine counts of unlawful dispensing of controlled substances, in violation of 21 U.S.C. 841(a)(1), in the United States District Court for the Southern District of Texas; all of the counts constituted felony offenses relating to controlled substances; (3) on September 18, 1989, the Respondent was convicted, after entering a guilty plea, to three counts of unlawfully dispensing controlled substances, and he was sentenced to thirty days incarceration, five years probation, 100 hours community service, and a $10,000 fine; (4) on October 6, 1989, the Administrator had issued a final order revoking the Respondent's previous DEA registration as inconsistent with the public interest based upon his felony conviction and improper prescribing practices; and (5) on November 6, 1989, the Respondent voluntarily surrendered his Texas Controlled Substance Privileges for an indefinite period, thus resulting in his not being authorized to handle controlled substances in the State of Texas.

On November 22, 1993, the Respondent filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Houston, Texas, on October 19, 1994, before Administrative Law Judge Paul A. Tenney. At the hearing, the Government called one witness to testify and introduced documentary evidence, and the Respondent, acting without counsel, testified, called no other witnesses, and offered no documentary evidence. After the hearing, the Government submitted proposed findings of fact, conclusions of law and argument. The Respondent did not submit a post-hearing brief. On December 14, 1994, Judge Tenney issued his Opinion and Recommended Ruling, recommending that the Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to his decision, and on January 17, 1995, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Findings of Fact, Conclusions of Law and Recommended Ruling of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and

conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that in October 1989, the Administrator of the DEA issued an order revoking the Respondent's registration certificate, effective November 15, 1989, because his continued registration would have been inconsistent with the public interest. The Administrator based his decision upon the facts that (1) in 1989 the Respondent had been convicted of a felony offense relating to controlled substances, (2) in 1988 he had exhibited an inability or unwillingness to properly handle controlled substances when he issued prescriptions for such substances to an undercover Agent for other than legitimate medical purposes, and (3) in 1988 he had falsified the Agent's patient records in order to conceal his illegal activities. Albert L. Pulliam, M.D., 54 FR 42376 (1989). Further, the Deputy Administrator finds that as part of the 1988 investigation, the Respondent received a purportedly ''stolen'' television and VCR from the undercover agent in exchange for $150.00 and prescriptions for controlled substances issued without medical justification.

On November 6, 1989, the Respondent voluntarily surrendered his DEA Certificate of Registration and his Texas Controlled Substances Privileges. On April 30, 1993, the Texas State Board of Medical Examiners granted Respondent permission to reapply to the DEA and the Texas Department of Public Safety for reinstatement of his controlled substances registrations in all schedules, noting that the granting or denying of such an application would be within the authority and discretion of the appropriate agency. On November 11, 1993, the Respondent received his Texas certificate to dispense controlled substances, and that certificate was renewed on March 31, 1994, for an additional year.

At the hearing before Judge Tenney, the Respondent testified that he felt that he had paid for his mistakes, that he had ''learned a great deal about narcotics and how to be very careful about dispensing [them],'' and that he was confident that he would not have problems in the future writing a prescription for narcotics. Next the Respondent described his past medical practice and testified that his current practice was ''basically the same.'' However, he noted that for the past five years he had been practicing medicine without issuing prescriptions for controlled substances, and he expected to issue less controlled substance prescriptions than the average doctor in his future practice.

The Respondent also testified that he thought he was issuing prescriptions for controlled substances to the Special Agent in 1988 for a legitimate medical purpose, for the Special Agent had complained of a cough and a headache. The Respondent also stated that he did not know that the television and VCR he received from the agent was stolen property.

The Government called the Special Agent who had conducted the investigation in 1988 which resulted in the 1989 conviction of the Respondent, and he testified that in September 1988, November 1988, and December 1988, he received prescriptions from the Respondent for controlled substances, to include Valium, Tylenol No. 4, and Tussionex, despite the lack of a medical examination or any other clinical tests taken to substantiate a medical need for those substances. Valium contains diazepam, a Schedule IV controlled substance, Tylenol No. 4 contains codeine, a Schedule IV controlled substance, Tylenol No. 4 contains codeine, a Schedule III controlled substance, and Tussionex, contains hydrocodone, also a Schedule III controlled substance.

The Special Agent also stated, and the transcripts corroborated, that he had not complained to the Respondent of tension headaches or problems with bronchitis, and that on one occasion the Respondent had made a statement about the Special Agent's lack of a medical problem. However, the record contains a copy of a patient record in the name used by the Special Agent during the 1988 investigation with entries noting tension headaches and bronchitis. The Special Agent also testified that he paid the Respondent for the prescriptions received in September and November 1988, that during his visit in November 1988, he told the Respondent that he could obtain stolen electrical equipment to sell, and during his December 1988 visit he brought a television with a VCR, valued at approximately $600 to $650, to the Respondent's office. The Respondent asked the Special Agent to put the television in the Respondent's car, and after discussing a price, the Respondent gave the Special Agent a check for $150 and prescriptions for Tussionex, Tylenol No. 4, and Valium at no charge. The Special Agent wore a transmitting device during each visit with the Respondent, their conversations had been recorded, and the transcripts of those recordings were made a part of the record.

Pursuant to 21 U.S.C. 823(f) the Deputy Administrator may deny an application for a DEA Certificate of Registration, if he determines that granting the application would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered to determine the ''public interest:''

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether an application for registration should be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, factors two, three, four, and five are relevant in determining whether granting the Respondent's application would be inconsistent with the public interest. Significantly, Judge Tenney noted, and the Deputy Administrator concurs, that the real question in this case is whether the Respondent can now be trusted with the responsibilities inherent in being granted a DEA Certificate of Registration. His past misconduct is relevant, however, to a determination of his present trustworthiness. Therefore, relevant to factor two, the Respondent prescribed controlled substances to a Special Agent in 1988 for no legitimate medical purpose. As for factor three, the record contains evidence of the Respondent's conviction as a result of a guilty plea to three counts of unlawfully dispensing controlled substances and the sentence resulting from that conviction. This conviction also demonstrates the Respondent's failure to comply with federal laws relating to controlled substances, factor four.

As to factor five, the record contains evidence demonstrating that the Respondent had falsified patient records, for despite the transcript demonstrating that the Respondent had told the Special Agent he had no medical problem, the treatment record contained annotations of headaches and bronchitis. Next, the Special Agent testified that he had informed the Respondent that the television exchanged in December 1988 was stolen, and yet at the hearing in October

1994, the Respondent continued to deny knowledge of that fact. Although, as Judge Tenney noted, the transcripts of the conversation between the Respondent and the Special Agent did not demonstrate that the Special Agent had expressed the words, ''the television is stolen,'' they clearly indicated that the Respondent was aware of the Special Agent's access to stolen property, that the Respondent knew the value of the television, and that the Respondent paid the Special Agent merely a fraction of that value. Thus, the Respondent's testimony at the October 1994 hearing demonstrates his failure to be truthful, a fact which impacts upon a determination of whether his conduct may threaten the public health and safety under factor five.

Further, the Respondent asserted that he was sure he would not engage in misconduct related to controlled substances in the future, yet he offered no evidence of remedial actions he has taken since his 1989 conviction to substantiate his assurances. Also, he testified that his medical practice remained the same, yet he did not submit any evidence to substantiate the fact that he remedied his problems concerning falsifying patient records and failing to conduct medical examinations prior to dispensing medication. For example, he submitted no evidence of acquiring additional education in the handling of controlled substances. Thus, the Deputy Administrator concurs with Judge Tenney's conclusion that DEA ''has not been adequately assured that the Respondent will responsibly use a DEA Certificate of Registration.'' Therefore, the Deputy Administrator finds that the public interest is best served by denying the Respondent's application for a DEA Certificate of Registration at this time.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 21 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Albert L. Pulliam, M.D. be, and it hereby is, denied. This order is effective November 24, 1995.

Dated: October 13, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–26224 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–09–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and to comply with the Paperwork Reduction Act of 1995. Public comments are encouraged and will be accepted for ninety days from the date listed at the top of this page in the Federal Register. This information collection document will contain the following information:

(1) The title of the collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection.

Comments and/or suggestions regarding the information collection in this notice, especially regarding the estimated public burden and associated response time, should be directed to Ms. Ellen Wesley, Information Collection Coordinator, Office of Justice Programs at 202–616–3558. Additionally, Mr. Robert B. Briggs, Information Collection Clearance Officer, U.S. Department of Justice, should be contacted at 202–514–4319. If you anticipate commenting on the information collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the Information Collection Coordinator, Office of Justice Programs and the Information Collection Clearance Officer, U.S. Department of Justice of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the information collection should be submitted to:

Ms. Ellen Westley, Office of Justice Programs, Room 401, Indiana Building, 633 Indiana Ave., NW., Washington, DC 20531 or

Mr. Robert B. Briggs, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20531

The information collection under review:

Revision of a Currently Approved Collection

(1) Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

(2) None. Bureau of Justice Assistance, United States Department of Justice.

(3) Primary: State, Local, or Tribal Government. Other: None. This collection covers the forms used to administer formula grant awards under the provisions of Subtitle C-State and Local Law Enforcement Assistance Act of the Anti-Drug Abuse Act of 1988, as amended by the Crime Control and the Immigration Acts of 1990.

(4) 70,108 responses per year at .38 hours per response.

(5) 26,829 annual burden hours.

Public comment on this proposed information collection is encouraged.

Dated: October 18, 1995.

Robert B. Briggs,

Department Information Collection Clearance Officer, United States Department of Justice.

[FR Doc. 95–26247 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and to comply with the Paperwork Reduction Act of 1995. Public comments are encouraged and will be accepted for ninety days from the date listed at the top of this page in the Federal Register. This information collection document will contain the following information:

(1) The title of the collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection.

Comments and/or suggestions regarding the information collection in this notice, especially regarding the estimated public burden and associated response time, should be directed to Ms. Audrey B. LaSante, Federal Bureau of Investigation—Academy, Federal Bureau of Investigation at 703–640–1196. Additionally, Mr. Robert B. Briggs, Information Collection Clearance Officer, U.S. Department of Justice, should be contacted at 202–514–4319. If you anticipate commenting on the information collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify Ms. Audrey B. LaSante, Federal Bureau of Investigation—Academy and the Information Collection Clearance Officer, U.S. Department of Justice of your intent as soon as possible. Written

comments regarding the burden estimate or any other aspect of the information collection should be submitted to:

Ms. Audrey B. LaSante, Federal Bureau of Investigation, FBI Academy, Washington Dorm, Quantico, VA. 22138 or

Mr. Robert B. Briggs, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20531

The information collection under review:

Existing Collection in Use Without an OMB Control Number

(1) Postgraduate Evaluation of the FBI National Academy Survey Booklet.

(2) None. Federal Bureau of Investigation, United States Department of Justice.

(3) Primary: State, Local, or Tribal Government. Other: None. This collection covers the program evaluation data collected to verify the appropriateness of courses offered at the FBI Academy to State and local law enforcement officers. Respondents are graduates of the FBI National Academy program.

(4) 907 responses per year at .75 hours per response.

(5) 680 annual burden hours.

Public comment on this proposed information collection is encouraged.

Dated: October 18, 1995.

Robert B. Briggs,

Department Information Collection Clearance Officer, United States Department of Justice.

[FR Doc. 95–26246 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–02–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and to comply with the Paperwork Reduction Act of 1995. Public comments are encouraged and will be accepted for ninety days from the date listed at the top of this page in the Federal Register. This information collection will contain the following information:

(1) The title of the collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection.

Comments and/or suggestions regarding the information collection in this notice, especially regarding the estimated public burden and associated response time, should be directed to Ms. Ellen Westley, Information Collection Coordinator, Office of Justice Programs at 202–616–3558. Additionally, Mr. Robert B. Briggs, Information Collection Clearance Officer, U.S. Department of Justice, should be contacted at 202–514–4319. If you anticipate commenting on the information collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the Information Collection Coordinator, Office of Justice Programs and the Information Collection Clearance Officer, U.S. Department of Justice of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the information collection should be submitted to:

Ms. Ellen Westley, Office of Justice Programs, Room 401, Indiana Building, 633 Indiana Ave., NW., Washington, DC 20531 or

Mr. Robert B. Briggs, Systems Policy Staff, JMD, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20531

The information collection under review:

Reinstatement, Without Change, of a Previously Approved Collection for Which Approval Has Expired

(1) The Parole Data Survey and the Probation Data Survey.

(2) CJ7—The Parole Data Survey, CJ8—The Probation Data Survey. Bureau of Justice Statistics, United States Department of Justice.

(3) Primary: Federal Government. Other State, Local, or Tribal Government. These data provide the Bureau of Justice Statistics with aggregate information about offenders under the supervision of parole and probation agencies across the country. Data are collected from 93 central respondents 234 local respondents. Since over 70% of the 5.1 million offenders under correctional supervision are under parole or probation supervision it is essential for any criminal justice reporting system to include this segment.

(4) 327 responses per year at 1.50 hours per response.

(5) 491 annual burden hours.

Public comment on this proposed information collection is encouraged.

Dated: October 18, 1995.

Robert B. Briggs,

Department Information Collection Clearance Officer, United States Department of Justice.

[FR Doc. 95–26245 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–18–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Commercial Equipment Company,* Civil Action No. C93–3037, was lodged on October 12, 1995 with the United States District Court for the District of Iowa. Under the proposed Consent Decree, defendants will pay a civil penalty of $150,000. Defendants will also implement and complete all requirements of the Site Assessment Work Plan submitted by defendants to the Environmental Protection Agency (''EPA'') pursuant to Administration Order VII–89–H–0012, issued under Section 3013 of the Resource Conservation and Recovery Act, 42 U.S.C. 6901–6992k, and approved by EPA on August 4, 1995, and defendants will complete closure of the Class IV Underground Injection Well located at the CEC facility in accordance with the Closure Plan approved by EPA on March 24, 1995 pursuant to the Underground Injection Control Program, 44 CFR Part 144, promulgated under the Safe Drinking Water Act, 42 U.S.C. 300f–300j–26.

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, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044. Comments should refer to *United States of America* v. *Commercial Equipment Company,* DOJ Ref. #90–5–1–1–3791.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Iowa, 425 Second Street, S.E. Suite 950, Cedar Rapids Iowa 52401; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree Library.

In requesting a copy, please enclose a check in the amount of $8.50 (25 cents

per page reproduction cost) payable to the ''Consent Decree Library.''

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26256 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Farber, et al.,* Civil No. 86–3736, was lodged on October 13, 1995, with the United States District Court for the District of New Jersey. The decree resolves claims against Purex Corp. in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') for contamination at the Syncon Resins Superfund Site in Kearny, New Jersey (the ''Site''). In the proposed consent decree, Purex agrees to reimburse the EPA for $715,000 in past response costs incurred by the Environmental Protection Agency at the Site.

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 for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Faber, et al.,* DOJ Ref. Number 90–11–3–116.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad St., Newark, NJ 07102; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26255 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that on October 12, 1995, a partial consent decree in *United States* v. *Hercules Incorporated et al.,* Civil Action 95–1094–R, was lodged with the United States District Court for the Western District of Virginia.

This partial consent decree settles claims brought against Hercules Incorporated (''Hercules'') pursuant to the Clean Air Act (the ''Act''), 42 U.S.C. 7401 *et seq.,* and the National Emission Standard for Hazardous Air Pollutants for asbestos (''asbestos NESHAP''), in connection with allegations that asbestos was improperly handled during the demolition of a building owned by Hercules in Covington, Virginia. Under the terms of the consent decree, Hercules has agreed to pay a civil penalty of $1.2 million and to take certain enumerated actions to facilitate compliance with the asbestos NESHAP at all of its facilities throughout the United States. The partial consent decree does not settle the United States' claims against Carver Massie Carver, Inc., the contractor named as a co-defendant in this action.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Hercules Incorporated et. al.,* Civil Action No. *95–1094–R* Ref. No. 90–5–2–1–1897. The proposed consent decree may be examined at the office of the United States Attorney, Western District of Virginia, Thomas B. Mason Building, 105 Franklin Road, S.W., Roanoke, Virginia 24011. Copies of the consent decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy by mail, please enclose a check in the amount of $6.50 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26254 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that two proposed consent decrees in *United States* v. *American Recovery Company, et al.,* Civil Action No. 95–1590, were lodged on October 6, 1995 with the United States District Court for the Western District of Pennsylvania. The first Consent Decree requires five defendants (Conoco, Inc., Conoco Coal Development Company, Consolidation Coal Company, Durasteel Abrasive Company, and Wheeling-Pittsburgh Steel Corporation) to pay $19,500 to reimburse a portion of the United States' past costs associated with the investigation and clean up of the Municipal & Industrial Disposal Company Superfund Site (''Site''), located in Elizabeth Township, Pennsylvania. The second Consent Decree requires two defendants (Bethlehem Steel Corporation and Fairchild Industries, Inc.) to pay $40,000 to reimburse a portion of the United States' past costs associated with the investigation and clean up of the Site.

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 decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *American Recovery Company, et al.,* DOJ Ref. #90–11–2–949.

The proposed consent decrees may be examined at the office of the United States Attorney, 633 Post Office & Courthouse, 7th & Grant Streets, Pittsburgh, PA 15219; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of each proposed consent decree may be obtained in person or by mail from the

Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check. For the first Consent Decree, that check should be in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library. For the second Consent Decree, that check should be in the amount of $5.50 (25 cents per page reproduction costs), payable to the Consent Decree Library

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division

[FR Doc. 95–26253 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decrees in United States v. Nalco Chemical Company, et al., Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that the Third through Sixth Partial Consent Decrees in *United State* v. *Nalco Chemical Company, et al.*, Case No. 91–C–4482 (N.D. Ill.), entered into by the United States on behalf of U.S. EPA and eleven settling parties were lodged on October 18, 1995 with the United States District Court for the Northern District of Illinois. The proposed Consent Decrees resolve certain claims of the United States against the settling parties under the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* relating to the Byron Salvage Superfund Site in Ogle County, Illinois. The Third and Fourth Partial Consent Decrees are de minimis settlements with two Interstate Pollution Control customer third party defendants and provide for the payment of a total of approximately $88,000 to the Hazardous Substances Superfund. The Fifth and Sixth Consent Decrees are past costs only settlements with a total of four defendants and five IPC customer third party defendants and provide for the payment of a total of approximately $2.7 million to the Hazardous Substances Superfund.

The Department of Justice will receive comments relating to the proposed Consent Decrees for 30 days following the publication of this Notice. 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. *Nalco Chemical Company, et al.*, D.J. Ref. No. 90–11–3–687. The proposed Consent Decrees may be examined at the Office of the United States Attorney for he Northern District of Illinois, 219 S. Dearborn St., Chicago, Illinois 60604; the Regionl V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed Consent Decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy of the Third Through Sixth Partial Consent Decrees, please enclose a check in the amount of $22.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26252 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that a proposed consent decree in *United States* v. *Virgin Islands Water and Power Authority*, Civil Action No. 89–09, was lodged on October 17, 1995 with the United States District Court for the District of the Virgin Islands.

The complaint in this action was filed on January 11, 1989, against the Virgin Islands Water and Power Authority (''VIWAPA''), pursuant to Sections 309 (b) and (d) of the Clean Water Act (''Act''), 33 U.S.C. 1319 (b) and (d). The complaint sought penalties and injunctive relief for discharges of pollutants from VIWAPA's Power Generation and Desalting Facility on St. Croix and its Power Generation and Desalting Facility on St. Thomas in violation of Section 301(a) of the Act, 33 U.S.C. 1311(a), and for violations of certain terms and conditions of National Pollutant Discharge Elimination System (''NPDES'') permits issued to VIWAPA by EPA pursuant to Section 402 of the Act, 33 U.S.C. 1342.

The proposed consent decree embodies an agreement by VIWAPA to pay a civil penalty in the amount of $35,000, plus interest, in two installments. Under the Decree, VIWAPA has agreed to pay $17,500 within 30 days of entry of the Decree and $17,500, plus interest, within six months of the date of entry of the Decree. In addition, VIWAPA has agreed to comply with all terms and conditions of its renewed NPDES permits.

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 for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Virgin Islands Water and Power Authority*, DOJ Ref. # 90–5–1–1–3209.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, at the United States Attorney's Office located at the Federal Building and U.S. Courthouse, Charlotte Amalie, St. Thomas, Virgin Islands, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.75 payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section.

[FR Doc. 95–26251 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–10–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a Superseding Consent Decree in *United States* v. *Virgin Islands Water and Power Authority*, Civil Action No. 83–85, was lodged on October 17, 1995 with the United States District Court for the District of the Virgin Islands.

The complaint in this action was filed in March, 1983 against the Virgin Islands Water and Power Authority (''VIWAPA'') pursuant to Section 113(b) of the Clean Air Act (the ''Act''), 42 U.S.C. 7413(b) for penalties and injunctive relief for violations of the Act and the provisions of Air Quality Implementation Plan for the United States Virgin Islands (the ''SIP'') established pursuant to Section 110 of the Act, 42 U.S.C. 7410. The complaint alleged, *inter alia*, that VIWAPA violated the Act by failing to comply with the Prevention of Significant Deterioration of Air Quality (''PSD'') regulations set forth in 40 C.F.R. 52.21, with respect to its installation and subsequent operation of two gas turbines, one located on St. Thomas and one located on St. Croix. In April, 1983,

the Court entered a Final Judgment (On Consent) in the action which set forth a compliance schedule for PSD applicability requests and PSD permit applications in the event EPA determined the two gas turbines were subject to PSD review.

In 1992, the Court entered into an Amendment to the Final Judgment (On Consent) (''Amendment''). The Amendment established revised compliance schedules for permit applications and fuel burning requirements to be imposed upon VIWAPA to bring VIWAPA's two gas turbines into compliance with the PSD regulations.

The proposed Superseding Consent Decree embodies an agreement by VIWAPA to pay a civil penalty in the amount of $50,000 within 20 days of entry of the Decree and place $100,000 into an escrow account within 15 days of lodging of the Decree. The $100,000, plus accrued interest, will become payable to the United States upon specified violations set forth in the Decree. If no such violation(s) occur before the expiration of the Decree, the $100,000, plus accrued interest, will be returned to VIWAPA. In addition, VIWAPA has agreed to obtain and comply with PSD permits for two of its gas turbines on St. Thomas and two of its gas turbines on St. Croix and undertake a maintenance program to ensure continued compliance with these permits.

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 for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Virgin Islands Water and Power Authority*, DOJ Ref. # 90–5–2–1–568A.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, at the United States Attorney's Office located at the Federal Building and U.S. Courthouse, Charlotte Amalie, St. Thomas, Virgin Islands, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.25 payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section.

[FR Doc. 95–26250 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed consent decree in *United States* v. *Virgin Islands Water and Power Authority and Pressure Vessel Services, Inc.*, Civil Action No. 1989–337, was lodged on October 17, 1995 with the United States District Court for the District of the Virgin Islands.

The complaint in this action was filed on December 8, 1989 against the Virgin Islands Water and Power Authority (''VIWAPA'') and Pressure Vessel Services, Inc. (''PV''), pursuant to Section 113(b) of the Clean Air Act (''Act''), 42 U.S.C. 7413(b). The complaint sought penalties and injunctive relief for violations of Section 112(c) of the Act, 42 U.S.C. 7412(c), and of the National Emission Standard for Hazardous Air Pollutants for asbestos, 40 CFR part 61, subpart M (''Asbestos NESHAP''). The complaint alleged that violations of the Asbestos NESHAP occurred in connection with a demolition project at VIWAPA's desalinization plant (''D-plant'') on the Island of St. Thomas, within the District of the Virgin Islands, that took place in August, 1988. PV performed this demolition work for VIWAPA.

The proposed consent decree embodies an agreement by VIWAPA to pay a civil penalty in the amount of $35,000. In addition, VIWAPA has agreed to implement certain measures to reduce the likelihood of future violations of the Asbestos NESHAP.

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 for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Virgin Islands Water and Power Authority*, DOJ Ref. #90–5–2–1–1341.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, at the United States Attorney's Office located at the Federal Building and U.S. Courthouse, Charlotte Amalie, St. Thomas, Virgin Islands, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $3.50 payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section.

[FR Doc. 95–26249 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Information Collection Requests Submitted for Public Comment and Recommendations

ACTION: Notice; 1. Housing Occupancy Certificate (Migrant and Seasonal Agricultural Worker Protection Act); and 2. Comparability of Current Work to Coal Mine Employment, Coal Mine Employment Affidavit, Affidavit of Deceased Miner's Condition.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension of the Housing Occupancy Certificate; and of the Comparability of Current Work to Coal Mine Employment, the Coal Mine Employment Affidavit, and the Affidavit of Deceased Miner's Condition.

A copy of the proposed information collection requests can be obtained by contacting the employee listed below in the addressee section of this notice.

DATES: Written comments must be submitted on or before December 27, 1995. Written comments should address whether the proposed information

collection is necessary for the proper performance of the functions of the agency; the accuracy of the burden (time and financial resources) estimates; ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology; and, other relevant aspects of the information collection request.

ADDRESSES: Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601 (this is not a toll free number), fax number (202) 219–6592.

SUPPLEMENTARY INFORMATION:

A. Housing Occupancy Certificate (Migrant and Seasonal Agricultural Worker Protection Act)

I. Background: Section 203(b)(1) of the Migrant and Seasonal Agricultural Worker Protection Act requires any person owning or controlling any facility or real property to be occupied by migrant agricultural workers to obtain a certificate of occupancy. Form WH–520 is the form used when DOL's Wage and Hour Division inspects and approves such housing.

II. Current Actions: Continuation of this information collection is necessary to attest that the facility or real property meets applicable safety and health standards.

B. Comparability of Current Work to Coal Mine Employment, Coal Mine Employment Affidavit, Affidavit of Deceased Miner's Condition

I. Background: Comparability of Current Work to Coal Mine Employment is completed by beneficiaries and claimants and compares non-coal mine work to coal mine work, and is used, together with medical information, by the Office of Workers' Compensation Programs (OWCP), Division of Coal Mine Workers' Compensation (DCMWC), to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment, a criterion to entitlement to black lung benefits. The Coal Mine Employment affidavit is completed by persons with knowledge of the miner's coal mine work when primary evidence is unavailable or incomplete, and is used by DCMWC as proof of coal mine work to establish entitlement to black lung benefits. The Affidavit of Deceased Miner's condition is completed by persons with knowledge of the deceased miner's medical condition when evidence of the medical condition is insufficient, and is used by DCMWC to establish entitlement to black lung benefits.

II. Current Actions: Continuation of this information collection is necessary to ensure the proper establishment of entitlement benefits to black lung claimants and their surviving beneficiaries.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Housing Occupancy Certificate.

OMB Number: 1215–0158.

Agency Number: WH–520.

Frequency: On occasion.

Recordkeeping: Three years.

Affected Public: Farms; Individuals or households; Business or other for-profit.

Number of Respondents: 25.

Estimated Time Per Respondent: 3 minutes.

Estimated Cost: 0.

Total Burden Hours: 2.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Comparability of Current Work to Coal Mine Employment; Coal Mine Employment Affidavit; Affidavit of Deceased Miner's Condition.

OMB Number: 1215–0056.

Agency Number: CM–913; CM–918; CM–1093.

Frequency: On occasion.

Recordkeeping: None.

Affected Public: Individuals or households.

	CM–913	CM–918	CM–1093
Number of Respondents	3,600	100	100.
Estimated Time Per Respondent	30 min	10 min	20 min.

Total Estimated Cost: $1,792.

Total Burden Hours: 1,850.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 95–26344 Filed 10–23–95; 8:45 am]

BILLING CODE 4510–27–M

Pension and Welfare Benefit Administration

Work Group on Pension Education Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of 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 Work Group on Pension Education of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on November 7, 1995, in Room N3437 A–B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 9:30 a.m. and end at approximately noon on November 7, is to allow work group members to finalize their recommendations for their area of study to be presented at the full council meeting in the afternoon of November 8.

Members of the public are encouraged to file a written statement pertaining to this topic by submitting 20 copies on or before October 30, to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Pension Education Work Group of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 30, at the address indicated in the notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting 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 October 30, 1995.

Signed at Washington, DC this 18th day of October, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–26348 Filed 10–23–95; 8:45 am]

BILLING CODE 4510–29–M

Work Group on Pension Education; Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of 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 Work Group on Real Estate Investment of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on November 7, 1995, in Room N3437 A–B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. and will last until approximately 3:30 p.m., is to allow work group members to finalize their recommendations for their area of study to be presented at the full council meeting in the afternoon of November 8.

Members of the public are encouraged to file a written statement pertaining to this topic by submitting 20 copies on or before October 30, to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Real Estate Investment Work Group of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 30, at the address indicated in the notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting 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 October 30, 1995.

Signed at Washington, DC this 18th day of October, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–26347 Filed 10–23–95; 8:45 am]

BILLING CODE 4510–29–M

Pension and Welfare Benefits Administration

Work Group on Real Estate Investment Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of 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 Advisory Council on Employee Welfare and Pension Benefit Plans will be held on November 8, 1995, in Room S2508, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. and will last until approximately 2:30 p.m., is for the work group chairs to present their recommendations for their areas of study to the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to any of these topics by submitting 20 copies on or before October 30, 1995, to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 30, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting 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 October 30, 1995.

Signed at Washington, DC this 18th day of October, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–26345 Filed 10–23–95; 8:45 am]

BILLING CODE 4510–29–M

Work Group on Defined Contribution Adequacy Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of 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 Work Group on Defined Contribution Adequacy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on November 8, 1995, in Room N–3437 A–B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will run from 9:30 a.m. to noon, is to allow work group members to finalize their recommendations for their area of study which will be presented at the full council meeting in the afternoon of November 8.

Members of the public are encouraged to file a written statement pertaining to this topic by submitting 20 copies on or before October 30, 1995 to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Defined Contribution Adequacy Work Group of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 30 at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting 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 October 30, 1995.

Signed at Washington, DC this 18th day of October, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–26346 Filed 10–23–95; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Sharon I. Block, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. Date: November 2, 1995
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Translations and Editions Programs applications in Classical and medieval European Studies, submitted to the Division of Research Programs, for projects beginning after May 1, 1996.
2. Date: November 3, 1995
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review applications in Library and Archival Preservation and Access Projects, submitted to the Division of Preservation and Access, for projects beginning after May 1996.
3. Date: November 6, 1995
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Translations Program applications in Russian and Eastern European Studies, submitted to the Division of Research Programs, for projects beginning after May 1996.
4. Date: November 7, 1995
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 315
   Program: The meeting will review proposals submitted to the October 1 deadline on the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after April, 1996.
5. Date: November 8, 1995
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review Library and Archival Preservation and Access applications, submitted to the Division of Preservation and Access, for projects beginning after May 1, 1996.
6. Date: November 9, 1995
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Translations Program applications in Western European Studies, submitted to the Division of Research Programs, for projects beginning after May 1, 1996.
7. Date: November 13, 1995
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review applications for the Library and Archival Preservation and Access Projects, submitted to the Division of Preservation and Access, for projects beginning after May 1, 1996.
8. Date: November 14, 1995
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review proposals submitted to the October 1 deadline in the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after April 1, 1996.
9. Date: November 20, 1995
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review proposals submitted to the October 1 deadline in the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after April 1, 1996.
10. Date: November 21, 1995
    Time: 9:00 a.m. to 5:30 p.m.
    Room: 315
    Program: This meeting will review proposals submitted to the October 1 deadline in the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after April, 1996.
16. Date: November 27, 1995
    Time: 9:00 a.m. to 5:30 p.m.
    Room: 430
    Program: This meeting will review proposals submitted to the October 1 deadline in the Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after May 1, 1996.
12. Date: November 28, 1995
    Time: 8:30 a.m. to 5:00 p.m.
    Room: 415
    Program: This meeting will review application in Library and Archival Preservation and Access Projects, submitted to the Division of Preservation and Access, for projects beginning after May 1, 1996.
13. Date: November 29–30, 1995
    Time: 9:00 a.m. to 5:00 p.m.
    Room: 430
    Program: This meeting will review applications in Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after April, 1996.

Sharon I. Block,

Advisory Committee Management Officer.

[FR Doc. 95–26300 Filed 10–23–95; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Directorate for Education and Human Resources Proposed Data Collection Available for Public Comment and Recommendations

In compliance with the requirement of Section 2506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the NSF Clearance Officer on (703) 306–1243.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Program Evaluation of the Experimental Program to Stimulate Competitive Research (EPSCoR). EPSCoR is an ongoing initiative of the National Science Foundation (NSF)—and, in parallel, of six other federal agencies—to increase the research competitiveness of faculty and universities in selected states. The design calls for five sub-studies drawn from the broader framework of the program's objectives, structure, and strategies, which was developed in conjunction with several workgroups. New, non-archival data collections in subsidies 3, 4, and 5 are being submitted for OMB review. The studies are:

Substudy No. 1: Has There Been an Increase in Funded Research?

The substudy will be conducted for each EPSCoR state, across EPSCoR states, and between EPSCoR and non-EPSCoR states. The study will be conducted using total levels of external awards, disaggregated by sector (federal/state/industry), and within the federal sector by agency. These data are currently available from existing NSF databases for the period from EPSCoR's inception through FY 1992.

Substudy No. 2: How Competitive Was EPSCoR Research at the Time of Award?

The data for Substudy No. 2 will come from the archival records maintained by NSF. The results of each round of reviews have been kept in a separate notebook, reflecting the applications and their components, the nature of the peer review, and the disposition of the review. From these notebooks and the award jackets, the evaluation team will reconstruct the peer review outcomes for the last two program announcements: EPSCoR's Advanced Development Program awards (n=17) and the Systemic Improvement awards (n=19) made between 1992 and 1995.

Substudy No. 3: How Competitive Was EPSCoR-Funded Research Later On?

Substudy No. 3 will involve three complementary data collection activities at the level of the individual research investigator and research group. The first of these activities consists of a citation analysis utilizing data from the NSF Database of EPSCoR Projects. The second two activities, which utilize the sample from the citation analysis, are a mail survey and a telephone survey.

Sampling. As of 1994, according to the NSF EPSCoR Database, an estimated 1,184 faculty were participating in the EPSCoR program. Using the database, a random sample (with replacement in case of 0 publications) of 10 researchers from the 13 states will be drawn. To allow for the practice of co-principal investigators in many fields, the second author, where practical, will also be included as a separate, independent researcher. Thus, an initial list of between 130 to 260 faculty (13 states × 10 (or 20) researchers), will be identified. From this list, up to three publications per faculty member will be selected, for a total number of between 130 and 780 observations, with the actual number likely to be between 390 and 780. The article is the unit of analysis.

Mail Survey: Editors of the journals in which EPSCoR researchers have published will be invited to conduct qualitative assessments of the article authored by the EPSCoR faculty member with the comparison article by the non-EPSCoR author plus an additional number of articles that appeared in the same journal issue.

This comparison will be made for a 10 percent sample of the articles selected above (n=390 to 780 articles or 39–78 journals). The review protocol will be structured and brief to minimize burden and facilitate response.

Telephone Survey. The lead authors of the same 10 percent sample will be contacted telephonically, to determine whether (or not) their own research and the research of colleagues in a research cluster have thrived over time. This will involve telephone discussions with a sample of the investigators, to determine their post-EPSCoR experiences, both as individuals and as part of a research cluster. The authors will be asked to respond to a brief, structured interview protocol.

Substudies No. 4 and 5: Have Universities Implemented Research-Supporting Changes? and Have States Initiated Research-Supporting Changes?

Both field-based studies will involve the same five sites, with separate site visits approximately one year apart. The fieldwork for both studies is to be conducted by COSMOS.

Field-Based Studies. The site visits for each year will consist of structured and consistent—but not identical—interviews at the same 5 states. In year one, interviews will be held with university officials (provosts, vice presidents for research, deans, department heads, and sponsored program officers) involved in formulating and implementing institutional policies. In year two, the focus is on state technology development, inter-institutional coordination, and state financing and regulation of university activities. These structured interviews will be held with state officials. It is anticipated that 10 individuals will be interviewed at each site.

Burden estimates across all data collections are as follows:

Year	Re-spond-ents	Burden hours
1996	50	100
1997	128	228

Send comments to Herman Fleming, Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 485, Arlington, VA 22230. Written comments should be received within 60 days of publication.

Dated: October 17, 1995.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 95–26229 Filed 10–23–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Science, Technology and Society; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings.

Name: Advisory Panel for Science, Technology and Society (#1760).

Date and Time: November 10, 1995, 9 a.m. to 5 p.m.; November 11, 1995, 9 a.m. to 12 noon.

Place: Galleria Park Hotel—The Palm Room/Second Floor, 191 Sutter Street, San Francisco, CA 94104, Telephone: (415) 781–3060—FAX (415) 433–4409.

Contact Person: Dr. Ronald J. Overmann, Senior Staff Assistant/SBER, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 306–1743, Room 995.

Agenda: To review and evaluate science and technology studies proposals as part of the selection process for awards.

Date and Time: November 16–17, 1995—8:30 a.m. to 5 p.m.

Place: National Science Foundation, Room 970—4201 Wilson Blvd.—Arlington, VA.

Contact Person: Dr. Rachelle D. Hollander, Program Director for Ethics and Values Studies, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 306–1743 Ext. 6991.

Agenda: To review and evaluate ethics and values studies proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the National Science Foundation for financial support.

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 within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: October 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–26298 Filed 10–23–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443]

North Atlantic Energy Service Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–86 issued to North Atlantic Energy Service Corporation (the licensee) for operation of the Seabrook Station, Unit No. 1 located in Rockingham County, New Hampshire.

The proposed amendment would modify the Appendix A Technical Specifications for the Engineered Safety Features Actuation System (ESFAS) Instrumentation. Specifically, the proposed amendment would revise the Seabrook Station Technical Specifications to relocate Functional Unit 6.b, ''Feedwater Isolation—Low RCS T_{avg} Coincident with a Reactor Trip'' from Technical Specification 3.3.2. ''Engineered Safety Features Actuation System Instrumentation'' to the Seabrook Station Technical Requirements Manual which is a licensee controlled document.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change considered for the relocation of the feedwater isolation setpoint from the Technical Specifications does not impose any new performance requirements on any system or component which could subsequently cause associated design criteria to be exceeded. The structural and functional integrity of the plant's structures, systems and components is maintained. This change does not affect the initiators of any transients evaluated in the Updated Final Safety Analysis Report (UFSAR).

The sequence of obtaining feedwater isolation on low T_{avg} coincident with reactor trip is not credited in any of the LOCA and non-LOCA accidents evaluated in the UFSAR. Feedwater isolation is initiated for other reasons such as a Safety Injection (SI) actuation. This change is administrative in nature, in that it relocates the function from the Technical Specifications to the Seabrook Station Technical Requirements Manual and there are no changes to the plant's structures, systems and components.

Since, for the reasons given above, the results of the UFSAR analyses are not affected by the implementation of the change, there is, therefore, no adverse impact on the radiological consequences of accidents reported in the UFSAR. Furthermore, this change does not degrade fission product barriers assumed in the dose consequence analysis such as the fuel cladding, the reactor pressure vessel, and containment. The performance and integrity of accident mitigating structures, systems and components such as the Emergency Feedwater and Safety Injection systems, are not affected by the change. Consequently, the ability of these systems to limit radiological consequences as described in the UFSAR is not adversely affected. Based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not create any new failure modes for any structure, system or component. All design and performance criteria will continue to be met and no new single failure scenario is created that is not bounded by the accidents described in the UFSAR. The proposed change to the Technical Specifications does not introduce any new challenges to structures, systems and components that could introduce a new type of accident. Therefore the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not result in a significant reduction in a margin of safety.

The accidents analyzed in the UFSAR have been reviewed relative to the feedwater isolation on low RCS T_{avg} coincident with reactor trip. The applicable design criteria and the pertinent licensing basis acceptance criteria continue to be met. The margin of safety as defined in the Bases to the Technical Specifications is not reduced and the design and safety analysis limits remain applicable.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to

Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 24, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at Exeter Public Library, Founders Park, Exeter, NH 03833. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Phillip F. McKee: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Lillian M. Cuoco, Esquire, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 20, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland, this 19th day of October 1995.

For the Nuclear Regulatory Commission.

Albert W. De Agazio, Sr.,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–26274 Filed 10–23–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–390]

Tennessee Valley Authority, Watts Bar Power Station, Unit 1

Exemption

I

Tennessee Valley Authority (TVA, the applicant) is the holder of Construction Permit CPPR–91, which authorizes the construction of Watts Bar Power Station, Unit 1 (WBN, the facility). Construction permit applications must contain emergency plans pursuant to 10 CFR 50.34. 10 CFR 50.34(b)(6)(v) provides that the Final Safety Analysis Report will contain plans for coping with emergencies, which shall include the items in Appendix E of 10 CFR Part 50. When converting from a construction permit to a license upon completion of the construction or alteration of a facility in compliance with the terms and conditions of the construction permit and subject to any necessary testing of the facility for health or safety purposes, the Commission will, in the absence of good cause shown to the contrary, issue a license of the class for which the construction permit was issued or an appropriate amendment of the license, as the case may be. An operating license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect. The facility will consist of two pressurized water reactors located at the licensee's site in Rhea County, Tennessee, even though only one is being considered for an operating license at this time.

II

Section IV.F.2(a) of Appendix E of 10 CFR Part 50 requires that a full participation exercise be conducted within 2 years before the issuance of the first operating license for full power (one authorizing operation above 5 percent of rated power) of the first reactor and shall include participation by each State and local government within the plume exposure pathway emergency planning zone (EPZ) and each State within the ingestion pathway exposure EPZ.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2) of 10 CFR Part 50 describes the special circumstances for an exemption. Special circumstances are present when the application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule [10 CFR 50.12(a)(2)(ii)]. The underlying purpose of Appendix E, Section IV.F.2(a) is to demonstrate the integrated capabilities of appropriate local and State authorities and licensee personnel to adequately assess and respond to an accident at a commercial nuclear power plant within 2 years before the issuance of the first operating license for full power (authorizing operation above 5 percent of rated power) of the first reactor. Special circumstances are also present when compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted [10 CFR 50.12(a)(2)(iii)]. Additionally, special circumstances are present when the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation [10 CFR 50.12(a)(2)(v)].

III

By letter dated July 19, 1995, as supplemented by letters dated July 26, and September 6, 1995, TVA requested an exemption from the ingestion pathway portion of the requirement of Appendix E of 10 CFR Part 50 to conduct a prelicensing full-participation exercise of the Watts Bar Emergency Plan in 1995. TVA plans to conduct a full-participation emergency preparedness exercise, limited to the 10-mile plume exposure pathway EPZ, in November 1995. The Watts Bar plant, in conjunction with the State of Tennessee and the Counties of McMinn, Meigs, Rhea, Cumberland, and Roane, conducted a full participation emergency preparedness exercise, which included both the plume exposure and ingestion exposure pathway EPZs, on October 6–7, 1993. Offsite emergency response activities associated with the exercise were evaluated by the Federal Emergency Management Agency (FEMA) and the onsite emergency response activities were evaluated by the NRC. The NRC's evaluation of onsite emergency response activities is documented in Inspection Report 50–390/93–64, dated November 15, 1993. The report states that no violations, deviations, or exercise weaknesses were identified. It also states that the October 6–7, 1993, full-participation emergency preparedness exercise demonstrated the ability of the applicant's emergency response organization to respond to a simulated emergency condition and to implement its radiological emergency plan and implementing procedures.

FEMA's final exercise report for the October 1993 exercise, dated August 11, 1994, identified one deficiency. This deficiency involved the inability of the State of Tennessee to demonstrate the capability to provide both an alert signal and an initial instructional message to the populated areas throughout the 10-mile plume EPZ within 15 minutes of the decision to activate the alert and notification system to implement a protective action decision. The deficiency was shown to be corrected during a remedial exercise conducted on November 15, 1993. The FEMA report also indicates that the States of North Carolina and Georgia lie within the WBN 50-mile ingestion exposure pathway EPZ. These states did not participate in the October 1993 exercise because the State of Georgia participated in the 1992 exercise at the Vogtle site and the State of North Carolina participated in the 1991 exercise at the McGuire site. No deficiencies were noted concerning ingestion pathway exposure activities in the State of Tennessee during the October 1993 exercise. FEMA concluded that, based on the results of the October 6–7, 1993, exercise and the November 15, 1993, remedial exercise, the offsite radiological emergency response plans and preparedness for the State of Tennessee and the affected local jurisdictions, site specific to the Watts Bar Nuclear Plant, can be implemented and are adequate to provide reasonable assurance that appropriate measures can be taken to protect the health and safety of the public in the event of a radiological emergency at the site.

TVA's exemption request extends only to that portion of the full-participation, prelicensing exercise requirement that provides for an ingestion exposure pathway (50 miles) exercise of the type that plants licensed for full-power operations are required to conduct once every 6 years. Section IV.F.(2)(d) of Appendix E of 10 CFR Part 50 indicates that States should participate in the ingestion pathway portion of exercises at least once every 6 years. As noted above, the State of Tennessee participated in an ingestion exposure pathway exercise at Watts Bar in October 1993. It also participated in an ingestion exposure pathway exercise at Sequoyah in 1992. In anticipation of receiving an operating license in 1985, TVA conducted its first pre-license full-participation exercise on September 11, 1984. A second prelicensing full participation exercise was conducted on July 25, 1985, before TVA suspending

its efforts to obtain the operating license for Watts Bar Unit 1.

In a letter dated July 3, 1995, the Tennessee Emergency Management Agency (TEMA) indicated that the State and local governments in the Watts Bar area have conducted three full-participation exercises for Watts Bar since 1983 with the last on October 6–7, 1993. TEMA stated that another licensing exercise for Watts Bar would not be cost effective in that the State and local governments exercise both the Watts Bar and Sequoyah plans regularly and the same personnel participate in both the Watts Bar and Sequoyah exercises. TEMA also noted that the State of Tennessee has participated in exercises since the late 1970's and no problems have been experienced at either site with offsite programs. Consequently, these State and local government agencies would be required to duplicate past efforts at significant expense. Additionally, TEMA did not budget for State participation in a second prelicensing full-participation WBN exercise in calendar year 1995, since the frequency requirements for State participation in the emergency plan exercise would have been met under the previous schedule for the licensing of WBN. If the prelicensing 50-mile ingestion pathway requirement is not exempted, it is estimated that an additional $160,000 would be expended by the State. Furthermore, State resources have been strained in responding to six major emergencies which have occurred in the last 15 months, including tornadoes, flooding and ice storms. The State has spent in excess of $30 million mitigating the consequences of these major emergencies. TEMA further states that the local government agencies did not include funding for another prelicensing full-participation exercise in calendar year 1995. Consequently, they would have to redirect financial and personnel resources to support such an effort. Since TVA and the State and local governments depend heavily upon volunteer organizations to support the radiological emergency preparedness program, there is concern that the repeated use of the volunteers in emergency exercises would lessen their enthusiasm for support of another ingestion pathway exercise.

The staff's last Systematic Assessment of Licensee Performance (SALP) report (Inspection Report Nos. 50–390/94–41 and 50–391/94–41) for Watts Bar for the period of June 13, 1993 through June 18, 1994, indicates that the emergency preparedness program was excellent, emergency response training was strong, and that TVA's emergency response facilities were good and capable of supporting emergency operations. Additionally, the report indicated that individuals demonstrated knowledge of duties and an ability to respond to emergency conditions and mitigate the consequences during the October 1993 full-scale exercise and that TVA conducted thorough critiques and was timely in correcting identified problems.

The exemption from the ingestion exposure pathway exercise portion of Section IV(F)(2)(a) to Appendix E of 10 CFR Part 50 would provide relief from what was originally intended as a ''one-time'' prelicense exercise requirement. As discussed above, TVA has already conducted three full-participation plume and ingestion pathway exercises to support anticipated operating license scheduled dates. In view of past and planned emergency planning efforts and successful results, TVA has made good faith efforts to fully comply with the prelicense emergency exercise rule. If WBN does not obtain a full-power operating license within 2 years of the November 1995 exercise, another prelicensing full-participation exercise, to include both the plume and ingestion exposure pathway EPZs, will have to be conducted.

IV

On the basis of its review of the applicant's request for an exemption from the requirement to conduct the ingestion exposure pathway portion of the qualifying full-participation exercise of the Watts Bar Emergency Plan, the staff finds that the underlying purpose of the regulation has been achieved through the applicant's conduct of the ingestion exposure pathway portion of the October 6–7, 1993, full participation exercise at Watts Bar and the ingestion exposure pathway portion of the September 1992 full-participation exercise at Sequoyah. In addition, because the States of Georgia and North Carolina have participated in ingestion pathway exercises at other nuclear power plant sites within their respective borders, as well as the fact that only limited actions are required of these States in the WBN ingestion pathway exposure EPZ, the staff concludes the underlying purpose for their potential participation in the ingestion pathway portion of the November 1995 exercise at WBN has been achieved. FEMA concurs with this exemption.

For these reasons, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the applicant is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security and that special circumstances are present as set forth in 10 CFR 50.12(a) (ii), (iii), and (v).

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant impact on the environment (60 FR 53814, dated October 17, 1995). A copy of the applicant's request for exemption and supporting documentation is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC and at the local public document room located at Chattanooga-Hamilton Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 17th day of October 1995.

For The Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–26273 Filed 10–23–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–24 and DPR–27, issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Plant, Units 1 and 2, located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The proposed amendments would revise Technical Specification (TS) Section 15.1, ''Definitions,'' the basis for TS Section 15.3.1.G, ''Operational Limitations,'' and TS Figure 15.2.1–2, ''Reactor Core Safety Limits, Point Beach Unit 2.'' The proposed changes would reduce the reactor coolant system raw measured total flow rate limit and reflect new reactor core safety limits for Unit 2.

The licensee stated that these changes may be required to support full power operation of Unit 2 following its annual outage, which has already begun. The licensee further stated that the submittal was timely, based on the circumstances (a vendor analysis was required), and that the exigency could not have been avoided. The staff agrees with this conclusion.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of this facility under the proposed Technical Specifications will not create a significant increase in the probability or consequences of an accident previously evaluated.

This proposed change reduces the Unit 2 Reactor Coolant System [RCS] raw measured total flow rate limit by 4500 gpm. Evaluations performed by Westinghouse and Wisconsin Electric have determined that all safety analysis and regulatory requirements are still met at the reduced flow rate limit without exceeding acceptable limits. A reduction of the RCS flow limit does not affect any parameters that could affect the probability of an accident. Therefore, there is no increase in the probability or consequences of an accident previously evaluated.

2. Operation of this facility under the proposed Technical Specifications change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change reduces the Unit 2 Reactor Coolant System raw measured total flow rate limit by 4500 gpm. Evaluations performed by Westinghouse and Wisconsin Electric have determined that all the safety analysis requirements are still met at the reduced flow rate limit. There is no physical change to the facility, its systems, or its operation. Thus, a new or different kind of accident cannot occur.

3. Operation of this facility under the proposed Technical Specifications change will not create a significant reduction in a margin of safety.

This proposed change reduces the Unit 2 Reactor Coolant System raw measured total flow rate limit by 4500 gpm. Evaluations performed by the Westinghouse and Wisconsin Electric have determined that all the safety analysis and regulatory requirements are still met at the reduced flow rate limit. The current Revised Thermal Design Procedure (RTDP) DNBR [departure from nucleate boiling ratio] limit of 1.33 remains valid for the reduced flow conditions.

The most DNB [departure from nucleate boiling]-limiting, non-LOCA [loss-of-coolant accident] accidents were reanalyzed to demonstrate this limit remains satisfied for the reduction in RCS flow. The modifications to power level and core safety limits figure for PBNP Unit 2 prevent the possibility of exceeding the core safety limits. Therefore, this reduction in RCS total flow rate limit does not reduce any existing margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 8, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the

contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Dr. Gail H. Marcus, Director, Project Directorate PDIII–3: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 13, 1995, as supplemented by letter dated October 19, 1995, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 19th day of October 1995.

For the Nuclear Regulatory Commission.

Allen G. Hansen,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–26417 Filed 10–20–95; 11:01 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Correction to Cancellation of Open Committee Meeting

SUMMARY: The Federal Prevailing Rate Advisory Committee is correcting the notice published in Volume 60, number 191, on Tuesday, October 3, 1995.

There is no Federal Prevailing Rate Advisory Committee meeting scheduled for October 30, 1995 which is a Monday.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: October 11, 1995.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 95–26232 Filed 10–23–95; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (ICO, Inc., Common Stock, No Par Value and Preferred Stock, No Par Value) File No. 1–8327

October 18, 1995.

ICO, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, the reason for the withdrawal is that the Securities are listed on the Nasdaq already. Also the additional costs of being listed on the BSE do exceed the benefits.

Any interested person may, on or before November 8, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–26287 Filed 10–23–95; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Titan Corporation, Common Stock, $0.01 Par Value; $1.00 Cumulative Convertible Preferred Stock, $1 Par Value) File No. 1–6035

October 18, 1995.

Titan Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Pacific Stock Exchange Incorporated (''PSE'').

The reasons alleged in the application for withdrawing the securities from listing and registration include the following:

According to the Company, the Securities are currently traded on the New York Stock Exchange, Inc. (''NYSE''), The Chicago Stock Exchange, Inc. (''CHX''), and the PSE. The Company incurs annual maintenance fees for each of the exchanges. Currently, the Company is paying an annual fee of $1,500.00 to the PSE. From time to time, the Company issues additional shares for use in connection with its employee benefit plans. For every 1,000,000 new shares issued, the Company is charged a $2,500.00 listing fee by the PSE. Since the vast majority of the trading in the Securities occurs on the NYSE, the Company does not believe that it is cost effective to maintain listings on the regional exchanges. Therefore, the Company has determined that a single listing on the NYSE will be sufficient to serve the needs of its stockholders.

Any interested person may, on or before November 8, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–26286 Filed 10–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36383; File No. SR–NASD–95–39]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Application of the Rules of Fair Practice to Transactions in Exempted Securities and an Interpretation of Its Suitability Rule

October 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 18, 1995, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change, and on October 17, 1995, filed amendment No. 1 to the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is herewith filing a proposed rule change to: (i) amend Article I, Sections 4 and 5 of the Rules of Fair Practice in order to apply the Rules of Fair Practice to those members registered with the Securities and Exchange Commission solely under the provisions of Section 15C of the Act and to transactions in all securities, except municipals; (ii) merge the NASD's Government Securities Rules, where applicable, into the Rules of Fair Practice; (iii) make clarifying amendments to certain sections and Interpretations under Articles III and IV of the Rules of Fair Practice relating to the government securities business; (iv) amend certain Rules of Fair Practice and Board Interpretations to exempt transactions in government securities; (v) amend Article III, Section 2 of the Rules of Fair Practice by amendment to Subsection 2(b) and adoption of an Interpretation of the Board of Governors—Suitability Obligations to Institutional Customers; (vi) make technical changes to NASD By-Laws, Schedules to the By-Laws, the Rules of Fair Practice and the Code of Procedure to replace references to provisions of the Government Securities Rules with references to the appropriate Rules of Fair Practice, and to delete the terms ''exempted security'' or ''exempted securities,'' or, replace these terms with the term ''municipal securities,'' as applicable; and (vii) modify references to SEC Rules 15c3–1 and 15c3–3 to reflect SEC amendments to those rules. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Certificate of Incorporation—By-Laws

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By-Laws

Article I

Definitions

When used in these By-Laws, and any rules of the Corporation, unless the context otherwise requires, the term:

(a)–(r) No change.

(s) ''rules of the Corporation'' means all rules of the Corporation including the Certificate of Incorporation, By-Laws, Rules of Fair Practice, [Government Securities Rules,] Code of Procedure, Uniform Practice Code, and any interpretations thereunder.

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Schedules to the By-Laws

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Schedule A

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Sec. 13. Service Charge for Advertisement, Sales Literature, and Other Such Material Filed or Submitted

There shall be a service charge for each and every item of advertisement, sales literature, and other such material, whether in printed, video or other form, filed with or submitted to the Association, except for items that are filed or submitted in response to a written request from the Association's Advertising Regulation Department issued pursuant to the spot check procedures set forth in the Association's Rules of Fair Practice [and Government Securities Rules], as follows: (1) for printed material reviewed, $50.00, plus $10.00 for each page reviewed in excess of 10 pages; and (2) for video or audio media, $50.00, plus $10.00 per minute for each minute of tape reviewed in excess of 10 minutes.

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Schedule C

This schedule has been prepared pursuant to the provisions of Section 2 of Article II of the Corporation's By-Laws and contains the requirements of registration with the Corporation of persons associated with a member, including the requirements for qualification examinations to be given.

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Part II—Registration of Principals

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(2) Categories of Principal Registration

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(b) Limited Principal—Financial and Operations—

(i)–(iii) No change.

(iv) A member, or an applicant for membership in the Corporation, may upon written request, be exempted by the President of the Corporation, or his delegate, from the requirement to have a Limited Principal-Financial and Operations if:

a. it has been expressly exempted by the Securities and Exchange Commission from SEC Rule 15c3–1 pursuant to the provisions of paragraph (b)([3]1)(iii) thereof; or

b. it is subject to the provisions of SEC Rule 15c3–1(a)(2) [or (3)] *or to Section 402.2(c) of the rules of the Treasury Department.*

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Part VI—Persons Exempt From Registration

(1) The following persons associated with a member are not required to be registered with the Corporation:

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(d) persons associated with a member whose functions are related solely and exclusively to:

(i) effecting transactions on the floor of a national securities exchange and who are registered as floor members with such exchange;

(ii) transactions in [exempted] *municipal* securities[, except as provided in Part X hereof,]; or,

(iii) transactions in commodities.

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Rules of Fair Practice

Article I

Adoption and Application

Adoption of Rules

Sec. 1.–3. No change.

Effect on Transactions in [Exempted] *Municipal* Securities

Sec. 4. The Rules shall not be construed to apply to contracts made prior to the effective date of the Rules or to transactions in [exempted] *municipal* securities (as defined in section 3(a)([12] *29*) of the Act).

Applicability

Sec. 5. (a) These Rules of Fair Practice shall apply to all members and persons associated with a member[, other than those members registered with the Securities and Exchange Commission solely under the provisions of Section 15C of the Act and persons associated with such members]. Persons associated with a member shall have the same duties and obligations as a member under these Rules of Fair Practice.

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Article III

Rules of Fair Practice

Business Conduct of Members

Sec. 1. A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

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• • • Interpretation of the Board of Governors

Prompt Receipt and Delivery of Securities

It shall be deemed a violation of Article III, Section 1 of the Rules of Fair Practice of the Association for a member or person associated with a member to violate the provisions of the following interpretation thereof;

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(b) Sales:

(1) Long Sales No change.

(2) ''Short Sales''

(a) Customer short sales No member or person associated with a member shall accept a ''short'' sale order for any customer in any security unless the member or person associated with a member makes an affirmative determination that the member will receive delivery of the security from the customer or that the member can borrow the security on behalf of the customer for delivery by settlement date. This requirement shall not apply, however, to transactions in [corporate] debt securities.

(b) Proprietary short sales No member or person associated with a member shall effect a ''short'' sale for its own account in any security unless the member or person associated with a member makes an affirmative determination that the member can borrow the securities or otherwise provide for delivery of the securities by the settlement date. This requirement will not apply to transactions in [corporate] debt securities, to bona fide market making transactions by a member in securities in which it is registered as a Nasdaq market maker, to bona fide market maker transactions in non-Nasdaq securities in which the market maker publishes a two-sided quotation in an independent quotation medium, or to transactions which result in fully hedged or arbitraged positions.

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• • • Interpretation of the Board of Governors

''Free-Riding and Withholding''

Introduction

The following Interpretation of Article III, Section 1 of the Association's Rules of Fair Practice is adopted by the Board of Governors of the Association pursuant to the provisions of Article VII, Section 3(a) of the Association's By-Laws and Article I, Section 3 of the Rules of Fair Practice.

This Interpretation is based upon the premise that members have an obligation to make a bona fide public distribution at the public offering price of securities of a public offering which trade at a premium in the secondary market whenever such secondary market begins (a ''hot issue'') regardless of whether such securities are acquired by the member as an underwriter, as a selling group member, or from a member participating in the distribution as an underwriter or a selling group member, or otherwise. The failure to make a bona fide public distribution when there is a demand for an issue can be a factor in artificially raising the price. Thus, the failure to do so, especially when the member may have information relating to the demand for the securities or other factors not generally known to the public, is inconsistent with high standards of commercial honor and just and equitable principles of trade and leads to an impairment of public confidence in the fairness of the investment banking and securities business. Such conduct is, therefore, in violation of Article III, Section 1 of the Association's Rules of Fair Practice and this Interpretation thereof which establishes guidelines in respect to such activity.

As in the case of any other Interpretation issued by the Board of Governors of the Association, the implementation thereof is a function of the District Business Conduct Committees and the Board of Governors. Thus, the Interpretation will be applied to a given factual situation by individuals active in the investment banking and securities business who are serving on these committees or on the Board.

They will construe this Interpretation to effectuate its overall purpose to assure a public distribution of securities for which there is a public demand.

This Interpretation will not apply to government securities as defined in Section 3(a)(42) of the Securities Exchange Act of 1934.

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Recommendations to Customers

Sec. 2. (a) In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

(b) Prior to the execution of a transaction recommended to a non-institutional customer, other than transactions with customers where investments are limited to money market mutual funds, a member shall make reasonable efforts to obtain information concerning:

(i) the customer's financial status;

(ii) the customer's tax status;

(iii) the customer's investment objectives; and

(iv) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

For purposes of this subsection 2(b), the term ''non-institutional customer'' shall mean a customer that does not qualify as an ''institutional account'' under Article III, Section 21(c)(4) of the Rules of Fair Practice.

• • • *Interpretation of the Board of Governors*

Suitability Obligations to Institutional Customers

Preliminary Statement as to Members' Obligations

As a result of broadened authority provided by amendments to the Government Securities Act adopted in 1993, the Association is extending its sales practice rules to the government securities market, a market with a particularly broad institutional component. Accordingly, the Board believes it is appropriate to provide further guidance to members on their suitability obligations when making recommendations to institutional customers. The Board believes this Interpretation is applicable not only to government securities but to all debt securities, excluding municipals.[1] *Furthermore, because of the nature and characteristics of the institutional customer/member relationship, the Board is extending this Interpretation to apply equally to the equity securities markets as well.*

The NASD's suitability rule is fundamental to fair dealing and is intended to promote ethical sales practices and high standards of professional conduct. Members' responsibilities include having a reasonable basis for recommending a particular security or strategy, as well as having reasonable grounds for believing the recommendation is suitable for the customer to whom it is made. Members are expected to meet the same high standards of competence, professionalism, and good faith regardless of the financial circumstances of the customer.

Article III, Section 2(a) requires that,

In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

This Interpretation concerns only the manner in which a member determines that a recommendation is suitable for a particular institutional customer. The manner in which a member fulfills this suitability obligation will vary depending on the nature of the customer and the specific transaction. Accordingly, this Interpretation deals only with guidance regarding how a member may fulfill such ''customer-specific suitability obligations'' under Article III, Section 2(a) of the Rules of Fair Practice.[2]

While it is difficult to define in advance the scope of a member's suitability obligation with respect to a specific institutional customer transaction recommended by a member, the Board has identified certain factors which may be relevant when considering compliance with Article III, Section 2(a) of the Rules of Fair Practice. These factors are not intended to be requirements or the only factors to be considered but are offered merely as guidance in determining the scope of a member's suitability obligations.

Considerations Regarding the Scope of Members' Obligations to Institutional Customers

The two most important considerations in determining the scope of a member's suitability obligations in making recommendations to an institutional customer are the customer's capability to evaluate investment risk independently and the extent to which the customer intends to exercise independent judgment in evaluating a member's recommendation. A member must determine, based on the information available to it, the customer's capability to evaluate investment risk. In some cases, the member may conclude that the customer is not capable of making independent investment decisions in general. In other cases, the institutional customer may have general capability, but may not be able to understand a particular type of instrument or its risk. This is more likely to arise with relatively new types of instruments, or those with significantly different risk or volatility characteristics than other investments generally made by the institution. If a customer is either generally not capable of evaluating investment risk or lacks sufficient capability to evaluate the particular product, the scope of a member's customer-specific obligations under the suitability rule would not be diminished by the fact that the member was dealing with an institutional customer. On the other hand, the fact that a customer initially needed help understanding a potential investment need not necessarily imply that the customer did not ultimately develop an understanding and make an independent investment decision.

A member may conclude that a customer intends to exercise independent judgment if the customer's investment decision will be based on its own independent assessment of the opportunities and risks presented by a potential investment, market factors and other investment considerations. Where the broker-dealer has reasonable grounds for concluding that the institutional customer is making independent investment decisions and is capable of independently evaluating investment risk, then a member's obligation to determine that a recommendation is suitable for a particular customer is fulfilled.[3] *Where a customer has delegated decision-making authority to an agent, such as an investment advisor or a bank trust*

[1] *Rules for municipal securities are promulgated by the Municipal Securities Rulemaking Board.*

[2] *This Interpretation does not address the obligation related to suitability that requires that a member have ''* * * a 'reasonable basis' to believe that the recommendation could be suitable for at least some customers.'' In the Matter of the Application of F.J. Kaufman and Company of Virginia and Frederick J. Kaufman, Jr., 50 SEC 164 (1989).*

[3] *See, note 2.*

department, this Interpretation shall be applied to the agent.

A determination of capability to evaluate investment risk independently will depend on an examination of the customer's capability to make its own investment decisions, including the resources available to the customer to make informed decisions. Relevant considerations could include:

- *the use of one or more consultants, investment advisers or bank trust departments;*
- *the general level of experience of the institutional customer in financial markets and specific experience with the type of instruments under consideration;*
- *the customer's ability to understand the economic features of the security involved;*
- *the customer's ability to independently evaluate how market developments would affect the security; and*
- *the complexity of the security or securities involved.*

A determination that a customer is making independent investment decisions will depend on the nature of the relationship that exists between the member and the customer. Relevant considerations could include:

- *any written or oral understanding that exists between the member and the customer regarding the nature of the relationship between the member and the customer and the services to be rendered by the member;*
- *the presence or absence of a pattern of acceptance of the member's recommendations;*
- *the use by the customer of ideas, suggestions, market views and information obtained from other members or market professionals, particularly those relating to the same type of securities; and*
- *the extent to which the member has received from the customer current comprehensive portfolio information in connection with discussing recommended transactions or has not been provided important information regarding its portfolio or investment objectives.*

Members are reminded that these factors are merely guidelines which will be utilized to determine whether a member has fulfilled its suitability obligations with respect to a specific institutional customer transaction and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability. Such a determination can only be made on a case-by-case basis taking into consideration all the facts and circumstances of a particular member/customer relationship, assessed in the context of a particular transaction.

For purposes of this Interpretation, an institutional customer shall be any entity other than a natural person. In determining the applicability of this Interpretation to an institutional customer, the NASD will consider the dollar value of the securities that the institutional customer has in its portfolio and/or under management. While this Interpretation is potentially applicable to any institutional customer, the guidance contained herein is more appropriately applied to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management.

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Sec. 3.–20. No change.

Books and Records

Sec. 21.

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Marking of Customer Order Tickets

(b) (i) A person associated with a member shall indicate on the memorandum for the sale of any security whether the order is ''long'' or ''short,'' except that this requirement shall not apply to transactions in [corporate] debt securities. An order may be marked ''long'' if (1) the customer's account is long the security involved or (2) the customer owns the security and agrees to deliver the security as soon as possible without undue inconvenience or expense.

(ii) No change.

Customer Account Information

(c) Each member shall maintain accounts opened after January 1, 1991 as follows:

(1)–(2) No change.

(3) for discretionary accounts, in addition to compliance with subsections (1) and (2) above, and Article III, Section 15(b) of these rules, the member shall:

(i) obtain the signature of each person authorized to exercise discretion in the account;[and]

(ii) record the date such discretion is granted[.]*; and*

(iii) *in connection with exempted securities other than municipals, record the age or approximate age of the customer.*

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Sec. 22.–24. No change.

Dealing with Non-Members

Sec. 25. (a) No member shall deal with any non-member broker or dealer except at the same prices, for the same commissions or fees, and on the same terms and conditions as are by such member accorded to the general public.

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• • • Interpretation of the Board of Governors

Transactions Between Members and Non-Members

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2. Transactions in ''Exempted Securities''

[Section 4 of Article I of the Rules of Fair Practice provides that the Rules shall not apply to transactions, whether between members or between members and non-members, in] *Section 25 of Article III of the Rules of Fair Practice shall not apply to* ''exempted securities,'' which are defined by Section 3(a)(12) of the Securities Exchange Act of 1934 as follows:

Text of § 3(a)(12) of '34 Act

''The term 'exempted security' or 'exempted securities' shall include securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instrumentality of one or more States; and such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems necessary or appropriate in the public interest, or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities'.''

[The rules] *Section 25 of Article III of the Rules of Fair Practice* therefore do*es* not apply to transactions in government or municipal securities if within the definition of ''exempted securities.'' Members may join with non-members or with banks in a joint account, syndicate or group to purchase and distribute an issue of ''exempted securities'' and may trade such securities with non-members or with banks at different prices or on

different terms and conditions than are accorded to members of the general public.

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Sec. 26.–34. No change.

Communications With the Public

Sec. 35.

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(c) Filing Requirements and Review Procedures

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(3)(C) Except for advertisements related to *exempted securities (as defined in Section 3 (a)(12) of the Securities Exchange Act of 1934),* municipal securities, direct participation programs or investment company securities, members subject to the requirements of subparagraphs (c)(3)(A) or (c)(3)(B) of this section may, in lieu of filing with the Association, file advertisements on the same basis, and for the same time periods specified in those subparagraphs, with any registered securities exchange having standards comparable to those contained in this section.

(4) No change.

(5) In addition to the foregoing requirements, every member's advertising and sales literature shall be subject to a routine spot-check procedure. Upon written request from the Association's Advertising Department, each member shall promptly submit the material requested. Members will not be required to submit material under this procedure which has been previously submitted pursuant to one of the foregoing requirements and, except for material related to *exempted securities (as defined in Section 3(a)(12) of the Securities Exchange Act of 1934),* municipal securities, direct participation programs or investment company securities, the procedure will not be applied to members who have been, within the NASD's current examination cycle subjected to a spot-check by a registered securities exchange or other self-regulatory organization using procedures comparable to those used by the Association.

(6) No change.

(7) Material which refers to investment company securities or direct participation programs, or *exempted securities (as defined in Sections 3(a)(12) of the Securities Exchange Act of 1934)* solely as part of a listing of products and/or services offered by the member, is excluded from the requirements of paragraphs (c)(1) and (c)(2) of this section.

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Sec. 36.–37. No change.

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Regulation of Activities of Members Experiencing Financial and/or Operational Difficulties

Sec. 38. (a) Application—For the purposes of this rule, the term ''member'' shall be limited to any member of the Association who is not designated to another self-regulatory organization by the Securities and Exchange Commission for financial responsibility pursuant to Section 17 of the Securities Exchange Act of 1934 and Rule 17d–1 thereunder. Further, the term shall not be applicable to any member who is subject to paragraphs (a)(2)*(iv), (a)(2)(v) or (a)(2)(vi)* [and (a)(3)] of SEC Rule 15c3–1, *or is subject to Article III, Section 38A of the Rules of Fair Practice,* or is otherwise exempt from the provisions of said rule.

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Regulation of Activities of Section 15C Members Experiencing Financial and/or Operational Difficulties

Sec. 38A. (a) Application—For the purposes of this rule, the term ''member'' shall be limited to any member of the Association registered with the Securities and Exchange Commission pursuant to Section 15C of the Securities and Exchange Act of 1934 that is not designated to another self-regulatory organization by the Securities and Exchange Commission for financial responsibility pursuant to Section 17 of the Securities Exchange Act of 1934 and Rule 17d–1 thereunder. Further, the term shall not be applicable to any member that is subject to Section 402.2(c) of the rules of the Treasury Department, or is otherwise exempt from the provisions of said rule.

(b) A member, when so directed by the Association, shall not expand its business during any period in which:

(1) Any of the following conditions continue to exist, or have existed, for more than fifteen (15) consecutive business days:

(A) A firm's liquid capital is less than 150 percent of the total haircuts or such greater percentage thereof as may from time to time be prescribed by the Association.

(B) A firm's liquid capital minus total haircuts is less than 150 percent of its minimum dollar capital requirement.

(C) The deduction of ownership equity and maturities of subordinated debt scheduled during the next six months would result in any one of the conditions described in (A) or (B) of this subparagraph (1).

(2) The Association restricts the member for any other financial or operational reason.

(c) A member, when so directed by the Association, shall forthwith reduce its business:

(1) To a point enabling its available capital to comply with the standards set forth in subparagraphs (b)(1) (A), (B), or (C) of this rule if any of the following conditions continue to exist, or have existed, for more than fifteen (15) consecutive business days:

(A) A firm's liquid capital is less than 125 percent of total haircuts or such greater percentage thereof as may from time to time be prescribed by the Association.

(B) A firm's liquid capital minus total haircuts is less than 125 percent of its minimum dollar capital requirement.

(C) The deduction of ownership equity and maturities of subordinated debt scheduled during the next six months would result in any one of the conditions described in (A) or (B) of this subparagraph (1).

(2) As required by the Association when it restricts a member for any other financial or operational reason.

• • • Explanation of the Board of Governors

Restrictions on a Member's Activity

This explanation outlines and discusses some of the financial and operational deficiencies which could initiate action under the rule. Subparagraphs (b)(2) and (c)(2) of [the rule] *Sections 38 and 38A* recognize that there are various unstated financial and operational reasons for which the Association may impose restrictions on a member so as to prohibit its expansion or to require a reduction in overall level of business. These provisions are deemed necessary in order to provide for the variety of situations and practices which do arise and, which if allowed to persist, could result in increased exposure to customers and to broker-dealers.

In the opinion of the Board of Governors, it would be impractical and unwise to attempt to identify and list all of the situations and practices which might lead to the imposition of restrictions or the types of remedial actions the Corporation may direct be taken because they are numerous and cannot be totally identified or specified with any degree or precision. The Board believes, however, that it would be helpful to members' understanding to list some of the other bases upon which the Corporation may conclude that a member is in or approaching financial difficulty.

• • • Explanation of Board of Governors

Explanation

(*a*) For purposes of subparagraphs (b)(2) and (c)(2) of [the rule] *Section 38,* a member may be considered to be in or approaching financial or operational difficulty in conducting its operations and therefore subject to restrictions if it is determined by the Corporation that any of the parameters specified therein are exceeded or one or more of the following conditions exist:

(1) The member has experienced a reduction in excess net capital of 25% in the preceding two months or 30% or more in the three-month period immediately preceding such computation.

(2) The member has experienced a substantial change in the manner in which it processes its business which, in the view of the Corporation, increases the potential risk of loss to customers and members.

(3) The member's books and records are not maintained in accordance with the provisions of SEC Rules 17a–3 and 17a–4.

(4) The member is not in compliance, or is unable to demonstrate compliance, with applicable net capital requirements.

(5) The member is not in compliance, or is unable to demonstrate compliance, with SEC Rule 15c3–3 (Customer Protection Reserves and Custody of Securities).

(6) The member is unable to clear and settle transactions promptly.

(7) The member's overall business operations are in such a condition, given the nature and kind of its business that, notwithstanding the absence of any of the conditions enumerated in subparagraphs (1) through (6), a determination of financial or operational difficulty should be made, or

(8) The member is registered as a Futures Commission Merchant and its net capital is less than 7% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder.

(b) For purposes of subparagraphs (b)(2) and (c)(2) of Section 38A, a member may be considered to be in or approaching financial or operational difficulty in conducting its operations and therefore subject to restrictions if it is determined by the Corporation that any of the parameters specified therein are exceeded or one or more of the following conditions exist:

(1) The member has experienced significant reduction in excess liquid capital in the preceding month or in the three-month period immediately preceding such computation.

(2) The member has experienced a substantial change in the manner in which it processes its business which, in the view of the Corporation, increases the potential risk of loss to customers and members.

(3) The member's books and records are not maintained in accordance with the provisions of Section 404.2 of the Treasury Department rules.

(4) The member is not in compliance, or is unable to demonstrate compliance, with applicable capital requirements of Section 402 of the Treasury Department rules.

(5) The member is not in compliance, or is unable to demonstrate compliance, with Section 403.4 of the Treasury Department rules (Customer Protection—Reserve and Custody of Securities).

(6) The member is unable to clear and settle transactions promptly.

(7) The member's overall business operations are in such a condition, given the nature and kind of its business that, notwithstanding the absence of any of the conditions enumerated in subparagraphs (1) through (6), a determination of financial or operational difficulty should be made.

(8) The member is registered as a Futures Commission Merchant and its net capital is less than required by Section 402.1(d) of the Treasury Department rules.

([b]*c*) If the Corporation determines that any of the conditions specified in subparagraphs (a) *or (b*) of this Explanation exist, it may require that the member take appropriate action by effecting one or more of the following actions until such time as the Corporation determines they are no longer required:

(1) Promptly pay all free credit balances to customers.

(2) Promptly effect delivery to customers of all fully-paid securities in the member's possession or control.

(3) Introduce all or a portion of its business to another member on a fully-disclosed basis.

(4) Reduce the size or modify the composition of its inventory.

(5) Postpone the opening of new branch offices or require the closing of one or more existing branch offices.

(6) Promptly cease making unsecured loans, advances or other similar receivables, and, as necessary, collect all such loans, advances or receivables where practicable.

(7) Accept no new customer accounts.

(8) Undertake an immediate audit by an independent public accountant at the member's expense.

(9) Restrict the payment of salaries or other sums to partners, officers, directors, shareholders, or associated persons of the member.

(10) Effect liquidating transactions only.

(11) Accept unsolicited customer orders only.

(12) File special financial and operating reports and/or

(13) Be subject to such other restrictions or take such other action as the Corporation deems appropriate under the circumstances in the public interest and for the protection of members.

Approval of Change in Exempt Status Under SEC Rule 15c3–3

Sec. 39. (a) Application—For the purposes of this section, the term ''member'' shall be limited to any member of the Association who is *subject to SEC Rule 15c3–3 and is* not designated to another self-regulatory organization by the Securities and Exchange Commission for financial responsibility pursuant to Section 17 of the Securities Exchange Act of 1934 and Rule 17d-1 promulgated thereunder. *Further, the term shall not be applicable to any member that is subject to Section 402.2(c) of the rules of the Treasury Department.*

(b) A member operating pursuant to any exemptive provision as contained in subparagraph (k) of SEC Rule 15c3–3 under the Securities Exchange Act of 1934 (''Rule 15c3–3''), shall not change its method of doing business in a manner which will change its exemptive status from that governed by subparagraph (k)(1) or (k)(2)([b]*ii*) to that governed by subparagraph (k)(2)([a]*i*); or from subparagraph (k)(1), (k)(2)([a]*i*) or (k)(2)([b]*ii*) to a fully computing firm that is subject to all provisions of Rule 15c3–3; or commence operations that will disqualify it for continued exemption under Rule 15c3–3 without first having obtained the prior written approval of the Association.

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Sec. 40.–49. No change.

Article IV

Complaints

Sec. 1. No change.

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Complaints by Public against Members for Violations of Rules

Sec. 2. Any person feeling aggrieved by any act, practice or omission of any member or any person associated with a member of the Corporation, which such person believes to be in violation of *the Securities Exchange Act of 1934,*

the rules and regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or any of the Rules of Fair Practice of the Corporation, may, on the form to be supplied by the Board of Governors, file a complaint against such member or such persons associated with a member in regard thereto with any District Business Conduct Committee of the Corporation, and any such complaint shall be handled in accordance with the Code of Procedure of the Corporation.

Complaints by District Business Conduct Committees

Sec. 3. Any District Business Conduct Committee which, on information and belief, is of the opinion that any act, practice, or omission of any member of the Corporation or any person associated with a member is in violation of *the Securities Exchange Act of 1934, the rules and regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or* any of the Rules of Fair Practice of the Corporation, may, on the form to be supplied by the Board of Governors, file a complaint against such member or such person associated with a member in regard thereto with itself or with any other District Business Conduct Committee of the Corporation, as the necessities of the complaint may require, and any such complaint shall be handled in accordance with the Code of Procedure and in the same manner as if it had been filed by an individual or member.

Complaints by the Board of Governors

Sec. 4. The Board of Governors shall have authority when on the basis of information and belief it is of the opinion that any act, practice or omission of any member of the Corporation or of any person associated with a member is in violation of *the Securities Exchange Act of 1934, the rules and regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or* any rule of fair practice of the Corporation to file a complaint against such member of such person associated with a member in respect thereto or to instruct any District Business Conduct Committee to do so, and any such complaint shall be handled in accordance with the Code of Procedure.

Article V

Sanctions for Violation of the Rules

Sec. 1. Any District Business Conduct Committee, Market Surveillance Committee, the National Business Conduct Committee, any other committee exercising powers assigned by the Board, or the Board in the administration and enforcement of the[se Rules,] *Securities Exchange Act of 1934, the rules and regulations thereunder, or the rules of the Municipal Securities Rulemaking Board, or any of the Rules of Fair Practice,* and after compliance with the Code of Procedure, may (1) censure any member or person associated with a member, and/or (2) impose a fine upon any member or person associated with a member, and/or (3) suspend the membership of any member or suspend the registration of a person associated with a member, if any, for a definite period, and/or for a period contingent on the performance of a particular act, and/or (4) expel any member or revoke the registration of any person associated with a member, if any, and/or (5) suspend or bar a member or person associated with a member from association with all members, and/or (6) impose any other fitting sanction deemed appropriate under the circumstances, for each or any violation of any of these Rules by a member or person associated with a member or for any neglect or refusal to comply with any orders, directions or decisions issued by any such committee or by the Board in the enforcement of these Rules, including any interpretative ruling made by the Board, as any such committee or the Board, in its discretion, may deem to be just; provided, however, that no such sanction imposed by any such committee shall take effect until the period for appeal therefrom or review thereof by the National Business Conduct Committee or the Board, as applicable, has expired and any such appeal or review has been completed in accordance with the Code or Procedure; and provided, further, that all parties to any proceeding resulting in a sanction shall be deemed to have assented to or to have acquiesced in the imposition of such sanction unless any party aggrieved thereby shall have made application for review thereof pursuant to the Code of Procedure, within fifteen (15) days after the date of the decision rendered in such proceeding.

* * * * *

Article VI

No change.

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[GOVERNMENT SECURITIES RULES]

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[Government Securities Rules]

[Adoption of Rules]

[Sec. 1. The following provisions are adopted pursuant to Article VII, Section 1(a)(8) of the NASD By-Laws and Section 15A(f)(2) of the Securities Exchange Act of 1934.]

[Applicability]

[Sec. 2. (a) These rules shall apply to the government securities business of all members and persons associated with a member in order to implement and enforce the provision of the Securities Exchange Act of 1934 and the rules promulgated thereunder including the rules of the Treasury Department. Unless otherwise indicated herein, the requirements of these rules are in addition to those contained in the Rules of Fair Practice for members that are subject to the provisions of the Rules of Fair Practice. Persons associated with a member shall have the same duties and obligations as a member under these rules.]

[(b) A member or person associated with a member, who has been expelled, cancelled, or revoked from membership or from registration or who has been barred from being associated with all members, shall cease to have any privileges of membership or registration. A member or person associated with a member who has been suspended from membership or registration shall also cease to have any privileges of membership or registration other than those under the Code of Procedure or insurance programs sponsored by the

Corporation. In neither case shall such a member or person associated with a member be entitled to recover any admission fees, dues, assessments, or other charges paid to the Corporation.]

[(c) A member or person associated with a member who has been suspended from membership or from registration shall have all of the obligations imposed by the By-Laws, these rules, and other regulations of the Corporation.]

[Definitions in By-Laws and Rules of Fair Practice]

[Sec. 3. Unless the context otherwise requires, or unless defined in these rules, terms used in the rules and provisions hereby adopted, if defined in the By-Laws or Rules of Fair Practice shall have the meaning as defined therein.]

[Books and Records]

[Sec. 4.]

[Requirements]

[(a) Each member shall keep and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated thereunder and with the rules of this Association.]

[Information on accounts]

[(b) Each member shall maintain accounts of customers in such form and manner as to show the following information: name, address, and whether the customer is legally of age; signature of the registered representative introducing the accounts and signature of the member or the partner, officer, or manager accepting the account for the member. If the customer is associated with or employed by another member, this fact must be noted. In discretionary accounts, the member shall also record the age or approximate age and occupation of the customer as well as the signature of each person authorized to exercise discretion in such account.]

[Record of written complaints]

[(c) Each member shall keep and preserve either a separate file of all written complaints of customers and action taken by the member, if any, or a separate record of such complaints and a clear reference to the files containing the correspondence connected with such complaint.]

[''Complaint'' defined]

[(d) A ''complaint'' shall be deemed to mean any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of those persons under the control of the member in connection with the solicitation or execution of any transaction or the disposition of securities or funds of that customer.]

[Supervision]

[Sec. 5.]

[Written procedures]

[(a) Each member shall establish, maintain, and enforce written procedures that will enable it to supervise properly the activities of each registered representative and associated person to ensure compliance with the applicable provisions of the Securities Exchange Act of 1934, rules, regulations, and statements of policy promulgated thereunder including the rules of the Treasury Department, and with the applicable rules of this Association.]

[Responsibility of member]

[(b) Final responsibility for proper supervision shall rest with the member. The member shall designate a partner, officer, or manager to carry out the written supervisory procedures. A copy of such procedures shall be kept in each office of the member.]

[Eligibility investigated]

[(c) Each member shall have the responsibility and the duty to ascertain by investigation the absence of any statutory disqualification as that term is defined under Section 3(a)(39) or 15C(c) of the Securities Exchange Act of 1934 and that any application for registration by an associated person is complete and accurate.]

[Regulation of Activities of Members Experiencing Financial and/or Operational Difficulties]

[Sec. 6. (a) Application—For the purposes of this rule, the term ''member'' shall be limited to any member of the Association registered with the Securities and Exchange Commission pursuant to Section 15C of the Securities Exchange Act of 1934 that is not designated to another self-regulatory organization by the Securities and Exchange Commission for financial responsibility pursuant to Section 17 of the Securities Exchange Act of 1934 and Rule 17d–1 thereunder. Further, the term shall not be applicable to any member that is subject to Section 402.2(c) of the rules of the Treasury Department.]

[(b) A member, when so directed by the Association, shall not expand its business during any period in which:]

[(1) Any of the following conditions continue to exist, or have existed, for more than fifteen (15) consecutive business days:]

[(A) A firm's liquid capital is less than 150 percent of the total haircuts or such greater percentage thereof as may from time to time be prescribed by the Association.]

[(B) A firm's liquid capital minus total haircuts is less than 150 percent of its minimum dollar capital requirement.]

[(C) The deduction of ownership equity and maturities of subordinated debt scheduled during the next six months would result in any one of the conditions described in (A) or (B) of this subparagraph (1).]

[(2) The Association restricts the member for any other financial or operational reason.]

[(c) A member, when so directed by the Association, shall forthwith reduce its business:]

[(1) To a point enabling its available capital to comply with the standards set forth in subparagraphs (b)(1)(A), (B), or (C) of this rule if any of the following conditions continue to exist, or have existed, for more than fifteen (15) consecutive business days:]

[(A) A firm's liquid capital is less than 125 percent of total haircuts or such greater percentage thereof as may from time to time be prescribed by the Association.]

[(B) A firm's liquid capital minus total haircuts is less than 125 percent of its minimum dollar capital requirement.]

[(C) The deduction of ownership equity and maturities of subordinated debt scheduled during the next six months would result in any one of the conditions described in (A) or (B) of this subparagraph (1).]

[(2) As required by the Association when it restricts a member for any other financial or operational reason.]

[• • • Explanation of the Board of Governors]

[Restrictions on a Member's Activity]

[This explanation outlines and discusses some of the financial and operational deficiencies which could initiate actions under the rule. Subparagraphs (b)(2) and (c)(2) of the rule recognize that there are various unstated financial and operational reasons for which the Association may impose restrictions on a member so as to prohibit its expansion or to require a reduction in overall level of business. These provisions are deemed necessary in order to provide for the variety of situations and practices which do arise and, which if allowed to persist, could result in increased exposure to customers and to broker-dealers.]

[In the opinion of the Board of Governors, it would be impractical and

unwise to attempt to identify and list all of the situations and practices that might lead to the imposition of restrictions or the types of remedial actions the Corporation may direct be taken because they are numerous and cannot be totally identified or specified with any degree of precision. The Board believes, however, that it would be helpful to members' understanding to list some of the other bases upon which the Corporation may conclude that a member is in or approaching financial difficulty.]

[(a) For purposes of subparagraphs (b)(2) and (c)(2) of the rule, a member may be considered to be in or approaching financial or operational difficulty in conducting its operations and therefore subject to restrictions if it is determined by the Corporation that any of the parameters specified therein are exceeded or one or more of the following conditions exist:]

[(1) The member has experienced significant reduction in excess liquid capital in the preceding month or in the three-month period immediately preceding such computation.]

[(2) The member has experienced a substantial change in the manner in which it processes it business which, in the view of the Corporation, increases the potential risk of loss to customers and members.]

[(3) The member's books and records are not maintained in accordance with the provisions of Section 404.2 of the Treasury Department rules.]

[(4) The member is not in compliance, or is unable to demonstrate compliance, with applicable capital requirements of Section 402 of the Treasury Department rules.]

[(5) The member is not incompliance, or is unable to demonstrate compliance, with Section 403.4 of the Treasury Department rules (Customer Protection—Reserve and Custody of Securities).]

[(6) The member is unable to clear and settle transactions promptly.]

[(7) The member's overall business operations are in such a condition, given the nature and kind of its business that, notwithstanding the absence of any of the conditions enumerated in subparagraphs (1) through (6), a determination of financial or operational difficulty should be made.]

[(8) The member is registered as a Futures Commission Merchant and its net capital is less than required by Section 402.1(d) of the Treasury Department rules.]

[(b) If the Corporation determines that any of the conditions specified in subparagraph (a) of this Explanation exists, it may require that the member take appropriate action by effecting one or more of the following actions until such time as the Corporation determines they are no longer required:]

[(1) Promptly pay all fee credit balances to customers.]

[(2) Promptly effect delivery to customers of all fully paid securities in the member's possession or control.]

[(3) Introduce all or a portion of its business to another member on a fully disclosed basis.]

[(4) Reduce the size or modify the composition of its inventory.]

[(5) Postpone the opening of new branch offices or require the closing of one or more existing branch offices.]

[(6) Promptly cease making unsecured loans, advances, or other similar receivables, and, as necessary, collect all such loans, advances, or receivables where practicable.]

[(7) Accept no new customer accounts.]

[(8) Undertake an immediate audit by an independent public accountant at the member's expense.]

[(9) Restrict the payment of salaries or other sums to partners, officers, directors, shareholders, or associated persons of the member.]

[(10) Effect liquidating transactions only.]

[(11) Accept unsolicited customer orders only.]

[(12) File special financial and operating reports.]

[(13) Be subject to such other restrictions or take such other actions as the Corporation deems appropriate under the circumstances in the public interest and for the protection of members.]

[Approval of Change in Exempt Status Under SEC Rule 15c3–3]

[Sec. 7. (a) Application—For the purposes of this rule, the term ''member'' shall be limited to any member of the Association that is not designated to another self-regulatory organization by the Securities and Exchange Commission for financial responsibility pursuant to Section 17 of the Securities Exchange Act of 1934 and Rule 17d-1 thereunder. Further, the term shall not be applicable to any member that is subject to Section 402.2(c) of the rules of the Treasury Department.]

[(b) A member operating pursuant to any exemptive provision as contained in subparagraph (k) of SEC Rule 15c3–3 under the Securities Exchange Act of 1934 (Rule 15c3–3), shall not change its method of doing business in a manner that will change its exemptive status from that governed by subparagraph (k)(1) or (k)(2)(ii) to that governed by subparagraph (k)(2)(i); or from subparagraph (k)(2)(i) to that governed by subparagraph (k)(1), (k)(2)(i), or (k)(2)(ii) to a fully computing firm that is subject to all provisions of Rule 15c3–3; or commence operations that will disqualify it for continued exemption under Rule 15c3–3 without first having obtained the prior written approval of the Association.]

[(c) In making the determination as to whether to approve or to deny in whole or in part an application made pursuant to subsection (b), the Association staff shall consider, among other things, the type of business in which the member is engaged, the training, and experience, of persons associated with the member, the member's procedures for safeguarding customer funds and securities, the member's overall financial and operational condition and any other information deemed relevant in the particular circumstances and the time these measures would remain in effect.]

[Communications With the Public]

[Sec. 8]

[(a) Definitions]

[(1) Advertisement—For purposes of this section and any interpretation thereof, ''advertisement'' means material published, or designed for use in, a newspaper, magazine, or other periodical, radio, television, telephone or tape recording, videotape display, signs or billboards, motion pictures, telephone directories (other than routine listings), or other public media.]

[(2) Sales Literature—For purposes of this section and any interpretation thereof, ''sales literature'' means any written communication distributed or made generally available to customers or the public that does not meet the foregoing definition of ''advertisement.'' Sales literature includes, but is not limited to, circulars, research reports, market letters, performance reports or summaries, form letters, standard forms of option worksheets, seminar texts, and reprints or excerpts of any other advertisement, sales literature, or published article.]

[(b) Approval and Recording]

[(1) Each item of advertising and sales literature shall be approved by signature or initial, prior to use, by a registered principal (or designee) of the member.]

[(2) A separate file of all advertisements and sales literature, including the name(s) of the person(s) who prepared them and/or approved their use, shall be maintained for a period of three years from the date of each use.]

[(c) Filing Requirements and Review Procedures]

[(1) Members shall file advertisements for review with Association's Advertising Regulation Department as follows:]

[(A) Advertisements concerning government securities (as defined in Section 3(a)(42) of the Securities Exchange Act of 1934) other than collateralized mortgage obligations shall be filed by members with the Association's Advertising Department for review within 10 days of first use or publication; and]

[(B) advertisements concerning collateralized mortgage obligations shall be filed with the Association's Advertising Regulation Department for review at least 10 days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changed or expressly disapproved by the Association, shall be withheld from publication or circulation until any changes specified by the Association have been made or, in the event of disapproval, until the advertisement has been refiled for, and has received, Association approval.]

[(2) Each member of the Association that has not previously filed advertisements with the Association shall file its initial advertisement concerning government securities with the Association's Advertising Department at least 10 days prior to use and shall continue to file its advertisements concerning government securities at least 10 days prior to use for a period of one year.]

[(3) Notwithstanding the foregoing provisions, any District Business Conduct Committee of the Association, upon review of a member's government securities advertising and/or sales literature, and after determining that the member will again depart from the standards of this section, may require that such member file all government securities advertising and/or sales literature, or the portion of such member's material that is related to any specific types or classes of securities or services, with the Association's Advertising Department and/or the District Committee, at least 10 days prior to use.]

[The Committee shall notify the member in writing of the types of material to be filed and the length of time such requirement is to be in effect. The requirement shall not exceed one year, however, and shall not take effect until 30 days after the member receives the written notice, during which time the member may request a hearing before the District Business Conduct Committee, and any such hearing shall be held in reasonable conformity with the hearing and appeal procedures of the Code of Procedure.]

[(4) In addition to the foregoing requirements, every member's government securities advertising and sales literature shall be subject to a routine spot-check procedure. Upon written request from the Association's Advertising Department, each member shall promptly submit the material requested. Members will not be required to submit material under this procedure that has been previously submitted pursuant to one of the foregoing requirements.]

[(5) The following types of material are excluded from the foregoing filing requirements and spot-check procedure:]

[(A) Advertisements of sales literature solely related to changes in a member's name, personnel, location, ownership, offices, business structure, officers or partners, telephone or teletype numbers, or concerning a merger with, or acquisition by, another member;]

[(B) Advertisements or sales literature that do no more than identify the member and/or offer a specific security at a stated price;]

[(C) Material sent to branch offices or other internal material that is not distributed to the public;]

[(6) Material that refers to government securities solely as part of a listing products and/or services offered by the member, is excluded from the requirements of paragraph (c)(1) of this section.]

[(d) Standards Applicable to Communications With the Public]

[(1) General Standards]

[(A) All member communications with the public shall be based on principles of fair dealing and good faith and should provide a sound basis for evaluating the facts in regard to any particular security or securities or type of security, industry discussed, or service offered. No material fact or qualification may be omitted if the omission, in light of the context of the material presented, would cause the advertising or sales literature to be misleading.]

[(B) Exaggerated, unwarranted, or misleading statements or claims are prohibited in all public communications of members. In preparing such literature, members must bear in mind that inherent in investment are the risks of fluctuating prices and the uncertainty of dividends, rates of return, and yield, and no member shall, directly or indirectly publish, circulate, or distribute any public communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.]

[(C) When sponsoring or participating in a seminar, forum, radio, or television interview, or when otherwise engaged in public appearances or speaking activities that may not constitute advertisements, members and persons associated with members shall nevertheless follow the standards of paragraph (d) of this section.]

[(2) Specific Standards]

[In addition to the foregoing general standards, the following specific standards apply:]

[(A) Necessary Data: Advertisements and sales literature shall contain the name of the member, the person or firm preparing the material, if other than the member, and the date on which it is first published, circulated, or distributed (except that, in advertisements, only the name of the member need be stated; and except also that, in any so-called ''blind'' advertisement used for recruiting personnel, the name of the member may be omitted). If the information in the material is not current, this fact should be stated.]

[(B) Recommendations: In making a recommendation, whether or not labeled as such, a member must have a reasonable basis for the recommendation made and must disclose the price at the time the recommendation is made, as well as any of the following situations which are applicable:]

[(i) that the member usually makes a market in the securities being recommended, or in the underlying security if the recommended security is an option, and/or that the member or associated persons will sell to or buy from customers on a principal basis;]

[(ii) that the member and/or its officers or partners own options, rights, or warrants to purchase any of the securities of the issuer whose securities are recommended, unless the extent of such ownership is nominal;]

[(iii) that the member was manager or co-manager of a public offering of any securities of the recommended issuer within the last three years.]

[The member shall also provide, or offer to furnish upon request, available investment information supporting the recommendation.]

[A member may use material referring to past recommendations if it sets forth all recommendations as to the same type, kind, grade, or classification of securities made by a member within the

last year. More years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation, the price at which or the price range within which the recommendations was to be acted upon, and the general market conditions during the period covered.]

[Also permitted is material that does not make any specific recommendation but offers to furnish a list of all recommendations made by a member within the past year or over more consecutive years, including the most recent year, if this list contains all the information specified in the previous paragraph. Neither the list of recommendations, nor material offering such list, shall imply comparable future performance. Reference to the results of a previous specific recommendation, including such a reference in a follow-up research report or market letter, is prohibited if the intent or the effect is to show the success of a past recommendation, unless all of the foregoing requirements with respect to past recommendations are met.]

[(C) Claims and Opinions: Communications with the public must not contain promises of specific results, exaggerated, or unwarranted claims or unwarranted superlatives, opinions for which there is no reasonable basis, or forecasts of future events that are unwarranted or that are not clearly labeled as forecasts.]

[(D) Testimonials: In testimonials concerning the quality of a firm's investment advice, the following points must be clearly stated in the communication:]

[(i) the testimonial may not be representative of the experience of other clients;]

[(ii) the testimonial is not indicative of future performance or success;]

[(iii) if more than a nominal sum is paid, the fact that it is a paid testimonial must be indicated;]

[(iv) if the testimonial concerns a technical aspect of investing, the person making the testimonial must have knowledge and experience to form a valid opinion.]

[(E) Offers of Free Service: Any statement to the effect that any report, analysis, or other service will be furnished free or without any charge must not be made unless such report, analysis, or other service actually is or will be furnished entirely free and without condition or obligation.]

[(F) Claims for Research Facilities: No claim or implication may be made for research or other facilities beyond those that the member actually possesses or has reasonable capacity to provide.]

[(G) Hedge Clauses: No cautionary statements or caveats, often called ''hedge clauses,'' may be used if they are misleading or inconsistent with the content of the material.]

[(H) Recruiting Advertising: Advertisements in connection with the recruitment of sales personnel must not contain exaggerated or unwarranted claims or statements about opportunities in the investment banking or securities business and should not refer to specific earnings figures or ranges that are not reasonable under the circumstances.]

[(I) Periodic Investment Plans: Communications with the public should not discuss or portray any type of continuous or periodic investment plan without disclosing that such a plan does not assure a profit and does not protect against loss in declining markets. In addition, if the material deals specifically with the principles of dollar cost averaging, it should point out that since such a plan involves continuous investment in securities regardless of fluctuating price levels of such securities, the investor should consider his financial ability to continue his purchases through periods of low price levels.]

[(J) References to Regulatory Organizations: Communications with the public shall not make any reference to membership in the Association or to registration or regulation of the securities being offered, or of the underwriter, sponsor, or any member or associated person, that could imply endorsement or approval by the Association or any federal or state regulatory body.]

[References to membership in the Association or the Securities Investor Protection Corporation shall comply with all applicable by-laws and rules pertaining thereto].

[(K) Identification of Sources: Statistical tables, charts, graphs, or other illustrations used by members in advertising or sales literature should disclose the source of the information if not prepared by the member.]

[Availability to Customers of Certificate, By-Laws, Rules, and Code of Procedure]

[Sec. 9. Every member of the Corporation shall keep in each office maintained by him, in the form to be supplied by the Board of Governors, a copy of the Certificate of Incorporation, By-Laws, Government Securities Rules, and Code of Procedure of the Corporation, and of all additions and amendments from time to time made thereto, and of all interpretative rulings made by the Board of Governors, all of which shall be available for the examination of any customer who makes requests therefore.]

[Complaints]

[Sec. 10.]

[Complaints by public against members]

[(a) Any person feeling aggrieved by any act, practice, or omission of any member or any person associated with a member of the Corporation, which such person believes to be in violation of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules, may, on the form to be supplied by the Board of Governors, file a complaint against such member or such persons associated with a member in regard thereto with any District Business Conduct Committee of the Corporation, and any such complaint shall be handled in accordance with the Code of Procedure of the Corporation.]

[Complaints by District Business Conduct Committees]

[(b) Any District Business Conduct Committee which, on information and belief, is of the opinion that any act, practice, or omission of any member of the Corporation or any person associated with a member is in violation of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules may, on the form to be supplied by the Board of Governors, file a complaint against such member or such person associated with a member in regard thereto with itself or with any other District Business Conduct Committee of the Corporation, as the necessities of the complaint may require, and any such complaint shall be handled in accordance with the Code of Procedure and in the same manner as if it had been filed by an individual or member.]

[Complaints by the Board of Governors]

[(c) The Board of Governors shall have authority, when on the basis of information and belief, it is of the opinion that any act, practice, or omission of any member of the Corporation or of any person associated with a member is in violation of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules, to file a complaint against such member or such person

associated with a member in respect thereto or to instruct any District Business Conduct Committee to do so, and any such complaint shall be handled in accordance with the Code of Procedure.]

[Reports and Inspection of Books for Purpose of Investigating Complaints]

[Sec. 11. For the purpose of any investigation, or determination as to filing of a complaint, or any hearing of any complaint against any member of the Corporation or any person associated with a member made or held in accordance with the Code of Procedure, any District Business Conduct Committee, or the Board of Governors, or any duly authorized agent or agents of any such Committee or Board shall have the right to:]

[(1) require any member of the Corporation or person associated with a member to report orally or in writing with regard to any matter involved in any such investigation or hearing; and]

[(2) to investigate the books, records and accounts of any such member with relation to any matter involved in any such investigation or hearing.]

[No member or person associated with a member shall refuse to make any report as required in this Section, or refuse to permit any inspection of books, records, and accounts as may be validly called for under this Section.]

[Sanctions for violation of the Rules]

[Sec. 12. Any District Business Conduct Committee, Market Surveillance Committee, or the Board of Governors, in the administration and enforcement of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules, and after compliance with the Code of Procedure, may:]

[(1) censure any member or person associated with a member; and/or]

[(2) impose a fine upon any member or person associated with a member; and/or]

[(3) suspend the membership of any member or suspend the registration of a person associated with a member, if any, for a definite period; and/or]

[(4) expel any member or revoke the registration of any person associated with a member, if any; and/or]

[(5) suspend or bar a member or person associated with a member from association with all members; or]

[(6) impose any other fitting sanction deemed appropriate under the circumstances, for each or any violation of such provisions by a member or person associated with a member or for any neglect or refusal to comply with any orders, directions, or decisions issued by any District Business Conduct Committee, Market Surveillance Committee, or by the Board of Governors in the enforcement of these rules, including any interpretation made by the Board of Governors, as any such Committee or Board, in its discretion, may deem to be just;]

[provided, however, that no such sanction imposed by any District Business Conduct Committee or Market Surveillance Committee, shall take effect until the period for appeal therefrom or review has expired, as provided in Article III, Section 1 of the Code of Procedure; and provided, further, that all parties to any proceeding resulting in a sanction shall be deemed to have assented to or to have acquiesced in the imposition of such sanction unless any party aggrieved thereby shall have made application to the Board of Governors for review pursuant to the Code of Procedure, within fifteen (15) days after the date of such notice.]

[Sec. 13. All fines imposed pursuant to Section 12 of these rules shall be paid to the Treasurer of the Corporation and shall be used for the general corporate purposes. Any member that fails promptly to pay any fine imposed pursuant to Section 12 of these rules, or any costs imposed pursuant to Section 12 of these rules, or any costs imposed pursuant to Section 14 of these rules after such fine or costs have become finally due and payable, may after seven (7) days' notice in writing be summarily suspended or expelled from membership on the Corporation. A member may also be summarily suspended or expelled from membership in the Corporation if the member fails to immediately terminate the association of any person who fails to pay promptly any fine imposed pursuant to Section 12 of these rules or any costs imposed pursuant to Section 14 of these rules after such fine or costs have become finally due and payable after seven (7) days' notice in writing. The registration of a person associated with a member, if any, may be summarily revoked if such person fails to pay promptly any fine imposed pursuant to Section 12 of these rules, or any costs pursuant to Section 14 of these rules after such fine or costs have become finally due and payable after seven (7) days' notice in writing.]

[Cost of proceedings]

[Sec. 14. Any member or person associated with such member disciplined pursuant to Section 12 of these rules shall bear such part of the costs of the proceedings as the District Business Conduct Committee or the Board of Governors deems fair and appropriate in the circumstances.]

Code of Procedure

Article I

No change.

Article II

Disciplinary Actions by District Business Conduct Committees, the Market Surveillance Committee and Others

* * * * *

Acceptance, Waiver and Consent, Minor Rule Violations, and Summary Complaint Procedures

Sec. 10. A Committee, may, prior to issuance of a complaint under Section 1 of this Article, impose disciplinary penalties pursuant to the procedures set forth under this Section 10.

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Appendix

Violations Appropriate For Disposition Under The Minor Rule Violations Plan

* * * * *

- Article III, Subsections 35 (b) and (c) and 35A (b) and (c) of the Rules of Fair Practice [and Subsections 8 (b) and (c) of the Government Securities Rules]—Failure to have advertisements and sales literature approved by a principal prior to use, failure to maintain separate files of advertisements and sales literature containing required information, and failure to file advertisements with the Association within the required time limits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

Application of the Rules of Fair Practice to Exempted Securities Except Municipals and Merger of Government Securities Rules

The Government Securities Act Amendments of 1993 (''Government Securities Amendments'') were signed into law on December 13, 1993, and eliminated the statutory limitations on the NASD's authority to regulate the sales practices of exempted securities, including government securities transactions, other than municipals.[4]

In order to implement the expanded sales practice authority granted to the NASD pursuant to the Government Securities Amendments, the NASD is proposing to delete the NASD Government Securities Rules and apply the NASD Rules of Fair Practice, where applicable, to exempted securities, including government securities other than municipals.[5] The Government Securities Rules, therefore, are being deleted in their entirety and certain of these rules are proposed to be merged into the Rules of Fair Practice.

Set forth below is a description of the amendments proposed to the Rules of Fair Practice that would apply the Rules of Fair Practice to exempted securities (except municipals) and would merge certain provisions of the Government Securities Rules. This is followed by a chart depicting the applicability of the Rules of Fair Practice to transactions in exempted securities (except municipals).

Article I of the Rules of Fair Practice

Section 4. The NASD proposes to amend Article I, Section 4 of the Rules of Fair Practice to replace the term ''exempted'' with the term ''municipal'' in order to make the Rules of Fair Practice applicable, as appropriate, to exempted securities, including government securities other than municipals.

Section 5. The NASD proposes to amend Article I, Section 5(a) of the Rules of Fair Practice by deleting the phrase ''other than those members registered with the Securities and Exchange Commission solely under the provisions of Section 15C of the Act and persons associated with such members'' in order to expand the application of the Rules of Fair Practice to members involved in the government securities business pursuant to Section 15C of the Act.

Article III of the Rules of Fair Practice: Primary Amendments

Section 1: Prompt Receipt and Delivery Interpretation. Paragraph (b)(2)(a) of the Interpretation of the Board of Governors—Prompt Receipt and Delivery and Securities under Article III, Section 1 of the Rules of Fair Practice exempts ''transactions in corporate debt securities'' from the NASD requirement that a member cannot accept a ''short'' sale order for any customer in any security unless the member can make an affirmative determination that the member will receive the security from the customer or that the member can borrow the security on behalf of the customer for delivery by settlement date. Paragraph (b)(2)(b) under this Interpretation similarly exempts ''transactions in corporate debt securities'' from the NASD requirement that a member cannot effect a ''short sale'' for any customer or its own account in any security unless the member or person associated with a member makes an affirmative determination that the member can borrow the securities or otherwise provide for delivery of the securities by the settlement date.

The regulatory rationale for exempting transactions in corporate debt securities from the Prompt Receipt and Delivery Interpretation is that many short-selling transactions in the corporate debt market are ''for the purpose of risk reduction and market liquidity and to ensure their availability for bona fide purposes.''[6] The NASD believes that short-selling transactions provide similar risk reduction and market liquidity in all debt markets. The NASD therefore, proposes to delete the term ''corporate'' from both paragraphs (b)(2)(a) and (b) of the Interpretation of the Board of Governors—Prompt Receipt and Delivery of Securities, under Article III, Section 1 of the Rules of Fair Practice to expand the short-sale exemptions under those provisions to all debt.

Section 1: Free-Riding and Withholding Interpretation. The NASD has determined that the Interpretation of the Board of Governors—Free-Riding and Withholding under Article III, Section 1 of the Rules of Fair Practice may apply to certain arrangements necessary for the distribution of government securities, *i.e.*, that members may be considered to purchase government securities for their own account. The NASD, however, is not aware of any situation which would indicate that there are abuses in the distribution practices related to government securities that requires the application of the Interpretation. The NASD, therefore, proposes to amend the Interpretation to clarify that it does not apply to transactions in government securities in order to ensure that normal distribution practices in government securities are not adversely affected by this rule.

Section 21(b)(i): ''Marking of Customer Order Ticket'' Rule. Corporate debt is exempted from Article III, Section 21(b)(i) of the Rules of Fair Practice, which requires that a person associated with a member indicate on the memorandum for sale of a security whether the order is ''long'' or ''short.'' The NASD has determined that Section 21(b)(i) to Article III of the Rules of Fair Practice should not be applicable to the market for any debt securities, where short sales are not known to raise the investor protection concerns that are associated with transactions in equity securities. In particular, with respect to the market for mortgage-backed securities, the concern exists that the application of Section 21(b)(i) would create confusion for brokers selling securities that have been purchased but not yet received because of this market's extended settlement periods. The NASD, therefore, proposes to amend Section 21(b)(i) to exempt all debt securities, other than municipals from the ''marking of customer order ticket'' rule.

Section 25: Transactions in Exempted Securities. Section 25 to Article III of the Rules of Fair Practice prohibits NASD members from dealing with a non-member broker/dealer except at the same prices and on the same terms afforded the general public. At Section 25 to Article III of the Rules of Fair Practice is the Interpretation of the Board of Governors—Transactions Between Members and Non-Members. This Interpretation, under Part 2—Transactions in ''Exempted Securities'' reminds members that the Rules of Fair Practice do not apply to transactions, whether between members or between members and non-members, in ''exempted securities'' pursuant to Article I, Section 4 of the Rules of Fair Practice.

In light of the proposed rule change to Article I Section 4 of the Rules of Fair Practice that reflects the NASD's expanded authority over exempted securities, the Association is proposing

[4] *Id.*

[5] The terms exempted securities, government securities and municipal securities are defined in Sections 3(a)(12), 3(a)(42) and 3(a)(29) of the Act.

[6] Securities Exchange Act Release No. 27409 (October 31, 1989), 54 FR 46665 (November 6, 1989).

to amend Part 2 to the above Interpretation to state that Section 25 of Article III of the Rules of Fair Practice shall not apply to ''exempted securities.'' The NASD has determined that the provisions of Section 25 should continue to not apply to transactions in exempted securities in order to permit foreign non-member broker/dealers to continue to purchase exempted securities, including government securities, without compliance with Article III, Section 25(c). Section 25(c) requires a foreign non-member broker/dealer to agree in writing to conform to the requirements of Section 25 when making any sales to purchasers within the U.S. of securities acquired as a result of a transaction with the member. The NASD believes it would difficult at this time to accurately determine the potential adverse effects to the government securities markets if the NASD required members to obtain such agreements from foreign non-member broker/dealers that purchase government securities from NASD members.

Amendments Merging Government Securities Rules into Rules of Fair Practice

The NASD proposes to merge certain provisions contained solely under the Government Securities Rules into corresponding sections of the Rules of Fair Practice in order to provide NASD members with one set of sales practice rules that will reflect the NASD's expanded authority under the Government Securities Amendments. The NASD specifically proposes to add provisions of the Government Securities Rules into Article III, Section 21(c)(3), 38, and 39; Article IV, Sections 1 to 4; and Article V, Section 1 of the Rules of Fair Practice. The NASD also proposes to move provisions contained under Section 6 of the Government Securities Rules into a new Section 38A to Article III of the Rules of Fair Practice. The NASD also proposes to add references, where appropriate, to Section 402.2(c) of the rules of the Treasury Department. To effect these amendments, the NASD has reorganized and renumbered a number of the provisions contained in the above-referenced sections of the Rules of Fair Practice.

Set forth below is a table identifying the provisions of the Government Securities Rules and the corresponding provisions of the Rules of Fair Practice into which the Government Securities Rules have been merged by amendment to those provisions. In addition, the table indicates the corresponding section of the Rules of Fair Practice for each Government Securities Rule where no rule language change is necessary because of the expanded authority under Article I, Section 5 of the Rules of Fair Practice.

GOVERNMENT SECURITIES RULES MERGED INTO THE RULES OF FAIR PRACTICE

Government Securities Rules Merged Into Rules of Fair Practice	
Sec. 1 Adoption of Rules	Article I, Sec. 1—No change.
Sec. 2 Applicability:	
Subsection (a)	Subsection (b).
Sec. 3 Definitions in By-Laws and Rules of Fair Practice	Article I, Sec. 4 and 5(a). Article I, Sec. 5(b) and (c)—No change. Article II, Sec. 1 and 2—No change.
Sec. 4 Books and Records	Article III, Sec. 21.
Sec. 5 Supervision	Article III, Sec. 27—No change.
Sec. 6 Regulation of Activities of Members Experiencing Financial and/or Operational Difficulties.	Article III, Sec. 38 and 38A.
Explanation of Board of Governors—Restrictions on a Member's Activity.	Explanation of Board of Governors, Restrictions on a Members Activity, Article III, Sec. 38 and 38A.
Sec. 7 Approval of Change in Exempt Status under SEC Rule 15c3–3	Article III, Sec. 39.
Sec. 8 Communications with the Public	Article III, Sec. 35—No change.
Sec. 9 Availability to Customers of Certificate, By-Laws, Rules, and Code of Procedure.	Article IV, Sec. 1—No change.
Sec. 10 Complaints:	
Subsection (a) Complaints by Public Against Members	Article IV, Sec. 2.
Subsection (b) Complaints by District Business Conduct Committees.	Article IV, Sec. 4.
Subsection (c) Complaints by the Board of Governors	Article IV, Sec. 4.
Sec. 11 Reports and Inspection of Books for Purpose of Investigating Complaints	Article IV, Sec. 5—No change.
Resolution of Board of Governors—Suspension of Members for Failure to Furnish Information Duly Requested.	Resolution of Board of Governors—Suspension of Members for Failure to Furnish Information Duly Requested—No change.
Sec. 12 Sanctions for Violation of the Rules	Article V, Sec. 1.
Sec. 13 Payment of Fines or Costs	Article V, Sec. 2—No change.
Sec. 14 Cost of Proceedings	Article V, Sec. 3—No change.

Conforming References

The NASD proposes to make conforming changes to NASD By-Laws, Schedules to the By-Laws, the Rules of Fair Practice, and the Code of Procedure by eliminating references to provisions of the Government Securities Rules or the terms ''exempted security'' or ''exempted securities'' and replacing these terms, where applicable, with the appropriate Rules of Fair Practice or the term ''municipal'' securities, respectively. The conforming changes regarding such references are made to Section (o) to Article I of the By-Laws; Section 13 to Schedule A of the By-Laws; Part VI, Section 1 Schedule C to the By-Laws; Article III, Section 35 of the Rules of Fair Practice; and the Appendix entitled ''Violations Appropriate For Disposition Under the Minor Rule Violations Plan'' under Article II, Section 10 of the Code of Procedure.

Other Technical Amendments

The NASD proposes to modify references to SEC Rules 15c3–1 and 15c3–3 to reflect amendments by the SEC to those rules. Such technical changes are made under Part II, Section 2(b)(iv) of Schedule C to the By-Laws

and under Article III, Sections 38, and 39 of the Rules of Fair Practice.

Applicability of the Rules of Fair Practice

The NASD intends that the proposed rule change would apply the Rules of Fair Practice, where appropriate, to activities involving exempted securities, pursuant to the proposed changes described above under Article I, Sections 4 and 5 to the Rules of Fair Practice. The NASD, therefore, has reviewed all Rules of Fair Practice, as well as Interpretations and Policies thereunder, to determine their applicability or non-applicability to exempt securities. To clarify the application of specific rules, interpretations and policies of the Rules of Fair Practice under the proposed rule change, the NASD intends to provide by publication in a Notice to Members (upon approval of the proposed rule change by the Commission) the following summary of applicable and non-applicable rules, interpretations and policies of the Rules of Fair Practice.

APPLICABILITY OF THE RULES OF FAIR PRACTICE TO EXEMPTED SECURITIES, INCLUDING GOVERNMENT SECURITIES (EXCEPT MUNICIPALS)

Article III		
Section 1	Business Conduct of Members	Applicable.
	Interpretations of the Board of Governors—.	
	Execution of Retail Transactions in the Over-the-Counter Market	Applicable.
	Prompt Receipt and Delivery	Applicable.
	Forwarding of Proxy and Other Materials	Not Applicable.
	Free-Riding and Withholding	Amending to be Not Applicable.
	Interpretation on Limit Order Protection	Not Applicable.
	Front Running Policy	Applicable.
Section 2	Recommendations to Customers	Applicable.
	Policy of the Board of Governors—Fair Dealing With Customers Policy	Applicable.
Section 3	Charges to Customers	Applicable.
Section 4	Fair Prices and Commission	Applicable.
	Interpretation of the Board of Governors—NASD Mark-Up Policy	Applicable.[7]
Section 5	Publication of Transactions and Quotations	Applicable.
	Interpretation of the Board of Governors—Manipulative and Deceptive Quotations	Applicable.
Section 6	Offers at Stated Prices	Applicable.
	Policy of the Board of Governors—Policy With Respect to Firmness of Quotations	Applicable.
Section 7	Disclosure of Prices in Selling Agreements	Applicable only to traditional underwriter arrangements.
Section 8	Securities Taken in Trade	Not Applicable.
	Interpretation of the Board of Governors—Safe Harbor and Presumption of Compliance	Not Applicable.
Section 9	Use of Information Obtained in Fiduciary Capacity	Applicable.
Section 10	Influencing or Rewarding Employees of Others	Applicable.
Section 11	Payment Designed to Influence Market Prices, Other than Paid Advertising	Applicable.
Section 12	Disclosure on Confirmations	Not Applicable; superseded by SEC rules.
Section 13	Disclosure of Control	Not Applicable.
Section 14	Disclosure of Participation or Interest in Primary or Secondary Distribution	Applicable.
Section 15	Discretionary Accounts	Applicable.
Section 16	Offers ''At the Market''	Not Applicable.
Section 17	Solicitation of Purchases on an Exchange to Facilitate a Distribution of Securities	Applicable.
Section 18	Use of Fraudulent Devices	Applicable.
Section 19	Customers Securities or Funds	Applicable.
Section 20	Installment or Partial Payment Sales	Applicable.
Section 21	Books and Records	Applicable, except for proposed amendments to Subsection (b)(i).
Section 22	Disclosure of Financial Condition	Applicable.
Section 23	Net Prices to Persons Not in Investment Banking or Securities Business	Applicable.
Section 24	Selling Concessions	Not Applicable.
	Interpretation of the Board of Governors—Services in Distribution	Not Applicable.
Section 25	Dealing with Non-Members	Amending to be Not Applicable.
	Interpretation of the Board of Governors—Transactions Between Members and Non-members.	Not Applicable.
Section 26	Investment Companies	Not Applicable.
Section 27	Supervision	Applicable.
Section 28	Transactions for or by Associated Persons	Applicable.
Section 29	Variable Contracts of an Insurance Co	Not Applicable.
Section 30	Margin Accounts	Applicable.
Section 31	Securities Failed to Receive and Failed to Deliver	Not Applicable.
Section 32	Fidelity Bonds	Applicable.
Section 33	Options	Not Applicable.
Section 34	Direct Participation Programs Appendix F	Not Applicable.
Section 35	Communications With the Public	Applicable.
Section 35A ..	Options Communications With the Public	Applicable.
Section 36	Transactions with Related Persons	Not Applicable.
	Interpretations of the Board of Governors—Transactions With Related Persons	Not Applicable.
Section 37	Operating Rules for ITS/CAES and CAES	Not Applicable.

APPLICABILITY OF THE RULES OF FAIR PRACTICE TO EXEMPTED SECURITIES, INCLUDING GOVERNMENT SECURITIES (EXCEPT MUNICIPALS)—Continued

Section 38	Regulation of Activities of Members Experiencing Financial and/or Operational Difficulties	Applicable.
Section 39	Approval of Change in Exempt Status under SEC Rule 15c3–3	Applicable.
Section 40	Private Securities Transactions	Applicable.
Section 41	Short-Interest Reporting	Not Applicable.
Section 42	Prohibition on Transactions During Trading Halts	Not Applicable.
Section 43	Outside Business Activities	Applicable.
Section 44	The Corporate Financing Rule	Not Applicable.
Section 45	Customer Account Statements	Applicable.
Section 46	Adjustment of Open Orders	Not Applicable.
Section 47	Clearing Agreements	Applicable.
Section 48	Short Sale Rule	Not Applicable.
Section 49	Primary Nasdaq Market Maker Standards	Not Applicable.
	Article IV—Complaints	
Section 1	Availability to Customers of Certificate, by-laws, Rules and Code of Procedures	Applicable.
Section 2	Complaints by Public Against Members for Violations of Rules	Applicable.
Section 3	Complaints by District Business Conduct Committee	Applicable.
Section 4	Complaints by Board of Directors	Applicable.
Section 5	Reports and Inspection of Books for Purpose of Investigating Complaints	Applicable.
	Article V	
Section 1	Sanctions for Violations of Rules	Applicable.
Section 2	Interpretation of the Board of Governors—The Effect of a Suspension or Revocation of the Registration, if any, of a Person Associated with a Member or the Barring of a Person from further Association with any Member.	Applicable.
	Payment for Fines, Other Monetary Sanctions, or Costs	Applicable.
Section 3	Posts of Proceedings	Applicable.

[7] Article III, Section 4 of the Rules of Fair Practice and the NASD Mark-Up Policy currently apply to transactions in equity and corporate debt securities. The NASD is developing an Interpretation of the Mark-Up Policy with respect to exempt securities and other debt securities. Therefore, the current application of Article III, Section 4 of the Rules of Fair Practice and the NASD Mark-Up Policy will not apply to transactions in exempt securities until adoption of the proposed Interpretation of the NASD Mark-Up Policy with respect to all debt securities. However, current Article III, Section 4 of the Rules of Fair Practice and the Mark-Up Policy remain in full force and effect for all equity and corporate debt transactions. See letter from Elliott R. Curzon, Assistant General Counsel, NASD, to Mark P. Barracca, Branch Chief, Division of Market Regulation, SEC, dated October 17, 1995 (Amendment No. 1 to the proposed rule change).

Interpretation of the Board of Governors—Suitability Obligations to Institutional Customers

The NASD is proposing to adopt an Interpretation of the Board of Governors—Suitability Obligations to Institutional Customers under Article III, Section 2 of the Rules of Fair Practice (''Suitability Interpretation''). The NASD intends the proposed Suitability Interpretation to clarify that the NASD's suitability rule under Article III, Section 2(a) of the Rules of Fair Practice is applicable to institutional customers, while recognizing that generally, a member's relationship with an institutional customer is different than the member relationship with retail customers.

The first paragraph of the proposed Suitability Interpretation acknowledges that the Association's broadened authority, pursuant to the Government Securities Amendments, was the initial impetus for the Association's decision to provide further guidance to members on their suitability obligations when making recommendations to institutional customers. The first paragraph clarifies, however, that the Board intends the proposed Suitability Interpretation to be applicable to all debt and equity securities, except municipals.

The second paragraph of the proposed Suitability Interpretation states that the suitability rule is fundamental to fair dealing and is intended to promote ethical sales practices and high standards of professional conduct. This paragraph further states that members' responsibilities include having a reasonable basis for recommending a particular security or strategy, as well as reasonable grounds for believing the recommendation is suitable for the customer to whom it is made. This paragraph further clarifies that members are expected to meet the same high standards of competence, professionalism, and good faith regardless of the financial circumstances of the customer.

The proposed Suitability Interpretation clarifies that it is intended to provide guidance to members in fulfilling only their customer-specific suitability obligations. The third paragraph of the proposed Suitability Interpretation states that the Interpretation concerns only the manner in which a member determines that a recommendation is suitable for a particular customer and that the manner in which a member fulfills this suitability obligation will vary depending on the nature of the customer and the specific transaction. This paragraph further states that the Interpretation deals only with guidance regarding how a member may fulfill such ''customer-specific suitability obligations'' under Article III, Section 2(a) of the Rules of Fair Practice. This third paragraph of the Suitability Interpretation contains a footnote to a Commission administrative decision that references a non-customer specific suitability obligation that is not addressed by the proposed Suitability Interpretation.

The proposed Suitability Interpretation and the factors contained therein are not intended either to create a safe harbor for members, or a burdensome evidentiary checklist for members. The fourth paragraph of the proposed Suitability Interpretation states that, while it is difficult to define

in advance the scope of a member's suitability obligation with respect to a specific institutional customer transaction recommended by a member, the Board has identified certain factors that may be relevant when considering compliance with Article III, Section 2(a) of the Rules of Fair Practice. This paragraph further states that factors are not intended to be requirements or the only factors to be considered, but are offered merely as a guidance in determining the scope of a member's suitability obligations.

The proposed Suitability Interpretation contains a subheading entitled ''Considerations Regarding the Scope of Members' Obligations to Institutional Customers.'' Under this subheading, the proposed Suitability Interpretation states that the two most important considerations in determining the scope of a member's suitability obligations in making recommendations to an institutional customer are the customer's capability to evaluate investment risk independently, and the extent to which the customer intends to exercise independent judgment in evaluating a member's recommendation.

Presence of Customer Capability

The proposed Suitability Interpretation states that a member must determine, based on the information available to it, the customer's capability to evaluate investment risk. In some cases, the member may conclude that the customer is not capable of making independent investment decisions in general. In other cases, the institutional customer may have general capability, but may not be able to understand a particular type of instrument or its risk. The proposed Suitability Interpretation states that this latter case is more likely to arise with relatively new types of instruments, or those with significantly different risk or volatility characteristics than other investments generally made by the institution. The proposed Suitability Interpretation states that if a customer is either generally not capable of evaluating investment risk or lacks sufficient capability to evaluate the particular product, the scope of a member's customer-specific obligations under the suitability rule would not be diminished by the fact that the member was dealing with an institutional customer. On the other hand, the fact that an institutional customer initially needed help understanding a potential investment need not necessarily imply that the customer did not ultimately develop an understanding and make an independent investment decision.

Further guidance regarding the subject of customer capability is provided when the proposed Suitability Interpretation states that a determination of the customer's capability to evaluate investment risk independently will depend on an examination of the customer's capability to make its own investment decisions including the resources available to the customer to make informed decisions. The proposed Suitability Interpretation states that relevant considerations could include:

- The use of one or more consultants, investment advisers or bank trust departments;
- The general level of experience of the institutional customer in financial markets and specific experience with the type of instruments under consideration;
- The customer's ability to understand the economic features of the security involved;
- The customer's ability to independently evaluate how market developments would affect the security; and
- The complexity of the security or securities involved.

Presence of Independent Investment Judgment

The proposed Suitability Interpretation states that a member may conclude that an institutional customer intends to exercise independent judgment if the customer's investment decision will be based on its own independent assessment of the opportunities and risks presented by a potential investment, market factors and other investment considerations. The proposed Suitability Interpretation clarifies that a member's determination that a customer is making independent investment decisions will depend on the nature of the relationship that exists between the member and the customer. Relevant considerations could include:

- Any written or oral understanding that exists between the member and the customer regarding the nature of the relationship between the member and the customer and the services to be rendered by the member;
- The presence or absence of a pattern of acceptance of the member's recommendations;
- The use by the customer of ideas, suggestions, market views and information obtained from other members or market professionals, particularly those relating to the same type of securities; and
- The extent to which the member has received from the customer current comprehensive portfolio information in connection with discussing recommended transactions or has not been provided important information regarding its portfolio or investment objectives.

Fulfillment of the Suitability Obligation

The proposed Suitability Interpretation states that the factors contained therein are merely guidelines that will be utilized to determine whether a member has fulfilled its suitability obligations with respect to a specific institutional customer transaction and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability. Such a determination can only be made on a case-by-case basis taking into consideration all the facts and circumstances of a particular member/customer relationship, assessed in the context of a particular transaction.

The Association believes it is important to further clarify when a member may consider its suitability obligations fulfilled pursuant to the guidance provided by the proposed Suitability Interpretation. The proposed Suitability Interpretation, therefore, states that where the broker-dealer has reasonable grounds for concluding that the institutional customer is making independent investment decisions and is capable of independently evaluating investment risk, then a member's obligation to determine that a recommendation is suitable for a particular customer is fulfilled.

Application of Proposed Suitability Interpretation to Delegated Agents

The NASD believes it is important to clarify the application of the Suitability Rule to transactions wherein the institutional customer has delegated decision-making authority to an agent. The proposed Suitability Interpretation states that where a customer has delegated decision-making authority to an agent, such as an investment advisor or a bank trust department, this Interpretation shall be applied to the agent.

Definition of Institutional Customer

For purposes of the proposed Suitability Interpretation, the NASD believes that the term ''institutional customer'' should not be arbitrarily defined by referencing a threshold of institutional asset size, portfolio size, or by referencing various statutory designations. The proposed Suitability Interpretation, therefore, states that for purposes of this Interpretation, an institutional customer shall be any entity other than a natural person.

The proposed Suitability Interpretation does not intend the size

of the institutional customer's securities portfolio to be a dispositive consideration in determining the member's fulfillment of its suitability obligation under Article III, Section 2(a) of the Rules of Fair Practice. The proposed Suitability Interpretation, however, does state that in determining the applicability of this Interpretation to an institutional customer, the NASD will consider the dollar value of the securities that the institutional customer has in its portfolio and/or under management. The proposed Suitability Interpretation also states that, while this Interpretation is potentially applicable to any institutional customer, the guidance contained herein is more appropriately applied to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management. The NASD intends this reference to ''$10 million invested in securities'' to be a non-dispositive factor that may be considered along with the other considerations contained in the proposed Suitability Interpretation.

The NASD believes that the proposed rule change will clarify that the NASD's suitability rule under Article III, Section 2(a) of the Rules of Fair Practice is applicable to institutional customers, while recognizing that a member's relationship with an institutional customer is different than with retail customers in those situations where the institutional customer is able to, and in fact does, make an independent investment decision. It is believed that the proposed Suitability Interpretation will provide important guidance to members regarding their suitability obligations to institutional customers by clarifying the type of considerations that should be part of the member's decision-making process in determining its suitability obligations. In providing such guidance, the NASD also believes that the proposed Suitability Interpretation furthers the goals of the Government Securities Amendments to expand the Association's sales practice rules to exempted securities by clarifying that the suitability rule under Article III, Section 2(a) of the Rules of Fair Practice applies to members' transactions in all debt and equity securities, including government and other exempted securities, except for municipals.

Amendment to Article III, Section 2(b) of the Rules of Fair Practice

The NASD is proposing to amend Article III, Section 2(b) to clarify that the definition of a ''non-institutional customer'' for purposes of the account records requirement of that provision shall mean a customer that does not qualify as an ''institutional account'' under Article III, Section 21(c)(4) of the Rules of Fair Practice. The NASD believes this provision will clarify that the definition of ''institutional customer'' contained in the Suitability Interpretation does not apply to Article III, Section 2(b) of the Rules of Fair Practice.

Effectiveness of Rule Change

The NASD proposes that the rule change would be effective and applicable upon approval by the Commission with the following exceptions. Article III, Sections 21, 27, and 32 of the Rules of Fair Practice will be implemented within three months after the effective date of the rule change to provide members sufficient time to change their internal procedures to comply with such rules.[8]

2. *Statutory Basis*

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[9] as amended, which requires that the rules of the Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest in that the rule change will implement the Association's expanded sales practice authority over exempted securities, except for municipals, by creating one set of sales practice rules for members by merging the Government Securities Rules into the Rules of Fair Practice and applying, where applicable, the Rules of Fair Practice to those members registered with the SEC solely under the provisions of Section 15C of the Act and to transactions in exempted securities, including government securities, except municipals. The proposed rule change will also further the above-purposes of the Act, as amended, by adopting a new Interpretation of the Board of Governors—Suitability Obligations to Institutional Customers under Article III, Section 2 of the Rules of Fair Practice to: (i) Apply the NASD's suitability rule under Article III, Section 2(a) of the Rules of Fair Practice to transactions in exempted securities including government securities, except municipals; and (ii) provide guidance to members on their suitability obligations when making recommendations to institutional customers, of which the government securities markets has a particularly broad institutional component. The proposed rule change will also further the above-purposes of the Act, as amended, by: (i) making clarifying amendments to certain sections and Interpretations under Articles III and IV of the Rules of Fair Practice relating to the government securities business; (ii) making technical changes to NASD By-Laws, Schedules of the By-Laws, the Rules of Fair Practice, and the Code of Procedure to replace references to provisions of the Government Securities Rules with references to the appropriate Rules of Fair Practice, and to delete the terms ''exempted security'' or ''exempted'' securities, or, replace these terms with the term ''municipal securities,'' as applicable; and (iii) modifying references to SEC Rules 15c3–1 and 15c3–3 to reflect SEC amendments to those rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed Suitability Interpretation contained in the proposed rule change is consistent with the intent of the Act as amended by the Government Securities Amendments.[10] The proposed Suitability Interpretation expands the suitability rule contained under Article III, Section 2(a) of the Rules of Fair Practice to all securities transactions, including transactions in exempted securities, except for municipals. While the proposed Suitability Interpretation acknowledges that a member's relationships with institutional customers may be different from the normal member/retail customer relationship, it does not unfairly discriminate against such institutional customers. The proposed rule change applies the suitability rule under Article III, Section 2 of the Rules of Fair Practice to both retail and institutional customers in connection with all securities transactions, other than municipals. The proposed Suitability Interpretation provides members with an appropriate analysis of their suitability obligations to institutional customers based on the institutional customer's capability to evaluate investment risk independently and the

[8] *See* letter from Elliott R. Curzon, Assistant General Counsel, NASD, to Mark P. Barracca, Branch Chief, Division of Market Regulation, SEC, dated October 17, 1995 (Amendment No. 1 to the proposed rule change).

[9] 15 U.S.C. § 78*o*–3.

[10] The Association received one comment letter that argued that the proposed Suitability Interpretation distinguished between institutional and retail customers and, therefore, was contrary to the intent of the Government Securities Amendments. *See* Letter No. 10, *infra* note 19.

extent to which the customer intends to exercise independent judgement in evaluating the member's recommendation.[11]

On the basis of the foregoing, the NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

A draft of the proposed Suitability Interpretation contained in the proposed rule change was first published for comment in Notice to Members 94–62 (August 1994) (''NTM 94–62'').[12] Fifteen comments were received from fourteen commentors in response thereto.[13] Of the fourteen commentors providing comments in response to NTM 94–62, one commentor supported without significant change;[14] eleven commentors supported with changes;[15] one commentor was opposed;[16] and one commentor addressed issues in NTM 94–62 other than the proposed Suitability Interpretation.[17]

The proposed Suitability Interpretation published in NTM 94–62 was revised, and a second draft was published for comment in Notice to Members 95–21 (April 1995) (''NTM 95–21'').[18] Sixteen comments were received in response thereto.[19] Of the sixteen comment letters received in response to NTM 95–21, nine commentors supported the proposal with changes;[20] three commentors considered the proposal either unworkable or insufficient and requested greater protection for either the member or the investor;[21] three commentors opposed the proposal;[22] and one commentor did not express an opinion.[23]

The Association's statements on the comments in response to the drafts of the proposed Suitability Interpretation contained in NTM 94–62 and NTM 95–21 are as follows.

Notice to Members 94–62

The NASD published NTM 94–62 to request member comment on the proposed Suitability Interpretation. The proposed Suitability Interpretation published for comment in NTM 94–62 stated that a member's obligation to an institutional customer would be fulfilled if, at the time of the specific transaction, the member has reasonable grounds for determining that the customer: (1) has developed resources and procedures to make its own investment decisions; (2) is not relying on the member's recommendation on the specific transaction; and (3) is capable of understanding the product and its risks and of making an independent investment decision. Several examples were in the proposed Suitability Interpretation to provide guidance to members regarding these determinations.

Comments Regarding the General Purpose of the Proposed Suitability Interpretation

Eleven commentors supported the proposed Suitability Interpretation's general intent to clarify the application of a member's obligations to institutional customers pursuant to the suitability rule under Article III, Section 2 of the Rules of Fair Practice.[24] These commentors, however, raised substantial and numerous issues regarding the proposed considerations and supporting factors underlying a member's suitability determination to an institutional customer. In response to these and other comments, the Association significantly revised and clarified the proposed Suitability Interpretation, as described below. One commentor argued that Congress, when adopting the Government Securities Act

[11] *See* H.R. 103–225, 103rd Cong., 1st Sess. (September 23, 1993).

[12] A copy of the NTM 94–62 is included in File No. SR–NASD–95–39 as Exhibit 2 thereto.

[13] The NASD received letters regarding NTM 94–62 from the following: (1) Brian C. Underwood, Director of Compliance, A.G. Edwards & Sons, Inc., dated September 29, 1994; (2) Alan S. Kramer, Senior Managing Director, Bear Sterns & Co. Inc., dated October 17, 1994; (3) Marjorie E. Gross, Senior Vice President & Associate General Counsel, Chemical Bank, dated September 29, 1994; (4) Marjorie E. Gross, Senior Vice President & Associate General Counsel, Chemical Bank, dated October 14, 1994; (5) F. Smith, President, Freeman Securities Company, Inc., dated September 30, 1994; (6) Wendy R. Beer, Compliance Counsel, Furman Selz, dated October 31, 1994; (7) Betsy Dotson, Assistant Director, Federal Liaison Center, Government Finance Officers Association, dated September 30, 1994; (8) Kathryn S. Reimann, Senior Vice President and Director of Fixed Income Compliance, Lehman Brothers Inc., dated October 17, 1994; (9) Larry Forrester, Senior Vice President, Lyn-Hayes Financial, Inc., dated August 23, 1994; (10) Marguerite C. Willenbucher, Vice President and Senior Counsel, Debt and Equity Markets Group, Merrill Lynch, Pierce, Fenner & Smith Inc., dated October 17, 1994; (11) Ken deRegt, Managing Director, Morgan Stanley & Co. Incorporated, dated October 14, 1994; (12) letter from Prudential Insurance Company of America, dated October 31, 1994; (13) letter from Marianna Maffucci, Senior Vice President and General Counsel, Public Securities Association, dated October 17, 1994; (14) William A. McIntosh, Managing Director and Co-head of U.S. Fixed Income, Salomon Brothers Inc., dated September 30, 1994; and (15) Robert F. Price, Chairman, Federal Regulation Committee, and Mark T. Commander, Chairman, Self-Regulation and Supervisory Practice Committee, Securities Industry Association, dated October 17, 1994. A copy of the comment letters listed above is included in File No. SR–NASD–95–39 as Exhibit 3 thereto. These letters will be referred to hereinafter by their number as indicated in this footnote. The two comment letters submitted by Chemical Bank will be referred to as No. 3 for the purpose of this discussion.

[14] Letter No. 14, *supra* note 13.

[15] Letter Nos. 1, 2, 3, 5, 6, 8, 10, 11, 12, 13, and 15, *supra* note 13.

[16] Letter No. 7, *supra* note 13.

[17] Letter No. 9, *supra* note 13. Notice to Members 94–62 also requested comment on the proposed NASD Board Interpretation regarding the NASD Mark-Up Policy to Transactions in Government and other debt securities. The proposed Mark-Up Interpretation is not included in this rule filing.

[18] A copy of NTM 95–21 is included in File No. SR–NASD–94–39 as Exhibit 4 thereto.

[19] The NASD received letters regarding NTM 95–21 from the following: (1) Allen Weintraub, Chairman and Chief Executive Officer, The Advest Group, Inc., dated May 5, 1995; (2) Brian C. Underwood, Director of Compliance, A.G. Edwards & Sons, Inc., dated May 15, 1995; (3) Michael S. Caccese, Esq., Senior Vice President, General Counsel, and Secretary, Association for Investment Management and Research; (4) Marjorie E. Gross, Senior Vice President & Associate General Counsel, Chemical Bank, dated May 17, 1995; (5) Michael J. Wilk, Managing Director, Comerica Securities, dated May 12, 1995; (6) Douglas E. Harris, Senior Deputy Comptroller for Capital Markets, Comptroller of the Currency, dated May 17, 1995; (7) Lawrence Jacob, Senior Vice President, Assistant Secretary and Director of Compliance, Daiwa Securities America Inc., dated May 16, 1995; (8) James A. Brickley, President and CEO, Federal Farm Credit Banks Funding Corp., dated May 17, 1995; (9) Mitchell Delk, Vice President Government and Industry Relations, Freddie Mac, dated June 1, 1995; (10) Betsy Dotson, Assistant Director, Federal Liaison Center, Government Finance Officers Association, dated May 17, 1995; (11) Matthew Lee, Executive Director, Inner City Press/Community on the Move, dated May 15, 1995; (12) Matthew Elderfield, Assistant Director, London Investment Banking Association, dated June 13, 1995; (13) Linda D. Edwards, Vice President Compliance, Llama Company, dated May 9, 1995; (14) Scott H. Rockoff, Managing Director, Director of Compliance, and Assistant General Counsel, Nomura Securities International, Inc., dated May 17, 1995; (15) Robert D. Mc.Knew, Chairman, Public Securities Association, dated May 18, 1995; and (16) Robert F. Price, Chairman Federal Regulation Committee, Richard O. Scribner, Chairman Self-Regulation and Supervisory Practices Committee, and Zachary Snow, Chairman OTC Derivative Products Committee, Securities Industry Association, dated June 7, 1995. A copy of the comment letters listed above is included in File No. SR–NASD–95–39 as Exhibit 5 thereto. These letters will be referred to hereinafter by their number as indicated in this footnote.

[20] Letter Nos. 1, 3, 4, 7, 8, 9, 12, 15 and 16, *supra* note 19.

[21] Letter Nos. 6, 10, and 14, *supra* note 19.

[22] Letter Nos. 2, 9, and 13, *supra* note 19.

[23] Letter No. 11, *supra* note 19. In addition, the NASD received a letter from the Honorable Edward J. Markey, Chairman of U.S. House of Representatives, Subcommittee on Telecommunications and Finance dated October 7, 1994, commenting on the proposed Suitability Interpretation published in Notice to Members 94–62 (August 1994). The letter from Congressman Markey and the NASD's response thereto dated November 4, 1994, are contained at Exhibit 6 of the rule filing.

[24] Letter Nos. 1, 2, 3, 5, 6, 8, 10, 11, 12, 13, and 15, *supra* note 19.

Amendments of 1993, intended the NASD's suitability rule under Article III, Section 2 of the Rules of Fair Practice to apply equally to all customers without distinction.[25] The commentor opposed the Suitability Interpretation's intent to clarify the applicability of a member's suitability obligations to institutional customers.

The NASD believes that the Suitability Interpretation contained in NTM 94–62 appeared to create a safe harbor because of the unintended mechanical nature of the suggested list of factors for member consideration. The Association revised the Suitability Interpretation to eliminate the mechanical nature of the examples of factors for consideration. The Suitability Interpretation contained in the proposed rule change states that members are reminded that the factors are merely guidelines that will be utilized to determine whether a member has fulfilled its suitability obligations with respect to a specific institutional customer transaction and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability. The NASD believes the Suitability Interpretation as drafted in the proposed rule change is consistent with the intent of the Act, as amended by the Government Securities Amendments. The Association believes the proposed rule change expands the suitability obligations under Article III, Section 2 of the Rules of Fair Practice to all securities, except municipals and to all members in connection with their dealings with all customers. The NASD believes that the Suitability Interpretation contained in the proposed rule change does not unfairly discriminate against institutional customers, but does provide guidance to members to help them fulfill their suitability obligations under Article III, Section 2 of the Rules of Fair Practice to all institutional investors.

One commentor supported the proposed Suitability Interpretation's underlying notion that NASD members should recommend to their customers only financial products that meet their customers' needs and investment objectives.[26] The commentor, however, believes that this obligation arises under Article III, Section 1 of the Rules of Fair Practice, which states that members, in the conduct of their business, shall observe high standards of commercial honor and just and equitable principles of trade. The commentor argued that the Association's discussion regarding the Suitability Standard under Article III, Section 2 of the Rules of Fair Practice with reference to the institutional marketplace is misguided and should be guidance regarding the proper business conduct of member firms under Article III, Section 1 of the Rules of Fair Practice.

The NASD agrees that members have significant obligations under Article III, Section 1 of the Rules of Fair Practice. Such obligations are, in some cases, distinct from the suitability obligation arising under Article III, Section 2 and in other cases appear to overlap. The Association, however, believes that a member's Suitability Obligations to institutional customers have been more specifically set forth in Article III, Section 2(a) of the Rules of Fair Practice and that it would be contrary to the mandate of the Act, as amended, to limit the application of Article III, Sec. 2(a) to non-institutional customers or in any manner provide a ''suitability'' safe harbor to members when dealing with institutional customers.

Definition of Institutional Customer

The proposed Suitability Interpretation published for comment in NTM 94–62 defined the term ''institutional customer'' to mean the term ''institutional account'' under Article III, Section 21(c)(4) of the Rules of Fair Practice.[27] Two commentors suggested that the term ''institutional customer'' be expanded to include non-U.S. institutions such as foreign investment companies and foreign investment advisers subject to their home country regulation.[28] The commentors stated that without this change, members under the proposed Suitability Interpretation would have suitability responsibilities for foreign investors with professional managers having less than $50 million in assets. One commentor concluded that such foreign investors consequently would have greater protection under Article III, Section 2 of the Rules of Fair Practice than domestic investors.[29] The Suitability Interpretation contained in the rule change does not distinguish between U.S. and non-U.S. institutions and is not intended to be limited solely to domestic institutions.

One commentor stated that the $50 million asset threshold set forth in Article III, Section 21(c)(4) of the Rules of Fair Practice that is applicable to Article III, Section 2(a) of the Rules of Fair Practice, was too high and the list of institutions referenced under provisions (i) and (ii) contained therein was too narrow.[30] The commentor submitted a list of institutions to include under the definition of institutional customer. The NASD revised the definition of ''institutional customer'' to not reference Article III, Section 21(c)(4), the asset threshold test therein, or any specific institutional types. The Suitability Interpretation contained in the proposed rule change would define an institutional customer to mean any entity other than a natural person. One commentor argued that state and local governments should not be classified as institutional customers by reference to the asset test under Article III, Section 21(c)(4) of the Rules of Fair Practice.[31] The commentor stated that government units may have assets of at least $50 million in buildings, land and other facilities, as well as significant amounts of money to invest from revenues derived primarily from tax receipts, but be unable to afford highly skilled investment experts to handle their funds. As indicated above, the NASD has determined not to rely on the asset test in Article III, Section 21(c)(4) for purposes of defining the term ''institutional customer'' with respect to the proposed Suitability Interpretation. The Association disagrees, moreover, with the commentor's suggestion that state and local governments be excluded from the definition of institutional customer. The Suitability Interpretation contained in the proposed rule change provides guidance regarding factors and considerations that may (or may not) be applicable to any institutional customer. The Suitability Interpretation provides guidance to members on the relevant considerations that should be examined by a member in fulfilling its suitability obligations to all institutional customers and does not unfairly discriminate between institutional customers based on asset size, portfolio size, or institutional type. The Association believes this regulatory approach is in furtherance of the Act, as amended.

One commentor suggested that the proposed Suitability Interpretation apply to retail customers who are capable of making independent investment decisions.[32] The NASD believes that the proposed Suitability Interpretation and the considerations

[25] Letter No. 7, *supra* note 13.

[26] Letter No. 12, *supra* note 13.

[27] The term ''institutional account'' under Article III, Section 21(c)(4) of the Rules of Fair Practice means: (i) a bank, savings and loan association, insurance company, or registered investment company; (ii) an investment adviser registered under Section 203 of the Investment Advisers Act of 1940; or (iii) any other entity (whether an natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

[28] Letter Nos. 3 and 11, *supra* note 13.

[29] Letter No. 3, *supra* note 13.

[30] Letter No. 5, *supra* note 13.

[31] Letter No. 7, *supra* note 13.

[32] Letter No. 10, *supra* note 13.

contained therein are not generally applicable to retail customers as a class. The NASD further believes that members already have guidance in the form of NASD administrative decisions that clarify the application of a member's suitability obligation to retail customers under Article III, Section 2 of the Rules of Fair Practice.

One commentor stated that the reference to customer ''sophistication'' in the discussion part of NTM 94–62, appeared to create an assumption that institutional customers, as defined by the term ''institutional account'' under Article III, Section 21(c)(4) of the Rules of Fair Practice, are sophisticated and entitled to a lesser standard of care from members.[33] The Association has revised the Suitability Interpretation contained in the proposed rule change to eliminate any appearance that customer ''sophistication'' is automatically linked to the term ''institutional account.'' The Association has deleted the reference to sophistication in discussing the proposed Suitability Interpretation and revised the definition of ''institutional customer'' to mean any entity other than a natural person. The NASD believes that such revision eliminates the unintended appearance that an institutional customer, as defined in the proposed Suitability Interpretation, is entitled to any lesser standard of care from members.

Presence of Customer Capability: Resources and Procedures

The proposed Suitability Interpretation in NTM 94–62 suggested that a member consider whether the institutional customer has developed resources and procedures (or ''capability'') for the purpose of making independent investment decisions. Three commentors supported the consideration of the customer's capability and suggested it be the primary basis for determining if a member has fulfilled the suitability obligations.[34] The Association has modified the Suitability Interpretation contained in the proposed rule change to provide that the member's considerations regarding the customer's capability and whether the customer intends to make an independent investment decision are equally important.[35]

One commentor stated that the reference to the customer's ''procedures'' was confusing and could imply that the member is required to review the investment procedures of the customer.[36] The commentor stated that many institutional customers will not share their investment procedures with their broker/dealers. In response to these comments, the Suitability Interpretation contained in the proposed rule change was revised to require consideration of the ''customer's capability to evaluate investment risk independently'' rather than the ''customer's resources and procedures to make independent investment decisions.''

Absence of Customer Reliance on the Member's Recommendations

The proposed Suitability Interpretation published in NTM 94–62 stated that, even if the institutional customer has developed resources and procedures to make independent investment decisions, factors should be present that provide reasonable grounds for the belief that the institutional customer is not relying on the member's recommendations in connection with a particular transaction or market product.

Six commentors supported the member consideration regarding the absence of customer ''reliance'' and argued that it should be the primary consideration in determining whether the member has fulfilled its suitability obligation in connection with a customer transaction.[37] The Association determined that the term ''reliance'' might incorporate unintended case law and imply that the member's suitability obligations under Article III, Section 2(a) of the Rules of Fair Practice are only triggered by customer reliance rather than acting as an ongoing obligation. Further, the ''reliance'' consideration required a member to determine the absence of customer reliance on a member's recommendation. The NASD has, therefore, deleted the term ''reliance'' and replaced it with language that would require the member to affirmatively consider the extent to which the ''customer intends to exercise independent judgment in evaluating a member's recommendation.'' The Association believes the revised language contained in the proposed Suitability Interpretation continues, nonetheless, to address the independent nature of the institutional customer, which concept was strongly supported by the above commentors.

In response to the comments stating that ''reliance'' should be the primary consideration, the NASD, as noted above, has revised the Suitability Interpretation contained in the proposed rule change to clarify that neither the customer's capability nor the customer's intent to exercise independent judgment should be given priority in determining whether a member's suitability obligations have been fulfilled. Both considerations are considered equally important under the Suitability Interpretation contained in the proposed rule change.

Four commentors stated that many institutional accounts, such as banks, insurance companies and registered investment companies, are subject to various regulatory and investment restrictions at the state and federal level and, in the case of foreign entities, are also subject to additional foreign strictures.[38] Commentors suggested that members should have reduced suitability obligations to such regulated institutional customers because such customers are in the best position to ensure that their investments are appropriate. The NASD acknowledges the existence of various regulatory and investment restrictions imposed on various domestic and foreign institutions but emphasizes that such restrictions do not supersede or waive the regulatory responsibilities that the NASD's Rules of Fair Practice impose on members in furtherance of the rules and regulations of the Act, as amended.

Many commentors supporting the proposal contained in NTM 94–62 argued that if a client uses outside expertise such as investment professionals (whether employees, third-party money managers, bank trustees, etc.) to manage its accounts, then the client must bear the responsibility for the investment decisions made by such professionals. The NASD acknowledges that a member/institutional customer relationship changes when the customer uses outside expertise to manage its accounts. The Association believes, however, that the use of investment professionals does not eliminate a member's suitability obligations.

Comments Regarding Customer Reliance Factors

Investment Guidelines. One of the factors provided in NTM 94–62 regarding the consideration of customer reliance was whether the member's investment recommendation is consistent with the customer's explicit investment guidelines. One commentor suggested that a member should be encouraged to become familiar with

[33] Letter No. 7, *supra* note 13.

[34] Letter Nos. 1, 3, and 15, *supra* note 13.

[35] This latter consideration replaces the ''reliance'' consideration proposed in NTM 94–62 (August 1994) and NTM 95–21 (April 1995).

[36] Letter No. 3, *supra* note 13.

[37] Letter Nos. 2, 8, 10, 11, 13, and 14, *supra* note 13.

[38] Letter Nos. 6, 10, 13, and 15, *supra* note 13.

customer investment guidelines, but not be obliged to assure compliance with customer investment guidelines because, in practice, members cannot do so effectively and should not be required to assume monitoring functions that can be better carried out by the customer.[39] Another commentor argued that any consideration of customer's investment guidelines for purposes of determining the absence of customer ''reliance'' would only discourage institutional customers from sharing their investment guidelines with members.[40] The commentor also argued that the member's fulfillment of its suitability obligations should not be determined only on information received prior to the transaction, but should also be determined after the transaction if the member receives notice that the transaction was contrary to the jurisdiction's investment guidelines. The commentor expressed concern that, as a result, a customer's rights would be negatively affected under the applicable statute of limitations. The NASD has determined to delete the factor regarding investment guidelines from the proposed Suitability Interpretation. With regard to the commentor's latter statements regarding the timing of the member's suitability determination and its effect on the customer's rights under statute of limitations, the NASD believes that a member's suitability determination is intended by Article III, Section 2(a) to be made prior to a recommendation and a member's satisfaction of its suitability obligation is determined based on information it knows or should have known at the time of the transaction. Thus, the NASD does not believe that an institutional customer's rights under an applicable statute of limitations would be negatively affected.

Affirmative Statement of Reliance. One of the suggested factors regarding customer reliance in NTM 94–62 was the existence of ''affirmative statements'' made by the customer at the time of the transaction that it is relying on the member's recommendations. One commentor opposed this affirmative statements factor, arguing that unless the broker/dealer requires a written statement of non-reliance (which, the commentor argued, would be a waiver of duty for the broker/dealer), this standard would be impossible to confirm after the fact.[41] One commentor also argued that the ''customer reliance'' factor is flawed if based solely on the customer's affirmative statements because sophisticated investors will be encouraged to make an ''affirmative statement'' regarding reliance on the member in order to preserve a cause of action if the investment fails.[42]

In response to both commentors, the NASD believes that written and oral statements are useful considerations in determining whether a member has fulfilled its suitability obligations. The NASD acknowledges that the factor, as published in NTM 94–62, may have unintentionally appeared to be dispositive, and the NASD has revised this factor to eliminate this appearance. The factor in the proposed rule change is revised to state that a member may consider ''any written or oral understanding that exists between the member and the customer regarding the nature of the relationship between the member and the customer and the services to be rendered by the member'' in determining whether the customer intends to exercise independent judgment in evaluating the member's recommendation.

Pattern of Acceptance of Member's Recommendation. The proposed Suitability Interpretation published in NTM 94–62 stated that one of the factors that may be considered regarding customer reliance is a ''pattern of acceptance'' by the customer of the member's advice through the execution of all or nearly all of the recommended transactions. One commentor opposed this factor and argued that no conclusion can be drawn from a simple look at how frequently a customer follows the recommendations of an individual broker/dealer.[43] The commentor further stated that while government finance officers are authorized to carry out investing for a jurisdiction, they must consider a number of factors in their decision, and advice from a broker/dealer is not the sole factor. The NASD believes that a customer's pattern of acceptance of a member's recommendations is a useful consideration in determining whether the member has fulfilled its suitability obligations under the proposed Suitability Interpretation. The NASD believes, however, that the proposed Suitability Interpretation contained in NTM 94–62 may have appeared to make this factor dispositive regarding the issue of fulfilling a member's suitability obligation. The NASD agrees that making this factor dispositive of the issue would be inappropriate and has revised the Suitability Interpretation contained in the proposed rule change to eliminate this appearance. The proposed Suitability Interpretation clarifies that all the factors are merely guidelines and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability.

Customer Relationships with Other Broker/Dealers. The proposed Suitability Interpretation published in NTM 94–62 stated that another factor that may be considered regarding customer reliance is whether the customer maintains substantive relationships with a number of members. One commentor opposed this consideration and argued that this consideration would automatically shift the suitability responsibility to all institutional investors because all responsible institutions rely on multiple broker/dealers.[44] The NASD believes that an institutional customer's relationships with other members, particularly in regard to the same type of security, is a useful consideration in determining whether the member has fulfilled its suitability obligations. As noted above, the NASD has revised the proposed Suitability Interpretation contained in NTM 94–62 to clarify that such factors are only guidelines and that the inclusion or absence of any of these factors is not dispositive of whether a member has fulfilled its suitability obligations to an institutional customer. The NASD also has revised the above factor in the Suitability Interpretation contained in the proposed rule change to state that a member's consideration of whether the customer intends to exercise independent judgment in evaluating the member's recommendation may include the ''use by the customer of ideas, suggestions, market views and information obtained from other members or market professionals, particularly those relating to the same type of securities.''

Transactions in Connection with ''New'' Products. The proposed Suitability Interpretation published in NTM 94–62 stated that, in the case of a new product, or a security with significantly different risk or volatility characteristics than other investments generally made by the institution, the member should ascertain whether the institutional customer is relying on the member to explain the product and its risk(s) or is relying on other sources. One commentor stated that the NASD's Policy regarding Fair Dealings with Customers under Article III, Section 2 of the Rules of Fair Practice already imposes on the dealer a responsibility to ensure that adequate disclosure and information is made available to all

[39] Letter No. 11, *supra* note 13.

[40] Letter No. 7, *supra* note 13.

[41] Letter No. 7, *supra* note 13.

[42] Letter No. 3, *supra* note 13.

[43] Letter No. 7, *supra* note 13.

[44] Letter No. 7, *supra* note 13.

customers institutional or otherwise, in the case of derivative products or new financial products.[45] The NASD believes it is appropriate for the NASD to provide additional guidance in the proposed Suitability Interpretation regarding member's suitability obligations to institutional investors in connection with new products or products with significantly different risk or volatility characteristics. Such guidance would be in addition to the general guidance regarding new products contained in the NASD's Policy regarding Fair Dealings with Customers under Article III, Section 2 of the Rules of Fair Practice. As revised, the Suitability Interpretation contained in the proposed rule change states that the institutional customer may have general capability, but may not be able to understand a particular type of instrument of its risk. The proposed Suitability Interpretation states that this situation is more likely to occur with relatively new types of instruments, or those with significantly different risk or volatility characteristics, other than investments generally made by the institution.

Another commentor raised concerns that the Suitability Interpretation created a higher standard of duty for the member in connection with a ''new'' product, but did not define the term ''new.'' [46] The NASD believes that the term ''new'' should not be defined in the context of the member's suitability obligation. The determination of whether the product is ''new'' must be considered on a case-by-case basis in the context of the member/dealer relationship and considering the prior investments generally made by the institution.

Member Knowledge That The Customer Is Incapable Of Understanding the Product or its Risks or Making an Independent Investment Decision. The Suitability Interpretation published in NTM 94–62 stated that a member would not be considered to be fulfilling its suitability obligations if, prior to the transaction, the member knows or can reasonably conclude, based on information available to it, that the customer is not capable of understanding the product or its risks, or of making an independent investment decision. One commentor requested that this provision be clarified to reflect that it is the institutional customer's investment professional, and not the senior officer of the institutional customer, who must be capable of understanding the investment decision.[47] The NASD believes the structure of institutional customers may vary and, therefore, particular staff or professionals who provide the customer with capability to evaluate investment risk independently must be considered on a case-by-case basis. The proposed Suitability Interpretation contained in the proposed rule change, therefore, references only the institutional customer as an entity and does not reference any particular staff. Moreover, the proposed Suitability Interpretation discusses this issue within a broader context in the first paragraph following the heading ''Considerations Regarding the Scope of Member's Obligations to Institutional Customer.''

Transaction-by-Transaction Determinations

The proposed Suitability Interpretation published in NTM 94–62 stated that member compliance is to be determined on a transaction-by-transaction basis. Three commentors recommended replacing the proposed transaction-by-transaction analysis in favor of product-by-product determinations and argued there is no time in the case of normal institutional transactions to perform such transaction-by-transaction ''due diligence.'' [48] The NASD recognizes that, while the suitability rule imposes an ongoing obligation, it may not be necessary for a member to make the determination on a transaction-by-transaction basis in order to fulfill it suitability obligation. The NASD believes it is appropriate for a member to determine when additional due diligence is necessary in order to fulfill its suitability obligations. The Suitability Interpretation contained in the proposed rule change states that a determination that a member has fulfilled its suitability obligations can only be made on a case-by-case basis taking into consideration all the facts and circumstances of a particular member/customer relationship, assessed in the context of a particular transaction.

One commentor suggested that if a transaction-by-transaction analysis was required, it should be limited to certain narrowly-defined categories of products. The Association has determined that such narrowly defined categories would not be appropriate in the context of determining a member's suitability obligation because what may be understood by one customer, may not be understood by another customer.

Notice to Members 95–21

In response to the comments to NTM 94–62, the NASD published a revised proposed Suitability Interpretation in Notice to Member 95–21. The revised proposed Suitability Interpretation clarified that it merely provided guidelines to determine whether a member has fulfilled its suitability obligations to institutional customers with respect to transactions in all equity or debt securities, except municipals. The NASD also emphasized in the discussion part of NTM 95–21 that the proposed Suitability Interpretation was not intended to be a safe harbor.

The proposed Suitability Interpretation published for comment in NTM 95–21 provided that the manner in which a member fulfills its suitability obligation in making a recommendation to a customer will vary depending on the nature of the customer and the specific transaction. It stated that, while it is difficult to define in advance a member's suitability obligation with respect to a specific institutional customer transaction recommended by a member, the Board has identified certain factors that are considered when the NASD conducts its reviews for compliance with Article III, Section 2(a) of the Rules of Fair Practice. It also stated the factors were not intended to be requirements or the only factors to be considered but are offered merely as guidance in determining a member's suitability obligation. The proposed Suitability Interpretation published for comment in NTM 95–21 emphasized that a member must determine, based on the information available to it, the customer's capability to evaluate investment risk. In discussing this first obligation, the proposed Suitability Interpretation contrasted situations where a member concludes the customer is not capable (in general or with respect to the particular type of instrument) of making an independent investment decisions with other situations where the customer ultimately can make an independent investment decision without relying on the member.

The primary consideration in determining a member's suitability obligation under the proposed Suitability Interpretation published for comment in NTM 95–21 was whether the customer was relying on the member's judgement as reflected in a recommendation rather than making an investment decision based on its own independent assessment of the opportunities and risks presented by a potential investment, market factors and other investment considerations. It

[45] Letter No. 2, *supra* note 13.

[46] Letter No. 10, *supra* note 13.

[47] Letter No. 3, *supra* note 13.

[48] Letter Nos. 3, 11, and 6, *supra* note 13.

stated that a determination regarding such customer's reliance would depend on (i) the nature of the relationship that exists between the member and the customer; and (ii) the customer's capability to make its own investment decisions including the resources available to the customer to make informed decisions.

Four relevant factors were provided to help the member determine the nature of the relationship that exists between the member and the customer. The first factor suggested that the member consider any written or oral agreement between the member and the customer regarding the customer's reliance on the member for recommendations. The second factor suggested that the member consider the presence or absence of a pattern of acceptance of the member's recommendations by the institutional customer. The third factor suggested that the member consider the use by the customer of ideas, suggestions, market views, and information obtained from other members or market professionals, particularly those relating to the same type of securities. The fourth factor suggested that the member consider the extent to which the customer provided the member with current comprehensive portfolio information in connection with discussing recommended transactions or did not provide important information about its portfolio or investment objectives

Four relevant factors were also provided to help the member consider the customer's capability to make independent investment decisions, including the resources available to the customer to make informed decisions. The first factor suggested that the member consider whether the customer had use of one or more investment advisers or bank trust departments. The second factor suggested that the member consider the general level of experience of the staff of the institutional customer in financial markets and specific experience with the type of instruments under consideration. The third and fourth factors suggested that the member consider the customer's ability to independently evaluate how market developments would affect the security and the complexity of the security or securities involved.

Members were reminded that the factors were merely guidelines which would be utilized to determine whether a member had fulfilled its suitability obligations and that the inclusion or absence of any of these factors was not dispositive of the determination of suitability. It clarified that such a determination could only be made on a case-by-case basis taking into consideration all the facts and circumstances of a particular member/customer relationship, assessed in the context of a particular transaction.

The definition of the term ''institutional customer'' was also revised to mean any entity other than a natural person. It stated that in determining the applicability of this Interpretation to an institutional customer, the NASD would consider the dollar value of the securities that the institutional customer has in its portfolio and under management. It also stated that while the Interpretation was potentially applicable to any institutional customer, the guidance contained therein should at a minimum be applied to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and under management.

General Comments

Four commentors stated that the factors contained in the proposed Suitability Interpretation should not be a checklist for NASD compliance purposes.[49] One commentor stated that it is not practical for members to make on-going assessments of many of the factors and noted, for example, that members cannot monitor the experience level of client's staff.[50] One commentor argued that the factors, in general, should not be considered an evidentiary checklist which would require additional bookkeeping by the member.[51] The NASD did not intend that the proposed Suitability Interpretation create an evidentiary checklist that required additional bookkeeping. The NASD, therefore, eliminated the appearance that the factors create an evidentiary checklist for NASD compliance review by replacing the phrase ''the Board has identified certain factors which are considered when the NASD conducts its reviews for compliance'' in the fourth paragraph of the Suitability Interpretation contained in the proposed rule change, with the phrase ''the Board has identified certain factors which may be relevant when considering compliance.''

One commentor stated that, while not asking for a safe harbor, it believed that the proposed Suitability Interpretation should clarify procedures that create a ''clear rebuttable assumption'' that suitability of the recommendation has been established.[52] The NASD believes that a member's suitability obligation under Article III, Section 2(a) of the Rules of Fair Practice remains with the member until fulfilled, and that, therefore, the creation of ''clear rebuttable presumption'' through fulfillment of certain procedures would not be appropriate. One commentor recommended that the proposed Suitability Interpretation should only be applicable to relatively new types of instruments and not to ''basic securities'' because it would be too expensive for some firms to capture the proposed information on the customer and provide such information to its registered representatives for all such basic securities.[53] The NASD believes that Article III, Section 2 of the Rules of Fair Practice imposes suitability obligations on members when making recommendations regardless of the type of security, except for municipals. The NASD, therefore, believes that the scope of the proposed Suitability Interpretation in the proposed rule change must include all such securities, except municipals, regardless of whether the security is relatively basic or complex. In addition, the NASD believes that the term ''basic securities'' is not amenable to definition, as what is a basic security to one customer may not be basic to another.

One commentor stated that the proposed Suitability Interpretation, as a whole, is unworkable for members because of its complexity. The commentor believes the proposed Suitability Interpretation would provide little relief from the Suitability Rule under Article III, Section 2 of the Rules of Fair Practice for members dealing with institutional customers. The commentor proposed that the NASD adopt a two-part test based on portfolio size and the existence of a written agreement. Under the test, a member could assume that the suitability rule would not apply to institutional customers with an investment portfolio of $10 million or more if there were a written agreement on point stating that the customer was not relying on the member for recommendations.[54] The NASD does not believe it is appropriate to create a safe harbor for members' suitability obligations nor to change or reduce members' obligations under the suitability rule in Article III, Section 2 of the Rules of Fair Practice, as recommended by the commentor. The NASD believes the Suitability Interpretation, as contained in the proposed rule change, provides important guidance to members in fulfilling their suitability obligations

[49] Letter Nos. 1, 2, 15, and 16, *supra* note 19.

[50] Letter No. 2, *supra* note 19.

[51] Letter No. 15, *supra* note 19.

[52] Letter No. 14, *supra* note 19.

[53] Letter No. 1, *supra* note 19.

[54] Letter No. 6, *supra* note 19.

under Article III, Section 2(a) of the Rules of Fair Practice to institutional customers.

Definition of Institutional Customer

One commentor argued that the statement in the proposed Suitability Interpretation that the guidance contained therein ''should at a minimum be applied to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management'' is contrary to Congressional intent, under the Government Securities Act Amendments of 1993, to not distinguish between customers based on portfolio size.[55] The commentor also argued that if the proposed definition of institutional customer is used, further clarification is needed regarding: (i) the issue of aggregating government units that contain sub-units; (ii) the period to be reviewed for determining whether $10 million is invested in securities in its portfolio and under management; and (iii) the definition of the term ''under management.'' Another commentor argued that portfolio size should not matter in connection with the definition of institutional customer.[56] Another commentor requested clarification on whether the NASD intended by its discussion regarding the above $10 million threshold, to create a presumption of applicability either above or below the $10 million threshold.[57] The NASD agrees that portfolio size is not dispositive of a member's suitability obligations, but believes it is appropriate for the NASD to consider the portfolio size of the customer in determining the applicability of the proposed Suitability Interpretation. The NASD believes that there is a greater likelihood that the member can apply the proposed Suitability Interpretation to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management, but the NASD has no intent to create a presumption either above or below that aggregate dollar amount that the Interpretation will, in fact, apply to a particular institutional customer. In connection with concerns regarding the NASD's method of calculating the $10 million test, the NASD intends to look for guidance for such calculations to SEC Rule 144A.[58]

One commentor recommended that the phrase ''$10 million invested in securities and under management'' be changed to ''$10 million invested in securities in the aggregate in its portfolio or under management'' in order to recognize securities in the customer's portfolio that are not actively managed.[59] Upon review, the NASD agrees with this recommendation and changed the word ''and'' to ''and/or'' to make it clear that the $10 million that is applied to the total of securities that are: (1) beneficially owned by the institutional customer; and (2) in any accounts of other investors that are managed by the customer. As set forth above, the type of securities to be included in the calculation and the method of calculation will be determined by reference to SEC Rule 144A.

Presence of Customer Capability

One commentor noted that guidance regarding the consideration of the customer's capability to make its own investment decisions was referenced twice in the proposed Suitability Interpretation published for comment in NTM 95–21 and questioned whether this was intentional.[60] The NASD has modified the proposed Suitability Interpretation to clarify this discussion of customer capability under the heading ''Considerations Regarding the Scope of Members' Obligations to Institutional Customers.''

Two commentors recommended that the proposed Suitability Interpretation should state that a rebuttable presumption exists that institutions are capable of making their own independent investment decisions if the institutions: (i) are engaged in the financial industry or in the business of managing their own or others investments; (ii) have in-house or outside investment professionals charged with the responsibility for recommending or making investment decisions on behalf of the institution; or (iii) independently adopt an investment guideline and provide explicit investment guidelines to the member.[61] As discussed above, it is the position of the NASD that rebuttable presumptions are not appropriate under Article III, Section 2 of the Rules of Fair Practice and that the factors are merely guidelines.

One commentor recommended that the party that the member may consider ''capable'' be clarified to mean the ''institutional customer'' rather than the ''staff of the institutional customer'' as set forth in NTM 95–21.[62] One commentor similarly recommended that the party that the member may consider ''capable'' be defined as ''all of the staff of the institutional customer'' and not just one staff person.[63] The NASD believes it is difficult to define the particular staff responsible for the investment decision of the institutional customer. The NASD has modified the proposed Suitability Interpretation contained in the proposed rule change to delete the reference to the institutional customer's ''staff.''

Absence of Customer Reliance

One commentor stated that the primary focus on customer reliance or the absence of customer reliance on a member's recommendation in NTM 95–21 appeared to permit a broker/dealer to make a recommendation to an institutional customer without having reasonable grounds for believing that the recommendation is suitable for the customer.[64] The commentor argued that a determination that the customer is not relying on the member's recommendation should not relieve the member of the responsibility to have reasonable grounds, based on some information about the customer, for believing that the recommendation is suitable for that customer. Upon review of this comment and others discussed above with respect to NTM 94–62, the NASD acknowledges that the term ''reliance'' leads to confusion regarding the status of the member's suitability obligation. The term ''reliance'' has, therefore, been eliminated from the proposed Suitability Interpretation contained in the proposed rule change. It has been replaced with language that would require the member to affirmatively consider the extent to which the ''customer intends to exercise independent judgment in evaluating a member's recommendation.''

One commentor recommended that the proposed Suitability Interpretation state that members are not guarantors and that the governing body of the institutional customer is responsible for the amount of risk the institution should undertake.[65] The NASD acknowledges that members are not guarantors of the customer's investment. The proposed Suitability Interpretation contained in the proposed rule change is not intended to imply such responsibility. To the contrary, the proposed Suitability Interpretation seeks to clarify the circumstances under which a member has fulfilled its suitability obligations to an institutional customer

[55] Letter No. 10, *supra* note 19.
[56] Letter No. 3, *supra* note 19.
[57] Letter No. 14, *supra* note 19.
[58] *See* 17 CFR 230.144A (1994).
[59] Letter No. 4, *supra* note 19.
[60] Letter No. 16, *supra* note 19.
[61] Letter Nos. 12 and 16, *supra* note 19.
[62] Letter No. 15, *supra* note 19.
[63] Letter Nos. 4, *supra* note 19.
[64] Letter No. 9, *supra* note 19.
[65] Letter No. 4, *supra* note 19.

based on the member's consideration of the customer's capability to evaluate investment risk independently and the extent to which the customer intends to exercise independent judgement in evaluating the member's recommendation.

One commentor argued that the proposed considerations regarding customer reliance are unworkable because a member is not in a position to second-guess the qualifications or knowledge of an institutional customer.[66] The commentor opposed the suggestion that members may consider oral or written agreements and stated that referencing such oral or written agreements is not practical as the member/customer relationship is subject to continual change. The commentor stated that the fact that an institutional account is managed should be dispositive that the client is not relying on the member's recommendations. The Association believes that a member in an ongoing member/customer relationship will often gain knowledge of factors pertaining to the customer's capability to independently evaluate investment risk, as well as whether the customer intends to and is making independent investment judgments. Where the member does not gain such knowledge regarding a specific customer, the Association acknowledges that the Suitability Interpretation is not applicable to the member's relationship with the customer.

One commentor stated that Article III, Section 2 of the Rules of Fair Practice and the related Policy of the Board of Governors—Fair Dealing with Customers set forth adequate suitability guidelines for retail and institutional customers, and for new products.[67] The commentor argues that, given the adequacy of such rules, the only purpose of the proposed Suitability Interpretation is to establish a detailed determination of the customer's reliance upon the members' investment recommendations. The commentor further states that this determination is an obligation of an investment advisor and not a broker/dealer's obligation under Article III, Section 2 of the Rules of Fair Practice. The commentor argues that members who continue to merely make investment recommendations based on the existing guidelines for suitability should not be required to assume the responsibility of investment advisors. As noted above, the proposed Suitability Interpretation, published in NTM 95–21, was revised to eliminate consideration regarding reliance by the customer on the member's recommendation. The NASD believes that the Suitability Interpretation in the proposed rule change addresses relevant issues for members to consider in fulfilling their suitability obligations to institutional customers and that the obligations discussed therein are separate from the obligations of an investment advisor under the Investment Advisers Act of 1940.

One commentor recommended that if an institutional customer provides a document or affirmative statement that it is not relying on the member's recommendations, then the member would not have a reason to evaluate any of the proposed Suitability Interpretation's factors or any other factors in order to fulfill its suitability obligation to that client.[68] One commentor submitted a draft Trading Authorization form that would require representations by the institutional customer that the customer: (i) has the resources and procedures to make its own investment decisions; (ii) will not rely solely on the firms recommendations for investment decisions; and (iii) is capable of understanding the products and risks as presented.[69]

The NASD believes that the Suitability Interpretation contained in the proposed rule change is clear that it does not provide any safe harbor from the suitability obligations under Article III, Section 2 of the Rules of Fair Practice. Earlier versions of the proposed Suitability Interpretation were revised to eliminate any appearance that it provided a mechanical method by which a member could fulfill its suitability obligation under Article III, Section 2 of the Rules of Fair Practice. While the Suitability Interpretation contained in the proposed rule change continues to provide factors for the member to consider in making its suitability determination, these examples are not dispositive. The Suitability Interpretation contained in the proposed rule change states that members are reminded that these factors are merely guidelines that will be utilized to determine whether a member has fulfilled its suitability obligations with respect to a specific institutional customer transaction and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability.

One commentor recommended that the NASD adopt the standards for suitability determinations set forth in the Municipal Securities Rulemaking Board (''MSRB'') Rule G–19 as the NASD suitability standard for all securities, other than municipals.[70] The commentor stated that the MSRB Rule G–19 prohibits a transaction unless the member, after reasonable inquiry, has reasonable grounds to believe that the recommendation is suitable for a customer in light of its financial background, investment experience and investment objectives; and has no reasonable grounds to believe the recommendation is unsuitable. This commentor also argued that if reliance by the customer on the member's recommendation is to be the test, then an affirmative duty should be imposed on the member to request ''material relevant to a particular transaction,'' and to inform the customer of the instrument's characteristics, including behavior under different market conditions and valuation information. The NASD acknowledges the parallel regulatory function that MSRB Rule G–19 serves in the municipal securities business. It is believed that differences between the municipal securities business and the general securities business, which involves many different types of securities of greater or lesser complexity, have resulted in different suitability standards adopted by the NASD and MSRB. The NASD believes that Article III, Section 2 of the Rules of Fair Practice has served as a key regulation to further investor protection and the public interest under the Act, as amended, and continues to be the most appropriate suitability standard for the securities business, except municipals.

Other Comments

One commentor recommended that all the Rules of Fair Practice be reviewed to ensure consistency and uniformity of treatment for securities having similar risk characteristics.[71] The NASD has reviewed the Rules of Fair Practice to ensure consistency and uniformity of treatment in the application of the Rules of Fair Practice to debt securities having similar characteristics. The proposed rule change includes a chart that clarifies the applicability of the Rules of Fair Practice to exempted securities.

One commentor requested that the proposed Suitability Interpretation provide a definition of the term ''recommendation'' under Article III, Section 2 of the Rules of Fair Practice and the proposed Suitability

[66] Letter No. 2, *supra* note 19.
[67] Letter No. 5, *supra* note 19.
[68] Letter No. 16, *supra* note 19.
[69] Letter No. 13, *supra* note 19.
[70] Letter No. 10, *supra* note 17.
[71] Letter No. 9, *supra* note 19.

Interpretation.[72] One commentor was concerned that a rule that is triggered by the occurrence of a recommendation will result in a debate as to what is a ''recommendation.'' [73] Article III, Section 2 of the Rules of Fair Practice has been applicable to members' recommendations since the inception of the NASD. A significant amount of case law has been developed as a result of NASD disciplinary actions with respect to this provision, which is available as guidance to the membership. The NASD believes that defining the term ''recommendation'' raises many complex issues in the absence of the specific facts of a particular case. Finally, the NASD believes that the requested definition is not required in order to provide the guidance to members that is intended by the proposed Suitability Interpretation.

One commentor was concerned that the proposed Suitability Interpretation would lead investment practitioners to err on the side of conservatism in dispensing investment advice.[74]

The commentor recommended that the NASD clarify that ''suitable investment advice'' shall not mean ''the most conservative advice.'' The NASD does not believe that the proposed Suitability Interpretation contained in the proposed rule change addresses the appropriate level of investment advise. Rather, the focus of the proposed Suitability Interpretation is on clarifying the relationship of a member to its institutional customer when making a recommendation in connection with a securities transaction.

One commentor raised concerns regarding the general regulatory environment of the derivatives markets and urged the NASD to investigate a U.S. bank's activities in the derivatives markets.[75] The NASD intends the proposed rule change to further enhance the regulatory environment of the derivatives markets to the extent that exempted securities, including government securities other than municipals, are part of such markets. The NASD does not have jurisdiction to investigate a banking institution.

One commentor requested clarification that the proposal will not be vitiated or affected by the draft Principles and Practices for Wholesale Finance Market Transactions (''Draft Principles'').[76] The commentor noted that the Draft Principles provide that, absent a written agreement to the contrary, no communications (including ideas or suggestions regarding potential transactions) by a member should be construed as recommendations or investment advice.

On August 17, 1995, the final version of the Principles was issued by a committee consisting of representatives of the Emerging Markets Traders Association, the Foreign Exchange Committee of the Federal Reserve Bank of New York, the International Swaps and Derivatives Association, the New York Clearing House Association, the Public Securities Association, and the Securities Industry Association. The Principles are a voluntary industry standard. The position on suitability set forth in the final version of the Principles, as stated in the cover memorandum thereto issued by the Federal Reserve Bank of New York, is that the investor is encouraged to take responsibility for its own decisions regarding securities transactions. As set forth in Section 4.2.2. of the Principles, the investor is required to assume that the member is acting at arm's length for its own account and that any communications are not recommendations or investment advice on which the investor may rely unless a written agreement or applicable law is to the contrary. The Principles go on to recognize, however, that certain rules or regulations expressly provide that the facts and circumstances of a relationship alone may give rise to ''an advisory or fiduciary relationship''—even in the presence of a written agreement purporting to negate such a relationship. Additionally, Section 4.2.1. of the Principles focuses on whether the investor has the capability to understand and make independent investment decisions. In comparison, the Suitability Interpretation contained in the proposed rule change focuses on the customer's capability to evaluate investment risk independently and the extent to which the customer intends to exercise independent judgment in evaluating a member's recommendation—somewhat similar concepts.

The proposed Suitability Interpretation clarifies that the NASD's fundamental standard of suitability contained in Article III, Section 2(a) of the Rules of Fair Practice applies to all recommendations by a member to an institutional customer and recognizes that the manner in which a member fulfills this suitability obligation will vary depending on the nature of the customer and the specific transaction. The proposed Suitability Interpretation does not, however, provide definitive guidance on what constitutes a recommendation, leaving to the facts and circumstances of each case the determination of exactly when the suitability obligation imposed by Article III, Section 2(a) is triggered. Thus, under the NASD's suitability rule, whenever a recommendation is made, a member is responsible for the suitability of its recommendations to institutional customers in all cases, but will be deemed to have met its customer-specific suitability obligations if the member determines with respect to a transaction that a customer has the capability to evaluate investment risk independently and intends to exercise independent judgement in evaluating the member's recommendation. The Suitability Interpretation contained in the proposed rule change is not modified or superseded by the Principles as adopted. Rather, a member of the NASD will remain subject to Article III, Section 2(a), regardless of any different position on an issue set forth in the Principles.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be

[72] Letter No. 2, *supra* note 19.

[73] Letter No. 10, *supra* note 19.

[74] Letter No. 3, *supra* note 19.

[75] Letter No. 11, *supra* note 19.

[76] Letter No. 8, *supra* note 19.

available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 14, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[77]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–26231 Filed 10–23–95; 8:45 am]

BILLING CODE 8010–01–P

[Release No. 34–36385; File No. SR–OCC–95–10]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change to Enhance Saturday Expiration Date Processing Procedures

October 18, 1995.

On July 11, 1995, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–95–10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on August 31, 1995.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

Under the rule change, OCC is enhancing its Saturday expiration processing cycles by instituting a single real-time procedure for the updating of expiring positions of its clearing members. Prior to the amendment, OCC's Saturday expiration processing procedure for index and equity options did not provide real-time updates to clearing members on their expiring positions. Accordingly, two processing cycles, a preliminary and a final cycle, were necessary to reflect the results of post-trade activity (*e.g.*, reconciliation of unmatched trades) affecting expiring positions and to give clearing members the opportunity to edit their preliminary exercise instructions in response to updated reports from OCC.

OCC previously has implemented an expiration processing system for options expiring on business days[3] that provides real-time updates to clearing members on their expiring positions. Such real-time updates eliminate the need for a preliminary and final processing cycle. OCC now will employ this same real-time system for its Saturday expirations in order to reduce Saturday expiration processing to one cycle.

To accomplish the enhancement to Saturday expiration processing, certain changes have been made to OCC's by-laws and rules. The rule change eliminates references to preliminary and final processing cycles and reports. The rule change also amends OCC's by-laws and rules to reflect that the expiration exercise procedure is carried out utilizing an on-line transmission of instructions and reports to and from clearing members instead of by physical delivery of hard copy reports. The rule change also makes it clear that expiration processing cannot be extended beyond the normal expiration time except when the following day is not a business day and provides for emergency automatic exercises not only when OCC is unable to issued exercise reports but also when it is unable to receive exercise instructions properly submitted by clearing members.

Specifically, a new defined term, ''Expiration Exercise Report,'' which refers to the on-line exercise reports (including intraday updates) that OCC will make available to its clearing members has been added to Article I, Section 1 of OCC's by-laws. Technical and conforming changes have been made to Interpretations and Policies .02 under Article VI, Section 1.

Article VI, Section 18 has been amended to allow exercise processing to continue into the day after the expiration date only when that day is not a business day.[4] The purpose is to avoid the abuses that might result from allowing post-expiration exercise instructions to be given at times when U.S. markets were open. Section (a) of Article I, Section 18 now requires a clearing member to submit exercise instructions to OCC within such times as OCC shall prescribe.[5]

Section (b) of Article VI, Section 18 provides a ''backstop'' automatic exercise procedure in cases where OCC is unable to produce the reports required for expiration exercise processing within applicable deadlines. The rule change provides for automatic exercise not only in those cases but also in cases where OCC is unable to receive properly submitted exercise instructions within applicable deadlines. Cases of the latter type are currently covered by Section (c), which is being deleted.[6]

Rule 805, which specifies the exercise processing procedures for Saturday expirations, provides expressly for on-line processing and covers weekday as well as Saturday expirations. OCC has deleted from the rule references to preliminary and final exercise reports. OCC will utilize its on-line C/MACS system to make the Expiration Exercise Reports available to clearing members.[7] The Expiration Exercise Report will list all of the clearing member's expiring positions. Once the Expiration Exercise Report is made available, clearing members can submit exercise instructions in response to such report on separate C/MACS report screens. The response screens will be updated on a real-time basis.

Paragraph (b) of Rule 805 has been amended to reflect a change in the deadline for submitting exercise instructions. Previously, responses to the preliminary exercise report had to be submitted by 9:00 a.m. Central Time, and responses to the final report had to be submitted by 4:00 p.m. Central Time. Under the new system, clearing members are required to submit exercise instructions in response to the Expiration Exercise Report before such time as OCC shall specify.[8]

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[77] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(B)(1) (1988).

[2] Securities Exchange Act Release No. 36149 (August 23, 1995), 60 FR 45507.

[3] Some examples of such options include flexibly structured options, Quarterly-Index Expiration Options or QIXs, and foreign currency option contracts.

[4] This limitation is not new. It was imposed when options expiring on business days were first introduced. Securities Exchange Act Release No. 23004 (March 19, 1986), 51 FR 9563 [File No. SR–OCC–85–18] (order approving amendments to OCC by-laws and rules to accommodate the issuance, clearance, and settlement of European-style Treasury bill options). However, the limitation was deleted as part of a number of related OCC rule changes in 1993. Securities Exchange Act Release No. 33158 (November 4, 1993), 58 FR 60229 [File No. SR–OCC–93–8] (order approving amendments to OCC by-laws and rules to accommodate the clearance and settlement of Quarterly-Index Expiration Options to be traded on the New York Stock Exchange).

[5] Prior to approval of this proposed rule change, a clearing member had to respond within two hours of receiving a report.

[6] Section (c) of Article VI, Section 18 previously provided that if a preliminary or final exercise report is made available by OCC to a clearing member and if OCC cannot keep any of its offices open until the time prescribed for the return of such report, OCC will reopen its offices to receive such report which shall then be deemed to have been filed on a timely basis.

[7] OCC will specify in its Operations Manual the deadline for making Expiration Exercise Reports available to clearing members. Initially, OCC proposes to specify as the deadline 7:00 a.m. Central Time on the expiration date, which is the current deadline for issuing preliminary exercise reports.

[8] OCC will specify this deadline in its Operations Manual. Initially, the deadline will be 1:00 p.m. Central Time. This new cut-off time will allow OCC to begin its critical expiration processing earlier and should reduce the amount of time clearing members will be required to maintain staff on expiration Saturdays.

Paragraphs (c) and (d) of Rule 805 have been deleted because a final exercise report will no longer be distributed. Paragraphs (e) through (h) [now designated as paragraphs (c) through (f)] and (j) through (1) [now designated as paragraphs (g) through (i)] of Rule 805 and the interpretations thereto have been amended to eliminate references to preliminary and final exercise reports and to clarify that exercise instructions must be submitted using the on-line system rather than by hard copy reports. Paragraph (h) [now designated as paragraph (f)] also has been amended to allow OCC to prescribe alternative exercise procedures if unusual or unforeseen conditions prevent OCC from making Expiration Exercise Reports available on a timely basis or prevent clearing members from submitting timely on-line responses. However, as is presently the case, OCC will not extend the deadline for submitting exercise instructions beyond the expiration time except pursuant to Article VI, Section 18 of OCC's by-laws.

Paragraph (i) of Rule 805 is eliminated because the on-line system will not permit clearing members to submit untimely exercise instructions. Instead, clearing members desiring to submit late exercise instructions must tender written exercise notices pursuant to paragraph (c) of Rule 805.

Rule 806 has been deleted because there no longer will be a need for separate exercise processing procedures for options that expire on weekdays. The procedures prescribed by Rule 805 will apply to all expiring options, regardless of expiration date. Finally, Rules 801, 802, 1304, 1404, 1504, 1603, 1702, 1804, 2103, 2302, and 2403 have been amended to reflect the relettering of the paragraphs of Rule 805 and the elimination of Rule 806.

II. Discussion

Section 17A(b)(3)(F) of the Act [9] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. Additionally, Section 17A(a)(1)(B) of the Act [10] sets forth a Congressional finding that inefficient procedures for clearance and settlement impose unnecessary costs on investors and others.

The Commission believes that OCC's proposed rule change is consistent with OCC's obligations under the Act because OCC's proposal will allow the processing of Saturday expiring options pursuant to existing OCC systems, rules, and procedures already in place for options expiring on weekdays. The system currently in place for options expiring on weekdays is a computerized, real-time system. The prior system for processing Saturday expiration options relied on the physical delivery of hard copy reports which was more time consuming and inefficient. Implementation of a single real-time processing cycle for Saturday expiring options should provide a more effective way to process these options and should result in a more efficient and less costly service to OCC's clearing members.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–95–10) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

[FR Doc. 95–26285 Filed 10–23–95; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[10] 15 U.S.C. § 78q–1(a)(1)(B) (1988).

[11] 17 CFR 200.30–3(a)(12) (1994).

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Order of the United States District Court for the District of New Hampshire, dated August 14, 1995, the United States Small Business Administration hereby revokes the license of VenCap, Inc., a Delaware corporation, to function as a small business investment company under the Small Business Investment Company License No. 01/01–0330 issued to Lotus Capital Corporation on January 10, 1985 (whose name was later changed to VenCap, Inc.) and said license is hereby declared null and void as of September 14, 1995.

United States Small Business Administration.

Dated: October 18, 1995.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 95–26354 Filed 10–23–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2272]

United States International Telecommunications Advisory Committee (ITAC) Study Group B; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Study Group B will meet on Thursday, November 2, 1995, in room 1414, U.S. Department of Commerce, Herbert C. Hoover Building from 9:30 a.m. to 4:30 p.m., and on Thursday, December 14, 1995, Room 1912 at the U.S. Department of State, 2201 ''C'' Street, NW, Washington, DC 20520 from 9:30 a.m. to 4:30 p.m.

The agenda for the Study Group B meeting of November 2, will review results of the July meeting of SG 13, and of contributions for the November meetings of the Working Parties of Study Groups 9 and 13, as well as any other business of SG B. Please bring 35 copies of proposed contributions to the meetings unless documents have been previously mailed. In the later case, bring only 5 copies. Alternately, contributions endorsed by a U.S. standards body can be brought in for consideration and approval. For agenda planning purposes, please notify Marcie Geisinger on 303–497–5810 not later than 5 days before the meeting if you plan to attend the November 2 meeting. The agenda for the December 14 meeting will review the results of the November meetings of Study Group 9 and 10, consider contributions for the January 29 to February 16 meeting of Study Group 11, consider nominations for a U.S. delegation to the meeting of Study Group 11, and any other business relevant to U.S. Study Group B. Please bring 35 copies of documents to be considered at the December 14 meeting. If document has been mailed, bring only 5 copies.

PLEASE NOTE: Persons intending to attend the December 14 U.S. Study Group B meeting must announce this not later than 48 hours before the meeting to the Department of State by sending a fax to 202–647–7407. The announcement must include name, Social Security number and date of birth. The above includes government and non-government attendees. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: October 13, 1995.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunication Standardization.

[FR Doc. 95–26292 Filed 10–23–95; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 2271]

Shipping Coordination Committee and International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 a.m., on Friday, November 17, 1995, in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of this meeting is to report on the results of the eighth session of the Joint Intergovernmental Group of Experts on Maritime Liens and Mortgages (JIGE), held October 9–10, 1995, and the 73rd session of the International Maritime Organization (IMO) Legal Committee, held October 11–13, 1995. Initial comment will also be sought on the diplomatic conference drafts of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention) and the Protocol to amend the International Convention on Limitation of Liability for Maritime Claims (76 LLMC). Last, public comment will also be sought at the meeting regarding possible denunciation of the 1910 Brussels Convention for the Unification of Certain Rules of Law Relating to Assistance and Salvage at Sea (1910 Salvage Convention).

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first subject addressed will be a report on the status of the JIGE negotiations to revise the International Convention on the Unification of Certain Rules Related to the Arrest of Seagoing Ships, 1952 (1952 Arrest Convention). The second subject, which will be addressed at approximately 10:30 a.m., will be a report on the preparations for the upcoming diplomatic conference that will adopt the draft HNS Convention and the Protocol to amend the 76 LLMC. Initial comments will also be sought at this time regarding the substance of the draft HNS Convention and the Protocol to the 76 LLMC.

At approximately 11:30 a.m., there will be a report on the other major substantive agenda items discussed at the 73rd session of the Legal Committee. These items included consideration of a draft convention on offshore mobile craft, possible work on a draft convention on wreck removal, consideration of a liability and compensation regime for bunker fuel incidents, and interpretation of the scope of application of the special compensation regime under Article 14 of the 1989 International Convention on Salvage (1989 Salvage Convention).

Last, at approximately 12:00 noon, comments will be sought on possible denunciation of the 1910 Salvage Convention. The United States is a party to both this convention and the 1989 Salvage Convention. The 1989 Salvage Convention is due to come into force on July 14, 1996. Consideration should therefore be given to denunciation of the 1910 Salvage Convention, which was intended to be replaced by the 1989 Salvage Convention.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information or to submit views concerning the subjects of discussion, contact either Captain David J. Kantor or Lieutenant Commander Steven D. Poulin, U.S. Coast Guard (G–LMI), 2100 Second Street, SW., Washington, DC 20593, telephone (202) 267–1527, telefax (202) 267–4496.

Dated: October 12, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–26293 Filed 10–23–95; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD8–95–020]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee will meet to discuss various navigation safety matters affecting the Lower Mississippi River area. The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to approximately 11 a.m. on Monday, December 11, 1995.

ADDRESSES: The meeting will be held in the 11th floor conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting consists of the following items:

(1) Presentation of the minutes from the September 12, 1995 full Committee meeting.

(2) Subcommittee Reports.

(3) Industrial Lock Replacement.

Dated: October 2, 1995.

C.B. Newlin,

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

[FR Doc. 95–26258 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–14–M

Aviation Proceedings; Agreements Filed During the Week Ending October 13, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–95–723.

Date filed: October 10, 1995.

Parties: Members of the International Air Transport Association.

Subject: TC31 Reso/P 1080 dated October 3, 1995, Circle Pacific Resolutions r–1 to r–2, Intended Effective Date: April 1, 1996.

Docket Number: OST–95–724.

Date filed: October 10, 1995.

Parties: Members of the International Air Transport Association.

Subject: TC2 Telex Mail Vote 757, Fares Within Africa, r–1—062c, r–2—079c, Intended effective date: November 1, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–26266 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 13, 1995

The following Applications for Certificates of Public Convenience and

Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–734.

Date filed: October 12, 1995.

Due Date for Answers, Conforming Applications, or Motion to Modify: November 9, 1995

Description: Amendment No. 2 of the Application of Volga-Dnepr J.S. Cargo Airline, pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Regulations, requests an amendment to its foreign air carrier permit to add scheduled route authority for services between Moscow, Russia and New York, New York, U.S.A. via intermediate points.

Docket Number: OST–95–731.

Date filed: October 11, 1995.

Due Date for Answers, Conforming Applications, or Motion to Modify: November 8, 1995.

Description: Application of Cargolux Airlines International, S.A., pursuant to 49 U.S.C. Section 41302 andSubpart Q of the Regulations, applies (1) to renew its foreign air carrier permit last issued by Order 90–11–21, served November 15, 1990; and (2) to amend its foreign air carrier permit to authorize Cargolux to provide scheduled air transportation of property and mail, and passengers on the upper deck of B–747 freighter aircraft, from points behind Luxembourg via Luxembourg and intermediate points to a point or points in the United States and beyond. Cargolux requests this permit authority for a ten (10) year period.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–26265 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Notice of Opportunity To Participate, Criteria Requirements and Change of Application Procedure for Participation in the Fiscal Year 1996 Military Airport Program (MAP)

AGENCY: Federal Aviation Administration, Department of Transportation (DOT).

ACTION: Notice of criteria for application for designation, continued participation, in the Fiscal Year 1996 Military Airport Program.

SUMMARY: This notice announces the revised criteria, application procedures and schedule to be applied by the Secretary of Transportation in designating additional airports for participation in the 1996 Military Airport Program (MAP). Airports must be current or former military airfields to qualify. Airports will be designated in part based on their ability to relieve congested airports having 20,000 hours or more of annual delays in commercial passenger aircraft takeoff and landings. Further, currently designated airports, with fewer than five years in the MAP, requesting to continue in the program, must submit a current 5-year capital improvement plan which identifies conversion-related and capacity-related projects. Currently the MAP does not extend beyond 1996. This notice responds to 49 U.S.C. 47118, as amended by Section 116 of Public Law 103–305 (August 23, 1994).

DATES: Airport sponsors should address written applications for designation, or continued participation, in the fiscal year 1996 Military Airport Program to the Federal Aviation Administration (FAA) regional Airports Division or Airports District Office that serves the airport. Applications must be received by that office of the FAA on or before January 22, 1996.

ADDRESSES: Send an original and two copies of Standard Form 424, ''Application for Federal Assistance,'' and supporting and justifying documentation, specifically requesting to be considered for designation to participate, or continue, in the fiscal year 1996 Military Airport Program, to the Regional FAA Airports Division or Airports District Office that serves the airport.

FOR FURTHER INFORMATION CONTACT: Mr. James V. Mottley or Leonard C. Sandelli, Military Airport Program Office (APP–4), Office of Airport Planning and Programming, Federal Aviation Administration (FAA), 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8780, or (202) 267–8785, respectively.

SUPPLEMENTARY INFORMATION: This notice announces a change in the application process and criteria to be applied by the Secretary of Transportation in designating additional military airports for participation in the military airport grant program. These airports must be current or former military airports. This notice also announces a change in the procedure for the continued participation of previously designated airports which have participated less than five years in the MAP. This program is established under 49 U.S.C. Section 47118, as amended by Section 116 of Public Law 103–305 (August 23, 1994). The Secretary shall allocate at least 2.5% of the Airport Improvement Program grant funds available to airports designated under the 1996 MAP. Further, airports designated to participate in the MAP in 1992 or thereafter are required to submit a 5-year Capital Improvement Plan to continue in the 1996 MAP. The airport must specifically identify conversion and capacity related projects that the sponsor intends to fund under the MAP as indicated in the application procedures below.

Since Congress has authorized selection of three new airports and seven will graduate from the program, a total of 10 new airports can participate in the FY 1996 program. There are currently five designated airports with less than five years in the MAP that can continue in the program. Five years is the maximum period of eligibility for any airport to participate in the MAP. As of August 23, 1994, Congress amended 49 U.S.C. 47118 to eliminate the provision for discretionary extension of the five year period of eligibility for airports that do not have a level of passenger emplanements to qualify as a small hub airport. See, Section 116 of Public Law 103–305.

Sponsors of all airports for which participation in the 1996 MAP is sought must respond to this notice and submit a Standard Form 424, ''Application for Federal Assistance,'' as well as supporting and justifying documentation as required by this notice. This procedure conforms with FAA procedures for administering the Airport Improvement Program (AIP), the requirements of 49 U.S.C. 47118, as amended by Section 116 of Public Law 103–305 (August 23, 1994), and certain recommendations made by the General Accounting Office (GAO) in its Report B–256001 (1994), entitled ''The Military Airport Program Has Not Achieved Intended Impact.''

For new candidates, the Secretary shall consider the extent to which conversion and/or development of the current or former military airport, in whole or in part, as a civilian commercial service or reliever airport in the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

Only if the Secretary finds that the grants for projects at an airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoff and landings will a candidate be eligible for inclusion in the MAP.

All airports, including previously designated airports with less than five years in the MAP, must submit current 5-year capital improvement plans to be considered for fiscal year 1996 funding under MAP as outlined in the application procedures below. The 5-year program must be part of the airport's total capital improvement plan, and specifically identify conversion related and capacity related projects which will be considered for funding as MAP eligible projects.

Once the identified conversion and capacity projects have been funded, the FAA intends to evaluate the need for any further MAP funding at the airport. Airports graduating from the MAP will allow other airports to participate in the MAP. As discussed above, Congress has limited the maximum period for any airport to participate in the program to five years.

The FAA will also be evaluating the continued eligibility of the current five MAP participants for future grant funding based on the required five year capital improvement plans and criteria established in prior notices. As noted above, the five year graduation requirement applies to all MAP participants in the future. The FAA will also consider newly closed military airfields as they become eligible to participate.

The application procedure for implementing the 1996 MAP has been changed from one of inviting expressions of interest of one of requesting the submittal of the Standard Form 424, ''Application for Federal Assistance,'' along with supporting documentation to respond to the qualifications and evaluation criteria. This procedure is being adopted to conform the MAP to the standard AIP grant-in-aid procedure to provide the necessary information to select candidate airports for the program.

In making new airport designations, the Secretary will consider the following criteria:

(1) The Secretary of Transportation must issue a finding that the airport and grants issued for projects at an airport new to the Military Airport Program would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings. Airports with 20,000 or more hours of delay and their associated metropolitan areas are identified in the FAA's Aviation Capacity Enhancement Plan. DOT/FAA, Office of System Capacity, 1994 Aviation Capacity Enhancement Plan, Report No. DOT/FAA/ASC–94–1.

(2) The analysis, supporting data, and justification to support this finding is extremely important and must be contained in the application. The analysis should include factors about the candidate airport and the congested airport(s), if not the same, such as compatibility of airport roles; the capability of the candidate airport and its airside and landside complex to serve aircraft that otherwise must use the relieved airport; ground surface access; airport operational capability, including peak hour and annual throughput capacities of the candidate airport; potential of other metropolitan area airports to relieve the congested airport; ability to satisfy or meet air cargo demand within the metropolitan area; forecasted aircraft and passenger levels; type of air carrier service anticipated, i.e., scheduled and/or charter air carrier service; type of aircraft projected to serve the airport and level of operation at the relieved airport and the candidate airport; the potential for the candidate airport to be served by aircraft or users, including the airlines; serving the congested airport; and any other substantial documentation to support the Secretary's designation of the new airport.

Application Procedures

Airport sponsors applying for consideration for inclusion (''New Airports'') or continuation in the MAP (''Current Airports Applying for Continuation'') must complete a Standard Form 424, ''Application for Federal Assistance,'' and submit documentation to the appropriate FAA office as outlined below. Each sponsor must specifically state in the Standard Form 424, or in its transmittal, that the airport is applying in response to this notice for consideration as a candidate for the MAP or, if designated in 1992 or thereafter, that the airport is applying as a continuing participant in the MAP. The additional information and data required to support the MAP criteria must be attached to the Application.

Information To Be Contained in Application

New Airports

A. Qualifications for new candidates:

(1) Submit an Application for Federal Assistance, Standard Form 424, along with the documentation and justification indicated below to request designation by the Secretary to participate in the Military Airport Program.

(2) Documentation that the airport meets the definition of a ''public airport'' as defined in 49 U.S.C. Section 47102(16).

(3) Documentation that the required environmental review process for civil or joint-use of the military airfield has been completed. (This is not the environmental review for the projects under this program, but the environmental review necessary for title transfer, a long term lease, or a joint use agreement.)

(4) In the case of a former military airport, documentation that the local or State airport sponsor holds satisfactory title, or a long term lease for 20 years or more, to the property on which the civil airport is being located. In the case of a current military airport, documentation that the airport sponsor has an existing joint-use agreement with the military department having jurisdiction over the airport. (The title transfer, lease, or joint use agreement must be effective on or before January 15, 1996. This is necessary so the FAA can legally issue grants to the sponsor.)

(5) Documentation that the airport is a ''commercial service airport'' or a ''reliever airport'' as defined in 49 U.S.C. 47102 (7) and 47102 (18), respectively, and is included in the current National Plan of Integrated Airport Systems.

(6) Documentation that the airport has an eligible airport ''sponsor'' as defined in 49 U.S.C. 47102 (19).

(7) Documentation that the airport has an approved airport layout plan (ALP) and a five year capital improvement plan indicating all eligible grant projects either to be funded from the MAP or other portions of the Airport Improvement Program. The five year plan must also specifically identify the capacity and conversion related projects, associated costs and projected five year schedule of project construction, including those requested for consideration for 1996 MAP funding.

B. Candidates requesting new designation under the program must submit the following documentation:

(1) Information identifying the existing and potential levels of visual or instrument operations and aeronautical activity at the current or former military airport and the relieved airport. If served by commercial air carriers, the revenue passenger and cargo levels should be provided.

(2) A description of the projected civil role and development needs for transitioning from use as a military airfield to a civil airport, as appropriate,

and how development projects would reduce delays at an airport with more than 20,000 hours of annual delay in commercial passenger aircraft takeoffs and landings.

(3) A description of the existing airspace capacity. Describe how anticipated new operations would affect the surrounding airspace and air traffic flow patterns in the metropolitan area in or near which a current or former military airport is located. Include a discussion of the degree to which operations at this airport create airspace conflicts that may cause congestion or whether air traffic works into the flow of other air traffic in the area.

(4) A description of the five year capital improvement plan, including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs. Capacity related, and/or conversion related projects should be specifically identified, especially those that the airport sponsor proposes to fund under the MAP. A copy of the plan should also be submitted.

(5) A description of projects that are consistent with the role of the airport and effectively contribute to converting the airfield to a civil airport. Projects can be related to various improvement categories depending on the need to convert from military to civil airport use, to meet required civil airport standards, and/or required to provide capacity to the airport and/or airport system. The projects selected, i.e., conversion-related, and capacity-related, must be identified and fully explained based on the airport's planned use. The sponsor needs to submit the airport layout plan (ALP) and the maps or charts that clearly identify and help clarify the eligible projects and designate them as conversion-related or capacity-related. It should be cross referenced with the project costs and project descriptions. Projects that could be eligible under MAP if needed for conversion-related or capacity-related purposes include:

Airside:

- Modification of airport or military airfield or airport pavements (including widths), marking lighting, pavement strengthening, and imaginary surface standards to meet civil standards.
- Facilities or support facilities such as passenger terminal gates, aprons for passenger terminals, taxiways to new terminal facilities, aircraft parking, and cargo facilities to accommodate civil use.
- Modification of airport or military utilities (electrical distribution systems, communications lines, water, sewer, drainage) to meet civil standards. Also, modifications that allow civil airport utilities to operate independently if other portions of the base are severed from the airport. (This is important where portions of the base are being transferred to an entity different from the airport sponsor.)
- Purchase, rehabilitation, or modification of airport and support facilities, including aircraft rescue and fire fighting buildings and equipment, airport security requirements, lighting vaults, and reconfiguration or relocation of buildings for more efficient civil airport operations, snow removal equipment.
- Modification of airport or military airfield fuel systems and fuel farms to accommodate civil aviation activities.
- Acquisition of additional land for runway protection zones, other approach protection, or airport development.

Landside:

- Construction of surface parking areas and access roads to accommodate automobiles in the airport terminal area and provide an adequate level of access to the airport.
- Construction or relocation of access roads to provide efficient and convenient ingress and egress to the airport and surface vehicular flows on the airport, including access to passenger, air cargo, fixed base operations, and aircraft maintenance areas.
- Modification or construction of facilities such as passenger terminals, surface automobile parking, and access to cargo facilities to accommodate civil use.

(6) An evaluation of the ability of surface transportation facilities (road, rail, high speed rail, maritime) to provide intermodal connections.

(7) A description of the type and level of aviation and community interest in the civil use of a current or former military airport.

(8) One copy of the FAA approved ALP for each copy of the application. The ALP or supporting information should clearly show capacity and conversion related projects. Also, other information such as project costs, schedule, project justification, other maps and drawings showing the project locations, and any other supporting documentation that would make the application easier to understand should be included.

Current airports applying for continuation

- Airports with less than 5 years in the MAP need to submit the following in order to respond to this notice and remain in the program.

(1) An Application for Federal Assistance, Standard Form 424, along with the documentation and justification indicated below to request participation in the Military Airport Program. Identify the airport as one with less than five years in the MAP applying for continuation.

(2) Identify the existing and potential levels of visual or instrument operations and aeronautical activity at the current or former military airport and the relieved airport.

(3) Provide a detailed discussion of the projected civil role and continuing development needs for converting a military airfield to a civil airport, and/or how development projects would reduce delays at an airport with more than 20,000 hours of annual delay in commercial passenger aircraft takeoffs and landings.

(4) Describe the five year capital improvement plan, including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs, annotated and identified as capacity related, and/or conversion related purposes.

(5) Submit one copy of the FAA approved ALP for each copy of the application, as approved. The ALP should clearly show the capital improvement plan projects. Also include any other information or drawings that would show and/or clarify the five year plan identifying capacity, and conversion related projects, associated costs, schedule, and project justification.

This notice is issues pursuant to section 49 U.S.C. 47118.

Issued at Washington, DC, on October 16, 1995.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 95–26353 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA Docket No. 94–17]

Highway Work Zone Safety Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) hereby establishes the National Highway Work Zone Safety Program (NHWZSP). The purpose of the program is to enhance safety at highway construction, maintenance, and utility sites by

improving the quality and effectiveness of traffic operations, safety appurtenances, traffic control devices, and maintenance of traffic bidding practices.

EFFECTIVE DATE: October 24, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph J. Lasek, Safety Design and Operations Division, HHS–10 by telephone at 202–366–2174 and telefax, 202–366–2249 or Mr. Joseph Solomey, Office of Chief Counsel, HCC–20, by telephone 202–366–1374, Federal Highway Administration, 400 Seventh Street, SW., Washington DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 1051 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 (Pub. L. 102–240, 105 Stat. 1914) requires the establishment of a National Highway Work Zone Safety Program (NHWZSP).

Highway work zones occur due to road and structural improvements, maintenance activities, or utility work performed by contractors, public agencies, or utility companies at the request or approval of a government agency. These State and local governments have primary responsibility for planning, designing, and implementing work zones to ensure the safe and convenient travel of highway users as well as the safety of the workers.

The FHWA views its role as providing leadership, guidance, and oversight to improve the overall highway safety construction, maintenance, and utility work zones especially on Federal and Federally-aided projects. The FHWA has exercised its leadership and guidance through the years by developing and updating work zone traffic safety regulations; developing technology and safety information bases; revising the National Manual on Uniform Traffic Control Devices (MUTCD), Part VI, relative to work zone operations; conducting field reviews; developing national training courses for improving the planning, design and operations of work zones; conducting related research; holding national and regional work zone safety conferences; and issuing technology transfer information to assist in the rapid transfer of work zone technology and procedures. On September 8, 1994, FHWA published in the Federal Register (59 FR 46467) a proposal to establish the NHWZSP. Subsequently, a national work zone safety conference was conducted in Washington, D.C. (December 5–7, 1994) with over 230 invited participants representing a broad spectrum of organizations involved with work zones and safety issues. Proceedings of the conference have been published and are being widely distributed. Information obtained from the conference has also been considered in the development of this final version of the NHWZSP.

Discussion of Comments

During the public comment period for the September Federal Register Notice, which closed on November 11, 1994, FHWA received written responses from 25 organizations including 13 State Departments of Transportation (DOTs), three national associations, four private companies, a utility company, a labor union, a safety advocacy group, a consultant, and a Federal government safety agency. The responses concerning this program are available for review at the Federal Highway Administration, Public Docket Room 4232, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590.

Of the 25 responses received, eight fully supported the program or supported it with selected reservations; 16 expressed no position on the program in general, but had comments on specific items; and one expressed a specific reservation on elements of the program.

The 25 responses included some 162 total individual comments on aspects of the program. Many of the comments had similar themes and were the basis for making changes in producing the final product. Some of the changes only involved adding clarifying language, while others added information or modified the program substantially. The comments that have resulted in substantive changes or were of significance are summarized in the following discussion. The content and location of changes in the NHWZSP are provided in the Discussion of Comments section.

Objective and Scope

Two respondents—one private industry and one national association—recommended that the NHWZSP should recognize highway worker safety. Although this was intended, it was not specifically covered. The Objective and Scope of the NHWZSP has been revised to specifically include ''highway workers.'' Additionally, FHWA is addressing the needs of highway workers by promoting the use of the Strategic Highway Research Program (SHRP) work zone safety devices mentioned in Section C, paragraph 4, subparagraph a (C.4.a), such as the intrusion alarms which warn workers of vehicles entering their work area. FHWA is also supporting training courses that address worker safety, such as ''Design and Operation of Work Zone Traffic Control.''

Two respondents—two State DOT's—recommended that the NHWZSP address the needs of older drivers in work zones. The FHWA has amended the Objective and Scope to include ''elderly drivers''. Also, to assess the needs of elderly drivers FHWA is conducting a study, ''Human Factors Study of Traffic Control in Construction and Maintenance Zones.'' The results from this study will be used to revise work zone operations where needed to better accommodate elderly drivers.

Three respondents—two State DOT's and one national association—recommended that the NHWZSP should involve all levels of an agency's personnel, all aspects of industry and public agencies. The FHWA agrees with this recommendation and has amended the Objective and Scope to include the entities for which the program applies. The FHWA will also consider this in any guidance material that may be issued in the future.

Standardization

Two respondents—a State DOT and a safety advocacy group—commented on the updating of 23 CFR part 630 Subpart J, ''Traffic Safety in Highway and Street Work Zones.'' One respondent recommended strengthening Subpart J and making unit pay items mandatory. The other response recommended more State and local government flexibility in bidding practices. The FHWA will consider these divergent viewpoints during the updating of Subpart J over the next year. No change was required in the NHWZSP based on these recommendations.

Nine respondents—five State DOT's, two private companies, a safety advocacy group, and one national association—commented on minimum retroreflectivity guidance. Three respondents recommended that minimum retroreflectivity standards should be developed, two respondents recommended that they should be deferred or limited in application, one State DOT recommended they should not be developed, and the remaining three respondents commented on the subject content or the phasing of any proposed guidance. The FHWA is working to develop standards for minimum levels of retroreflectivity for all signs and pavement markings as required by the 1993 Department of Transportation Appropriations Act. The establishment of retroreflectivity standards for all signs and pavement

markings for incorporation into the Manual of Uniform Traffic Control Devices (MUTCD) will be addressed through a separate rule making process.

Eight respondents—six State DOT's, one private company and a safety advocacy group—commented on determining the crashworthiness of work zone related traffic control devices and safety appurtenances. Four respondents support the NHWZSP's proposed crash testing program. Two respondents expressed concern about the cost and the need to consider accident experiences as well as the nature of specific work zone appurtenances in determining their crashworthiness. Remaining respondents recommended specific appurtenances for crash testing. The FHWA believes it is important to have safe crashworthy equipment and traffic control devices in work zones similar to what is required on the other portions of a highway. However, there is a need for rational decision making in developing an appropriate crash test program for work zones devices. This would consider the relative degree of risk, the potential use of computer simulation in lieu of crash tests, and in service experience. No change to the program was considered necessary based on the received comments.

Three respondents—two State DOT's and one private company—recommended using procedures and layouts for short term work that require a lesser number of traffic control devices. Although the comments do not directly relate to the NHWZSP content, they are deserving of a response. The FHWA considers that the new Part VI of the Manual on Uniform Traffic Control Devices provides adequate flexibility for short term work zones. Suggestions for specific changes to the MUTCD traffic control figures or clarifying language may be submitted to the FHWA for consideration in future revisions to Part VI.

Compliance

Two respondents—one State DOT and a consultant—recommended more emphasis be placed on development and implementation of traffic control plans (TCP). The FHWA agrees with the importance of using good traffic control plans for work zones and in complying with them during the life of the project. The current Federal regulations (23 CFR 630, Part J) emphasize their contribution for improving work zone safety. Also, the FHWA is providing further emphasis on TCPs in new work zone training courses, especially the two courses—''Developing Traffic Control Plans and Strategies'' and ''Design and Operation of Work Zone Traffic Control.'' Additionally, FHWA will emphasize implementation and compliance with TCP's in the review process used by State and local highway agencies and in the periodic FHWA regional reviews.

Seven respondents—four State DOT's, two national associations, and a safety advocacy group—commented on certification of flaggers and work site supervisors. Two respondents recommended that certification should not be mandated. Two respondents recommended requiring certification programs. Other respondents provided recommendations on the subject content of any proposed certification program. The FHWA recognizes that differences exist concerning certification requirements for flaggers and work site supervisors, and determined it would be inappropriate to mandate a certification program at this time. However, FHWA recognizes the potential for increased safety and Section C.2.c.(1) is modified to promote the use of training and certification for flaggers and work site safety supervisors. Additionally, FHWA will collect and disseminate information on certification programs.

Three respondents—one State DOT, one private company, and a utility—recommended that more emphasis should be placed on increasing safety in work zones by improving laws and improving cooperation between highway agencies and law enforcement agencies. FHWA agrees and has modified the NHWZSP [See Section C.2.c.(3)] to promote greater coordination and cooperation between highway agencies and law enforcement agencies. FHWA will incorporate information on the cooperative involvement of law enforcement agencies into current training courses and field review procedures.

Evaluation

Eight respondents—five State DOT's, one national association, a safety advocacy group, and a Federal government safety agency—commented on annual reviews. Five respondents supported this section and three commented on the scope of the annual review process. FHWA has revised the NHWZSP [See Section C.3.b.(2)] to clarify its intent to conduct or participate in reviews on a periodic basis. Since the FHWA is shifting emphasis in its oversight responsibilities from a project review orientation to a program and system review orientation, these type reviews will allow the FHWA to participate in program evaluations and analyze national trends at a time of reduced resources.

Seven respondents—four State DOT's, two private companies, and a labor union—supported the need for better work zone crash data or commented on aspects of work zone accident reporting. Two respondents recommended that accident data should be collected within existing State traffic records systems, two respondents recommended better accident data collection, and the other respondents supported better accident data collection with reservations about the extent of any data collection effort.

The recent National Work Zone Safety Conference also provided strong support for collecting and using better work zone crash data elements. Section C.3.a. was revised to reflect the efforts FHWA will initiate to improve work zone crash data at both the national and state level, while recognizing the difficultly in gaining acceptance for any major accident data collection effort.

Innovation

Four respondents—three State DOT's and one private company—proposed the NHWZSP provide incentives (funds) to develop new technology. While FHWA agrees with the concept of using incentives to support development of new technology, this cannot be included in the NHWZSP at this time because there is no authorizing legislation to provide (fund) incentives.

Four respondents—three State DOT's and one private company—recommended that the NHWZSP should focus on improving communications among contractors, highway users, and highway agencies. One respondent recommended that FHWA focus on improving communications and information flow, two respondents recommended specific actions that would communicate information, and one respondent recommended that FHWA should develop a national information network. The development of a national clearinghouse for work zone information was also strongly supported at the recent National Work Zone Safety conference. FHWA agrees that improving information flow about nationwide work zone safety data and activities is important. In response to the recommendations Section C.3.c.(2) has been added which identifies FHWA's intent to investigate establishing a national clearinghouse for work zone information.

NHWZSP Implementation

Five respondents—three State DOT's, one national association, and a safety advocacy group—recommended that a work zone safety program be included

in the State's Safety Management System. The FHWA agrees and has added Section C.2.c.(2) encouraging that highway work zone safety should be part of each State's Safety Management System.

National Highway Work Zone Safety Program

A. Introduction

Section 1051 of ISTEA requires the Secretary of Transportation to ''* * * develop and implement a work zone safety program which will improve work zone safety at highway construction sites by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.''

Section 1051 is the result of Congressional concern for the continuing number of fatalities and injuries occurring annually in work zones and its desire to improve work zone safety for highway users and workers. In response to these concerns, the FHWA developed the National Highway Work Zone Safety Program (NHWZSP) based upon FHWA experience, National Transportation Safety Board findings and recommendations, docket comments, annual work zone safety reports, research reports, and technical articles.

The NHWZSP is the structure FHWA will follow in planning, developing, implementing, and monitoring work zone safety and operational activities nationally. By including basic activities necessary to improve work zone safety in the NHWZSP, it also serves as a model for State and local governments to follow in developing or revising their own work zone safety improvement programs.

B. Objective and Scope

The objective of the National Highway Work Zone Safety Program is to enhance safety and operational efficiency of highway work zones for highway users—motorists, pedestrians, motorcyclists, bicyclists, including the elderly highway users—and highway workers. The program is applicable to all public highways and streets. Early implementation will particularly emphasize activities on the National Highway System. The program elements should be considered for application by all public highway agencies and utility companies, the highway industry, and highway users. The intent is to have a continuing active program which will be reviewed at least biennially.

C. Work Zone Program

The NHWZSP consists of four components—standardization, compliance, evaluation, and innovation. Each component contains key elements supporting the component, and for each element there are planned or recommended FHWA activities that will aid in its implementation. In addition, each listed activity may support more than one program component.

1. Standardization—Update Existing Work Zone Safety Related Standards and Develop New Standards Where Needed

Standardization of traffic control devices, operational features, traffic control plans or layouts, contract specifications, and use of recognized industry wide good work zone management practices encourages uniformity of application and a common understanding of these items by highway agency staff, contractor's personnel, equipment and material suppliers, and the traveling public. This promotes quicker recognition and better understanding of what is required to achieve compliance and assure a higher level of safety in work zones.

The following elements are pertinent to having appropriate national and State standards and guidelines contribute to improved work zone safety:

a. An updated Federal regulation on work zone safety—23 CFR 630 Subpart J, ''Traffic Safety in Highway and Street Work Zones.''

(1) FHWA will review current work zone problems and update the regulation to reflect current needs and emphasis including reinforcement of guidance on bidding practices, work zone accident data collection and analysis at both project and program levels, compliance with traffic control plans, and work zone speed limits.

b. A current Manual on Uniform Traffic Control Devices (MUTCD) including Part VI Standards and Guides for Traffic Controls for Streets and Highway Construction, Maintenance, Utility, and Incident Management Operations.

(1) FHWA will maintain and continually update Part VI of the MUTCD for direct use by highway agencies, contractors, utility companies, and the highway industry in general.

(2) FHWA will develop retroreflectivity standards for work zone signs and pavement markings as part of an overall FHWA objective to meet the retroreflectivity requirements included in the 1993 U.S. Department of Transportation Appropriations Act.

c. Standards, procedures, and criteria for establishing the crashworthiness of work zone safety appurtenances.

(1) FHWA will propose a pooled funded crash testing program using the latest accepted criteria and standards approved by the FHWA. This will also include development of clarifying or additional guidance related to the use of crashworthy devices in work zones.

2. Ensure Compliance

Experience in work zone operations indicates that ensuring compliance with existing standards and guidelines at all times would substantially improve the safety and operation of work zones. The common causes of noncompliance include—underestimating project needs or complexity, failure to accurately implement the traffic control plan initially or modify it due to changing conditions, and gradual deterioration of devices over the life of the project.

Elements considered important to assuring compliance with work zone related standards and guidelines are—

a. Procedures and specifications which help achieve or maintain an acceptable level of quality for traffic control plan applications, including all traffic control devices and safety appurtenances used in work zones.

(1) FHWA will develop inspection methods to identify devices that have been improperly installed or inadequately maintained to increase the contractors' compliance and highway agencies' enforcement of contract traffic control provisions. This activity includes promoting the National Highway Institute's training course—''Inspection of Work Zone Traffic Control Devices,'' which provides guidance to inspectors for assuring an acceptable quality level of installed and maintained work zone traffic control devices.

(2) FHWA will identify and promote those procedures and specifications that will help improve the efficiency and effectiveness of work zone operations (ex. special incentive/disincentive provisions for timely completion of work) and increased safety.

b. Public awareness and education programs designed to sensitize highway users on the uniqueness and risk of driving in work zones and to change highway user behavior accordingly.

(1) FHWA will promote the development and implementation of public education and awareness programs, including exploring the potential of developing, in cooperation with our partners, a single national work zone safety campaign that could be locally adapted and used by each State.

(2) FHWA will consider other outreach activities to advance the concept of safer driving in work zones.

c. Full use of available resources and guidance material to achieve better compliance with traffic control plans, specification, and procedures.

(1) FHWA will provide guidance to highway agencies on training/certification programs for flaggers and work site safety supervisors, and promote their use.

(2) FHWA will encourage State and local highway agencies to include work zone safety in their Safety Management Systems to assure it is properly considered in the planning, design, and implementation stages.

(3) FHWA will promote greater coordination and cooperation between law enforcement and highway agencies in the planning, design, and implementation of traffic control plans. Also, provide information on effective State and local laws, regulations, and procedures that enhance the safety and operations of work zones.

3. Improve Evaluation of Work Zones

Evaluation is a necessary tool for analyzing failures and identifying successes in work zone operations. Through evaluation, it is possible to identify opportunities for countermeasures and to measure the benefits of current ones. The following elements contribute to increased evaluation capabilities and improved program related data:

a. Accurate and sufficient work zone crash data.

(1) The FHWA will assist State highway agencies in evaluating their programs and improving their procedures for collecting and analyzing work zone accident and incident data.

(2) The FHWA, in cooperation with the National Highway Traffic Safety Administration (NHTSA) and others, will provide a single definition of work zone related accidents for universal use, and identify the minimum data elements that should be collected for compiling the fatalities and injuries occurring in work zones.

b. Independent project and work zone program oversight to identify safety deficiencies.

(1) The FHWA will encourage State and local highway agencies to have a system of independent project site and program process reviews to identify desirable safety changes.

(2) On a regional basis, the FHWA will periodically review a sampling of active highway construction, maintenance, and utility projects. The review will include a detailed analysis of traffic control plans and their revisions, the validity and condition of the traffic control devices (both day and night), and appropriate management and enforcement activities.

c. A national information exchange system for feedback on positive activities for improving work zone safety.

(1) The FHWA will provide an annual report summarizing efforts being made by the States to reduce deaths and injuries occurring in work zones and the effectiveness of such efforts.

(2) The FHWA will explore, in cooperation with others, the potential for establishing a national work zone safety information clearinghouse.

d. A specific problem assessment program to identify possible cause and effect factors for unique work zone problems and identify potential solutions.

(1) The FHWA will evaluate specific work zone related problems or issues of national significance as they occur. Scope and extent of evaluation will be determined on a case by case basis. Active participation by States and FHWA field offices will be encouraged.

4. Implement Innovative Technologies and Procedures

The use of innovative technologies and procedures can help improve highway user and worker safety, and traffic flow through work zones. Such innovations consist of the development of new products and procedures and more effective use of existing ones through increased training. Elements supporting innovation and increased effectiveness are:

a. Acceptance and adoption of new technology.

(1) The FHWA will encourage the State and local highway agencies and others to use the Strategic Highway Research Program (SHRP) Work Zone Safety Products that have been proven successful. These include those that provide added protection for workers, such as, the flashing stop/slow paddle and the intrusion alarm.

(2) FHWA will encourage the increased use of innovative protective safety devices, such as Truck Mounted Attenuators for short-term and intermediate-term stationary work zones, and automated shadow vehicles for mobile and short-term work zones.

(3) FHWA will encourage the use of techniques identified in the 1992 report to Congress entitled, ''Traffic/Congestion Management During Highway Construction'' to minimize disruptions to traffic during construction of highway projects.

b. An ongoing research and evaluation program for new work zone safety products, devices and procedures.

(1) FHWA will encourage the States to support work zone safety research and new technology evaluation programs to be able to more quickly adopt viable products and devices.

(2) FHWA will conduct research on condition-responsive work zone traffic control systems and operations applicable to longer-term construction areas. An example is the ''Vehicle Queue Backup Warning System'' being developed to warn motorists and workers of situations which could produce hazards such as traffic stoppage at critical locations.

(3) FHWA will research work zone human factors driving needs with emphasis on the elderly driver.

c. A continuing training program for highway agency staffs and contractor personnel where appropriate.

(1) FHWA will develop and conduct a comprehensive work zone safety training program. This program will encompass subjects ranging from an understanding and application of basic concepts to procedures for developing complex work zone strategies. The work zone training program courses will be available through the FHWA's National Highway Institute (NHI).

D. NHWZSP Implementation

1. The FHWA will continue to develop and implement the activities included in this NHWZSP and will support implementation of specific findings of the National Work Zone Conference held December 5–7, 1994, in Washington, DC.

2. Each FHWA Division Administrator will work in partnership with the State highway and other appropriate agencies to develop and implement a Statewide highway work zone safety program patterned after the NHWZSP that meets State and local needs.

3. Each FHWA Division Administrator should encourage the State highway agency to include highway work zone safety as a part of its Safety Management System.

Authority: 23 U.S.C. 315; 49 CFR 1.48; Sec. 1051 of Pub. L. 102–240, 105 Stat. 1914, 2001.

Issued on: October 16, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–26226 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–22–P

Federal Transit Administration

Environmental Impact Statement; Los Angeles County, CA

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration and the Los Angeles County Metropolitan Transportation Authority intend to prepare an Environment Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for transportation improvements in Los Angeles County, California. In addition, the FTA intends to prepare, in addition to the EIS, a Major Investment Study (MIS) for the project. Further, the MTA will be jointly issuing a Supplemental Environmental Impact Report (SEIR), pursuant to the California Environmental Quality Act (CEQA). The purposes of the project are to improve east-west travel options in the San Fernando Valley and to provide a connection to other portions of a regional rail network that is being developed by the MTA.

DATES: *Comment Due Date*: Written comments on the scope of alternatives and impacts to be considered should be sent to the address below by November 20, 1995. *Scoping Meetings*: Two scoping workshops will be held on November 7, 1995 at Reseda Senior Service and Resource Center from 6:30 p.m. until 9:00 p.m; and on November 14, 1995 at the Sherman Oaks Woman's Club from 6:30 p.m. until 9:00 p.m. See addresses below. The public is invited to arrive at any time. There will be no formal presentations; both workshops will be held in an open house format.

ADDRESSES: *Written comments* on the project scope should be sent to David Mieger, Project Manager, Los Angeles County Metropolitan Transportation Authority, 818 West 7th Street, Los Angeles, California, 90017. *The scoping workshops* will be held at the following locations: Reseda Senior Service and Resource Center, 18255 Victory Boulevard, Reseda, California, and Sherman Oaks Woman's Club, 4808 Kester Avenue, Sherman Oaks, California.

FOR FURTHER INFORMATION CONTACT: Hymie Luden, City & Regional Planner, Federal Transit Administration, Telephone (415) 744–3115.

SUPPLEMENTARY INFORMATION: The FTA, in cooperation with the MTA, will prepare an Environmental Impact Statement (EIS) for a proposed public transit project in the San Fernando Valley, Los Angeles County, California, to be implemented in an east-west corridor extending from an under-construction Metro Rail station located in North Hollywood westward to Valley Circle Boulevard, a distance of approximately 17 miles. The purposes of the project are to improve east-west travel options in the San Fernando Valley and to provide a connection to other portions of a regional rail network that is being developed by the MTA.

FTA and MTA invite interested individuals, organizations and federal, state and local agencies to participate in defining the alternatives and environmental factors to be evaluated in the MIS/DEIS/DSEIR. Scoping comments regarding these matters may be made at the workshops on the dates and at the locations indicated above, and they may also be made in writing if mailed to the address indicated above. During scoping, comments should focus on identifying specific social, economic or environmental concerns to be evaluated and suggesting alternatives which should be considered during the MIS process. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments of this nature should be communicated after the MIS/DEIS/DSEIR has been completed.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to other parties who are known to have an interest in the project. Comments or questions concerning this proposed action should be addressed to the FTA.

Background

Rail transit planning has been underway regarding the San Fernando Valley since 1980, with the passage locally of a ½ cent sales tax measure to fund rail improvements in Los Angeles County. In 1986, studies were conducted to identify alternatives, and in 1990 and 1992, the MTA completed an EIR and SEIR for the study corridor. These studies and environmental documents led to the identification of a preferred rail alignment along the existing Southern Pacific Burbank Branch, following Chandler Boulevard, Oxnard Street, Victory Boulevard, and Topham Street, which the MTA subsequently purchased in 1990. In 1994, this corridor was endorsed by the MTA's Board of Directors.

Local concerns which had surfaced regarding noise, aesthetics and other issues led to the passage by the California legislature of Senate Bill 211, which restricts the development of a rail transit facility along Chandler Boulevard to a below-grade subway from the Hollywood (SR 170) Freeway to Hazeltine Avenue, a distance of approximately 3.5 miles. In an effort to develop a project for implementation, the currently adopted alignment is being reevaluated, along with other alignment options, in the context of a Federally-required Major Investment Study, which is being administered by the FTA.

Description of the Study Area

The study corridor extends from the North Hollywood Red Line station (currently under construction), located at Lankershim Boulevard and Chandler Boulevard, west across the entire San Fernando Valley to the vicinity of Valley Circle Boulevard. The length of the corridor is approximately 17 miles. The corridor is being considered in two phases. Phase I (currently included in the MTA's 20–Year Implementation Plan) extends from North Hollywood to the vicinity of the I–405 Freeway (approximately 6 miles in length). Phase II extends from I–405 to the west (approximately 11 miles in length). In addition to the Southern Pacific Burbank Branch, other alignment variations are being considered along segments of Oxnard Street and Sherman Way. Also, a potential connection to the Chatsworth Metrolink station is under consideration, thus extending the corridor to the north at that location.

Alternatives

A range of alternatives is being considered as part of the MIS/EIS/SEIR. These include the following:

- No Build

This alternative would include the transit system primarily as it exists today, augmented by those additional projects for which a funding commitment has been made. The Red Line would terminate at the North Hollywood station, and the level of bus service shown in the MTA Long range Plan would be provided, in accordance with the findings of the San Fernando Valley Bus Restructuring Study. Highway and HOV projects would be provided on a number of freeways.

- Transportation Systems Management/ Best Bus

This alternative would not require major investment for capital cost items, but would rather focus its efforts on maximizing the efficiency of existing facilities and expanding and improving the existing bus system. Enhanced bus service would be provided, on-street bus lanes would be included, and park-ride lots would be proposed. Buses would be

given priority through traffic signal preemption techniques. Intersection improvements would be proposed to reduce congestion at selected locations. Arterial improvements would be identified to improve east-west movements in the study corridor.

- Rail Transit Alternatives

A range of rail transit alternatives will be developed to serve the study corridor that will include technology options such as the Red Line heavy rail, the Blue/Green Line light rail, or, as potentially feasible in selected applications, Diesel Multiple Units (DMUs). Alignments will include the SP Burbank Branch, Oxnard Street, Sherman Way and Topanga Canyon Boulevard. Profile options will range from below-grade subway to at-grade alignments to above-grade sections (bearing in mind the restrictions imposed by SB211), in areas permitted by law.

Probable Effects

The FTA and MTA will evaluate all significant environmental, social and economic impacts of the alternatives analyzed in the MIS/DEIS/DSEIR. Potential impact categories which will be evaluated include: Land Use and Development; Economic and Fiscal Impacts; Displacement and Relocation; Traffic Circulation and Parking; Community and Neighborhood Impacts; Visual and Aesthetic Impacts; Air Quality; Noise and Vibration; Geotechnical Considerations; Water Resources; Natural Resources; Energy; Safety and Security; Cultural Resources; Community Facilities and Parklands; Construction Impacts. The impacts will be evaluated both for the construction period and the long-term period of operation, and financial information in support of the MIS will be provided. Measures to mitigate significant adverse impacts will also be addressed.

MIS Process

The MIS process was formally initiated by the SCAG MIS Committee at its June, 1995 meeting. At that meeting, the Committee concurred in the definition of the proposed study corridor. Within the corridor, a range of alternatives is being studied in the MIS, which is being conducted in parallel with the EIS. The alternatives (as described above) include: No Project, Transportation Systems Management (TSM), Enhanced Bus, and a series of rail transit alternatives, including options regarding technology, alignment, profile, and station locations. When completed, the FTA intends to issue its EIS jointly with the MTA's SEIR, which will update the environmental documentation required under CEQA.

FTA Procedures

The EIS process will be performed in accordance with Federal Transit Laws and FTA's regulations and guidelines for preparing an Environmental Impact Statement. The impacts of the project will be assessed, and, if necessary, the scope of the project will be revised or refined to minimize and mitigate any adverse impacts. After its publication, the draft EIS will be available for public and private agency review and comment. One public hearing will be held. On the basis of the draft EIS and comments received, the project will be revised or further refined as necessary and the final EIS completed.

Date Issued: October 18, 1995.

Leslie Rogers,

Deputy Regional Administrator.

[FR Doc. 95–26360 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–57–P

National Highway Traffic Safety Administration

[Docket No. 95–80; Notice 1]

Long Range Strategic Planning

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice and request for comment.

SUMMARY: NHTSA has prepared a Draft Strategic Execution Plan (SEP) that translates the mission, vision, values, and goals of the Agency's Strategic Plan into programs and activities. The Draft SEP covers a five year period. It spells out the priorities, measures of success and milestones that will guide the Agency toward attaining its vision of leading the nation to create the highest level of road safety in the world.

This notice invites comments, suggestions and recommendations from all individuals and organizations that have an interest in highway safety, motor vehicle safety, the Agency's non-safety programs and other NHTSA activities. These comments should address the Draft SEP and provide substantive input on any elements of the draft for which the commenter has relevant information, data or expertise. The comments will be considered along with the Agency's Fiscal Year 1996 budget appropriation, in development of the final SEP.

DATES: Comments are due no later than December 26, 1995.

ADDRESSES: Comments should refer to the docket number of this notice and should be submitted to: Docket Section, NHTSA, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Eleanor A. Hunter, Strategic Planning Division, NPP–11, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington DC 20590, telephone 202/366–2573, facsimile 202/366–2559. Copies of NHTSA's Strategic Plan and the Draft SEP are available on the Internet (NHTSA Home Page) or by written request (facsimile or letter) from Ms. Hunter.

SUPPLEMENTARY INFORMATION: NHTSA released its first Strategic Plan in December 1994. It provides a blueprint to take the Agency into the Twenty-first Century. The plan presents NHTSA's contribution to the Department of Transportation Strategic Plan by laying out a comprehensive, long-range approach to injury control. It provides fresh direction to the science, management, and public service of our task.

NHTSA's Strategic Plan is a mix of traditional and new goals. NHTSA is committed to reducing the incidence and consequence of crashes, conducting research and data collection to support safety improvements, and assisting state and community safety programs. The goals articulated in the Agency's Strategic Plan include making motor vehicle safety a priority on the nation's health care agenda; serving customers and partners better; managing and using the best information resources and technology available; and maintaining a work force that is professional, innovative, and diverse. NHTSA's Strategic Plan reiterates the Agency's commitment to greater effectiveness and efficiency.

In its Strategic Plan, NHTSA commits itself to working with other organizations and with citizens in an open cooperative atmosphere. The values articulated in the plan are characterized by integrity, professionalism, service, and respect for the people involved in NHTSA's mission.

The mission reads as follows:

The mission of the National Highway Traffic Safety Administration is to save lives, prevent injuries, and reduce traffic-related health care and other economic costs. The Agency develops, promotes, and implements effective educational, engineering, and enforcement programs toward ending preventable tragedies and reducing the

economic costs associated with vehicle use and highway travel.

NHTSA's Strategic Plan was developed with extensive input from the public and the employees of the Agency. Once the Strategic Plan was published, NHTSA distributed copies to numerous individuals and organizations and held roundtable meetings with our partners.

Inspired by reactions to our Strategic Plan and a desire to move in new directions, NHTSA has developed a Draft Strategic Execution Plan (SEP). It provides details on the actions the Agency intends to take to achieve the 11 goals of the Strategic Plan, performance measures for our work, and milestones for accomplishment.

The Agency would like commenters to provide their thoughts and suggestions on the proposed actions to meet the 11 goals as well as the performance measures that would be used to assess progress. We invite comments on issues or approaches to improving traffic and motor vehicle safety that are likely to be effective that are not in this plan. We are particularly interested in comments identifying opportunities for collaborative efforts with our partners to meet the goals and objectives of the Strategic Plan. The Agency is interested in receiving comments regarding how well the Draft SEP implements the Agency's current authorizing statutes. We would also welcome comments suggesting changes to the Draft SEP or any other changes, that would allow the Agency to better accomplish its mission, including those that would require regulatory or statutory revisions. In addition to comments, we request that commenters submit documents, analyses, or reference citations that are germane to the issues.

It is requested, but not required that ten copies of each comment be submitted. We ask that comments not exceed 15 (fifteen) pages in length. (49 CFR 553.21). Necessary attachments may be appended to those submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary comments in a concise manner.

All comments received before the close of business on the comment closing date listed above will be considered and will be available for examination in the docket room at the above address both before and after that date. To the extent possible, comments filed after the closing date will be considered. The Agency will continue to file relevant information as it becomes available. It is recommended that interested persons continue to examine the docket for new material. Those people desiring to be notified upon receipt of their comments by the docket section should include a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of their comments, the docket supervisor will return the postcard by mail.

Issued on October 17, 1995.

Donald C. Bischoff,

Associate Administrator for Plans and Policy.

[FR Doc. 95–26339 Filed 10–23–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

[Treasury Order No. 105–12]

Policy on the Use of Force

Dated: October 17, 1995.

1. By virtue of the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. § 321(b), I hereby establish a Treasury policy on the use of force. The policy set forth herein is intended to set a uniform standard for the use of deadly force and to provide broad guidelines for the Treasury Law Enforcement Bureaus. The provisions of this Order apply to all Treasury Law Enforcement Officers.

2. *Definitions.*

a. *Treasury Law Enforcement Officer,* for the purposes of this Order, includes any Treasury employee who has authority to make arrests and/or carry, or use, firearms and/or other weapons.

b. *Treasury Law Enforcement Bureau,* for purposes of this Order, includes any bureau or office within the Department which employs Treasury Law Enforcement Officers.

c. *Weaponless Control Techniques* includes officer presence, identification, verbal commands and physical control techniques, such as comealongs, touch pressure points, and empty hand strikes.

d. *Intermediate Weapons* are weapons other than firearms or lethal weapons with non-lethal munitions that are approved by each Treasury Law Enforcement Bureau.

e. *Deadly Force* is the use of any force that is likely to cause death or serious physical injury. Deadly force does not include force that is not likely to cause death or serious physical injury but unexpectedly results in such death or injury.

3. *Use of Force Policy.*

a. The primary consideration in the use of force is the timely and effective application of the appropriate level of force required to establish and maintain lawful control. A paramount consideration is the preservation of life and prevention of bodily injury.

b. The respective Treasury Law Enforcement Bureau heads shall set forth guidelines for weaponless control techniques, intermediate weapons and firearms or lethal weapons with non-lethal munitions, in accordance with that bureau's law enforcement mission.

4. *Use of Deadly Force Policy.*

a. *Deadly Force.* Treasury Law Enforcement Officers may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.

b. *Fleeing Felons.* Deadly force may be used to prevent the escape of a fleeing subject if there is probable cause to believe:

(1) the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death; and

(2) the escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person.

5. *Use of Non-Deadly Force.* If force other than deadly force reasonably appears to be sufficient to accomplish an arrest or otherwise accomplish the law enforcement purpose, deadly force is not necessary.

6. *Verbal Warnings.* If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.

7. *Warning Shots.* Warning shots are not permitted, except as follows.

a. Warning shots may be used by Treasury Law Enforcement Officers in exercising the U.S. Secret Service's protective responsibilities, consistent with policy guidelines promulgated by the Director, U.S. Secret Service.

b. Warning shots may be used by the U.S. Customs Service on the open waters, consistent with policy guidelines promulgated by the Commissioner of Customs.

8. *Vehicles.*

a. Weapons may not be fired solely to disable moving vehicles, except as follows: Treasury Law Enforcement Officers, in exercising the U.S. Secret Service's protective responsibilities, may fire weapons solely to disable moving vehicles, consistent with policy guidelines promulgated by the Director, U.S. Secret Service.

b. Weapons may be fired at the driver or other occupant of a moving motor vehicle only when:

(1) the officer has a reasonable belief that the subject poses an imminent danger of death or serious physical injury to the officer or to another person; and

(2) the public safety benefits of using such force outweigh the risks to the safety of the officer or other persons.

9. *Vicious Animals.* Deadly force may be directed against dogs or other vicious animals when necessary in self-defense or defense of others.

10. *Training and Proficiency Standards.* Each Treasury Law Enforcement Bureau shall:

a. require newly-appointed Treasury Law Enforcement Officers to satisfactorily complete either Basic Criminal Investigator Training or Basic Police Training, as administered by the Federal Law Enforcement Training Center, unless otherwise authorized by the bureau head or his/her designee, prior to being authorized to carry or use a firearm;

b. be responsible for establishing training and re-training standards which ensure that Treasury Law Enforcement Officers are proficient in the use of weaponless control techniques and intermediate weapons as authorized by that bureau; and

c. consistent with its mission, establish qualification and firearms familiarization standards and, at least on a semi-annual basis, require Treasury Law Enforcement Officers to establish and maintain their proficiency in the use of authorized firearms. The Secretary or his/her designee may grant an exception to this subsection upon a showing of good cause.

11. Treasury Law Enforcement Bureaus may supplement this policy with policy statements or guidance consistent with this policy. It is the responsibility of the Treasury Law Enforcement Bureaus to review such policy statements or guidance in a timely and comprehensive manner.

12. *Rights of Third Parties.* Nothing in this Order and the attached commentary is intended to create or does create an enforceable legal right or private right of action.

Robert E. Rubin,

Secretary of the Treasury.

Attachment

Commentary Regarding the Use of Deadly Force

I. Introduction

The Department of the Treasury (the ''Department'') hereby establishes a uniform policy with respect to the use of deadly force. The policy and this commentary provide practical guidance for officers who must make grave decisions regarding the use of deadly force under the most trying of circumstances. The policy also is intended to maintain uniformity among the various Departmental components and to achieve uniform standards and training with respect to the use of deadly force. Although each component may still develop and conduct its own training on deadly force, the policy governs the use of deadly force under all circumstances.

The policy is the product of discussion among the various law enforcement agencies whose personnel are called upon to make decisions regarding the use of deadly force, of review of the current policies governing the use of force, and of advice of legal counsel from various Treasury and Justice Department components, including those charged with law enforcement, defense of civil actions filed against the government, enforcement of civil rights, and provision of constitutional advice. In developing the policy, it became apparent that decisional law provides only limited guidance regarding the use of deadly force.[1] In addition, as a matter of principle, the Treasury Department deliberately did not formulate this policy to authorize force up to constitutional or other legal limits.[2]

II. Definitions

Deadly force is the use of any force that is likely to cause death or serious physical injury. When an officer of the Department uses such force it may only be done consistent with this policy. Force that is not likely to cause death or serious physical injury, but unexpectedly results in such harm or death, is not governed by this policy.

Probable cause, reason to believe or a reasonable belief, for purposes of this policy, means facts and circumstances, including the reasonable inferences drawn therefrom, known to the officer at the time of the use of deadly force, that would cause a reasonable officer to conclude that the point at issue is probably true. The reasonableness of a belief or decision must be viewed from the perspective of the officer on the scene, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable, and rapidly-evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight.

III. Principles on Use of Deadly Force

The Department of the Treasury recognizes and respects the integrity and paramount value of all human life. Consistent with that primary value, but beyond the scope of the principles articulated here, is the Department's full commitment to take all reasonable steps to prevent the need to use deadly force, as reflected in Departmental training and procedures. Yet even the best prevention policies are on occasion insufficient, as when an officer serving a warrant or conducting surveillance is confronted with a threat to his or her life. With respect to these situations and in keeping with the value of protecting all human life, the touchstone of the Department's policy regarding the use of deadly force is *necessity.* Use of deadly force must be objectively reasonable under all the circumstances known to the officer at the time.

The necessity to use deadly force arises when all other available means of preventing imminent and grave danger to officers or other persons have failed or would be likely to fail. Thus, employing deadly force is permissible when there is no safe alternative to using such force, and without it the officer or others would face imminent and grave danger. An officer is not required to place him or herself, another officer, a suspect, or the public in unreasonable danger of death or serious physical injury before using deadly force.

Determining whether deadly force is necessary may involve instantaneous decisions that encompass many factors, such as the likelihood that the subject will use deadly force on the officer or others if such force is not used by the officer; the officer's knowledge that the subject will likely acquiesce in arrest or capture if the officer uses lesser force or no force at all; the capabilities of the subject; the subject's access to cover and weapons; the presence of other persons who may be at risk if force is or is not used; and the nature and the severity of the subject's criminal conduct or the danger posed.

Deadly force should never be used upon mere suspicion that a crime, no matter how serious, was committed, or simply upon the officer's determination

[1] Many issues addressed in the policy and this memorandum have never been addressed in reported decisions or the law remains unresolved. Courts would step outside their proper role if they formulated detailed policies with respect to the procedures governing deadly force; in contrast, the Department has the discretion to determine what the policy *should be* and to provide guidance to its employees with regard to these solemn issues. Cases arise in procedural postures—typically civil tort or civil rights actions, or motions to dismiss or overturn criminal charges or convictions—in which a wrongful act on the part of the government may not lead to recovery or sanctions. As a result, the court often does not reach the question of whether the use of force was wrongful.

[2] The leading Fourth Amendment cases in this area are *Tennessee* v. *Garner,* 471 U.S. 1 (1985) and *Graham* v. *Connor,* 490 U.S. 386 (1989).

that probable cause would support the arrest of the person being pursued or arrested for the commission of a crime. Deadly force may be used to prevent the escape of a fleeing subject if there is probable cause to believe: (1) The subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death; and (2) the escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person.

As used in this policy, ''imminent'' has a broader meaning than ''immediate'' or ''instantaneous.'' The concept of ''imminent'' should be understood to be elastic, that is, involving a period of time dependent on the circumstances, rather than the fixed point of time implicit in the concept of ''immediate'' or ''instantaneous.'' Thus, a subject may pose an imminent danger even if he or she is not at that very moment pointing a weapon at the officer.

IV. Lesser Means

Intermediate force. If force lesser than deadly force could reasonably be expected to accomplish the same end, such as the arrest of a dangerous fleeing subject, without unreasonably increasing the danger to the officer or to others, then it must be used. Deadly force is not permissible in such circumstances, although the reasonableness of the officer's understanding at the time deadly force was used shall be the benchmark for assessing applications of this policy.

Verbal warnings. Before using deadly force, if feasible, officers will audibly command the subject to submit to their authority. Implicit in this requirement is the concept that officers will give the subject an opportunity to submit to such command unless danger is increased thereby. However, if giving such a command would itself pose a risk of death or serious bodily harm to the officer or others, it need not be given.

Warning shots and shooting to disable. Warning shots are not authorized, except (1) In furtherance of the Secret Service's protective mission, or (2) by the Customs Service on the open waters. Other than these two exceptions, discharge of a firearm is usually considered to be permissible only under the same circumstances when deadly force may be used—that is, only when necessary to prevent loss of life or serious physical injury. Warning shots themselves may pose dangers to the officer or others.

Attempts to shoot to wound or to injure are unrealistic and, because of high miss rates and poor stopping effectiveness, can prove dangerous for the officer and others. Therefore, shooting merely to disable is strongly discouraged.

Motor vehicles and their occupants. Experience has demonstrated that the use of firearms to disable moving vehicles is either unsuccessful or results in an uncontrolled risk to the safety of officers or others. Shooting to disable a moving motor vehicle is forbidden except in furtherance of the Secret Service's protective mission.

An officer who has reason to believe that a driver or occupant poses an imminent danger of death or serious physical injury to the officer or others may fire at the driver or an occupant only when such shots are necessary to avoid death or serious physical injury to the officer or another, and only if the public safety benefits of using such force reasonably appear to outweigh any risks to the officer or the public, such as from a crash, ricocheting bullets, or return fire from the subject or another person in the vehicle.

Except in rare circumstances, the danger permitting the officer to use deadly force must be by means other than the vehicle.

V. Miscellaneous

Deadly force may be directed against dogs or other vicious animals when necessary in self-defense or defense of others.

Nothing in this policy and the attached commentary is intended to create or does create an enforceable legal right or private right of action.

[FR Doc. 95–26288 Filed 10–23–95; 8:45 am]
BILLING CODE 4810–25–P–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 205
Tuesday, October 24, 1995

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 DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Thursday, October 19, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Dated: October 19, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–26436 Filed 10–20–95; 2:11 pm]

BILLING CODE 6714–0–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

DATE AND TIME: October 25, 1995, 10:00 a.m.

PLACE: 888 First Street, N.E., Room 2C, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 639th Meeting—October 25, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–2402, 004, Upper Peninsula Power Company
CAH–2.
Docket# P–2417, 002, Northern States Power Company
CAH–3.
Docket# P–2431, 010, Wisconsin Electric Power Company
CAH–4.
Docket# P–2444, 003, Northern States Power Company
CAH–5.
Docket# P–3083, 077, Oklahoma Municipal Power Authority
CAH–6.
Docket# P–10867, 002, Holliday Historic Restoration Associates
CAH–7.
Docket# P–2519, 004, Central Maine Power Company
CAH–8.
Docket# P–2975, 015, TRI-DAM Power Authority
CAH–9.
Docket# P–3251, 007, Cornell University
CAH–10.
OMITTED
CAH–11.
Docket# P–10895, 002, Michiana Hydro-Electric Power Corporation

Consent Agenda—Electric

CAE–1.
Docket# ER95–1267, 000, Pennsylvania Power & Light Company
CAE–2.
OMITTED
CAE–3.
Docket# ER95–1536, 000, Florida Power Corporation
OTHER# S ER95–634, 000, Florida Power Corporation
CAE–4.
Docket# ER95–1639, 000, Delmarva Power and Light Company
OTHER# S ER95–222, 000, Delmarva Power and Light Company
CAE–5.
Docket# ER94–1381, 001, Southwest Regional Transmission Association
CAE–6.
Docket# ER95–1129, 001, Southwestern Public Service Company
CAE–7.
Docket# EG95–88, 000, Central Termoelectrica Buenos Aires S.A.
CAE–8.
Docket# EG95–89, 000, Entergy S.A.
CAE–9.
Docket # EG95–90, 000, Entergy Power Development Corporation
CAE–10.
Docket # EG95–91, 000, Entergy Power Holding I, Ltd.
CAE–11.
Docket # ER93–465, 021, Florida Power and Light Company
Other#s EL93–28, 007, Seminole Electric Cooperative, Inc.
EL93–40, 007, Florida Municipal Power Agency v. Florida Power and Light Company
EL94–12, 007, Florida Power and Light Company
EL94–28, 005, Seminole Electric Cooperative, Inc.
EL94–47, 005, Florida Municipal Power Agency v. Florida Power and Light Company
ER93–922, 012, Florida Power and Light Company

Consent Agenda—Gas and Oil

CAG–1.
Docket # CP94–109, 003, Transcontinental Gas Pipe Line Corporation
CAG–2.
Docket # RP95–451, 000, Tennessee Gas Pipeline Company
CAG–3.
Docket # RP95–452, 000, CNG Transmission Corporation
CAG–4.
Docket # RP95–457, 000, ANR Pipeline Company
CAG–5.
Docket # RP95–458, 000, Ozark Gas Transmission System
CAG–6.
Docket # RP95–459, 000, Southern Natural Gas Company
CAG–7.
Docket # RP95–461, 000, National Fuel Gas Supply Corporation
CAG–8.
Docket # RP96–4, 000, Transcontinental Gas Pipe Line Corporation
CAG–9.
Docket # RP96–5, 000, Carnegie Interstate Pipeline Company
CAG–10.

Docket # TM96–1–2, 000, East Tennessee Natural Gas Company
CAG–11.
Docket # TM96–2–18, 000, Texas Gas Transmission Corporation
CAG–12.
Docket # TM96–2–22, 000, CNG Transmission Corporation
CAG–13.
Omitted
CAG–14.
Docket # TM96–2–70, 000, Columbia Gulf Transmission Company
CAG–15.
Docket # TM96–2–110, 000, Iroquois Gas Transmission System
CAG–16.
Docket # TM96–3–23, 000, Eastern Shore Natural Gas Company
Others TA96–1–23, 000, Eastern Shore Natural Gas Company
CAG–17.
Docket # TM96–4–23, 000, Eastern Shore Natural Gas Company
CAG–18.
Docket # GT96–1, 000, Williston Basin Interstate Pipeline Company
CAG–19.
Docket # RP95–437, 000, Westgas Interstate, Inc.
Other #s RP95–437, 001, Westgas Interstate, Inc.
CAG–20.
Docket # RP95–442, 000, Northwest Pipeline Corporation
CAG–21.
Docket # RP95–447, 000, Williams Natural Gas Company
CAG–22.
Docket # RP95–448, 000, Northern Border Pipeline Company
CAG–23.
Docket # RP95–449, 000, Trunkline Gas Company
CAG–24.
Docket # RP95–450, 000, Natural Gas Pipeline Company of America
CAG–25.
Docket # RP95–453, 000, Transwestern Pipeline Company
CAG–26.
Docket # RP95–454, 000, Transwestern Pipeline Company
CAG–27.
Docket # RP95–455, 000, Williston Basin Interstate Pipeline Company
CAG–28.
Docket # RP95–456, 000, Mississippi River Transmission Corporation
CAG–29.
Docket # RP96–1, 000, Northern Natural Gas Company
CAG–30.
Docket # RP96–2, 000, Northern Natural Gas Company
CAG–31.
Docket # RP96–3, 000, Northern Natural Gas Company
CAG–32.
Docket # TM96–1–31, 000, Noram Gas Transmission Company
CAG–33.
Docket # TM96–2–28, 000, Panhandle Eastern Pipe Line Company
CAG–34.
Docket # TM96–2–30, 000, Trunkline Gas Company
CAG–35.
Docket # PR95–14, 000, Louisiana Resources Pipeline Company, L.P.
CAG–36.
Docket # RP95–349, 000, The Brooklyn Union Gas Company V. CNG Transmission Corporation
CAG–37.
Docket # RP94–197, 005, Tennessee Gas Pipeline Company
Other #s RP94–425, 003, Tennessee Gas Pipeline Company
RP94–425, 004, Tennessee Gas Pipeline Company
CAG–38.
Docket # RP95–396, 000, Tennessee Gas Pipeline Company
CAG–39.
Docket # RP95–407, 001, Questar Pipeline Company
CAG–40.
Omitted
CAG–41.
Docket # RP95–409, 002, Northwest Pipeline Corporation
CAG–43.
Docket # RP93–172, 004, Panhandle Eastern Pipe Line Company
Other #s RP93–172, 006, Panhandle Eastern Pipe Line Company
RP94–238, 001, Panhandle Eastern Pipe Line Company
CAG–44.
Omitted
CAG–45.
Docket # RP95–149, 001, ANR Pipeline Company
Other #s RP95–149, 002, ANR Pipeline Company
RP95–263, 001, ANR Pipeline Company
CAG–46.
Docket # RP91–166, 029, Northwest Pipeline Corporation
CAG–47.
Docket # RP94–425, 001, Tennessee Gas Pipeline Company
CAG–48.
Docket # RP95–462, 000, Pacific Gas Transmission Company
CAG–49.
Omitted
CAG–50.
Docket # IS95–24, 000, Kaneb Pipe Line Operating Partnership, L.P.
CAG–51.
Docket # MG88–47, 007, Texas Gas Transmission Corporation
CAG–52.
Omitted
CAG–53.
Docket # CP90–1050, 006, Panhandle Eastern Pipe Line Company
Other #S CP94–151, 004, Panhandle Eastern Pipe Line Company
CP94–152 003, Panhandle Field Services Company
CAG–54.
Docket # CP94–342, 002, Crossroads Pipeline Company
Other #s CP94–342, 001, Crossroads Pipeline Company
CP94–342, 003, Crossroads Pipeline Company
CP94–342, 004, Crossroads Pipeline Company
CP94–342, 005, Crossroads Pipeline Company
MT95–11, 000, Crossroads Pipeline Company
CAG–55.
Docket # CP94–654, 002, Texas Eastern Transmission Corporation
CAG–56.
Omitted
CAG–57.
Omitted
CAG–58.
Omitted
CAG–59.
Docket # CP95–779, 000, Gateway Pipeline Company v. Western Gas Interstate Company
Other #s CP95–606, 000, Western Gas Interstate Company
CP95–606, 001, Western Gas Interstate Company
CAG–60.
Docket # RP95–325, 000, El Paso Natural Gas Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket # RM96–1, 000, Standards for the Communication of Information between Interstate Natural Gas Pipe Lines and Their Customers, Notice Requesting Comments.

II. Pipeline Certificate Matters

PC–1.
Docket # RP95–212, 000, Kansok Partnership, Kansas Pipeline Partnership and Riverside Pipeline Company, L.P.
Other #s RP95–395, 000, Williams Natural Gas Company v. Kansas Pipeline Operating Company, Kansas Pipeline Partnership, et al. Order on Show Cause and Complaint. PC–2.
Docket # CP95–349, 000, Louisiana Gas System Inc. and Conoco Inc. v. Panhandle Eastern Corporation, et al. Order on Complaint.
PC–3.
Docket # SA95–4, 000, Lee 8 Storage Partnership Order on Petition for Adjustment and Order to Show Cause.
Dated: October 18, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26389 Filed 10–19–95; 4:14 pm]

BILLING CODE 6717–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, October 30, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26518 Filed 10–20–95; 3:24 pm]

BILLING CODE 6210–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 23, 30, November 6, and 13, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of October 23

There are no meetings scheduled for the Week of October 23.

Week of October 30—Tentative

There are no meetings scheduled for the Week of October 30.

Week of November 6—Tentative

Monday, November 6

9:30 a.m.
Briefing on Risk Harmonization Recommendations (Public Meeting)
(Contact: Mike Weber, 301–415–7297)

Thursday, November 9

2:00 p.m.
Briefing on Browns Ferry 3 Restart (Public Meeting)
(Contact: William Russell, 301–415–1270)

Week of November 13—Tentative

Wednesday, November 15

10:00 a.m.
Briefing on Accident Sequence Precursor Program (Public Meeting)
(Contact: Patrick O'Reilly, 301–415–7570)
2:00 p.m.
Briefing on Measure to Ensure Integrity of Research Data (Public Meeting)
(Contact: Owen Gormley, 301–415–6793)

Thursday, November 16

10:00 a.m.
Briefing by Commonwealth Edison (Public Meeting)
2:00 p.m.
Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov

Dated: October 19, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–26414 Filed 10–20–95; 11:17am]

BILLING CODE 7590–01–M

Federal Register

Tuesday
October 24, 1995

Part II

Department of Housing and Urban Development

Notice of Method of Selecting State Housing Finance Agencies To Participate in a Pilot Program for the Sale of HUD-Held Subsidized Mortgages; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–3976–N–01]

Notice of Method of Selecting State Housing Finance Agencies To Participate in a Pilot Program for the Sale of HUD-Held Subsidized Mortgages

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

ACTION: Notice.

SUMMARY: This notice announces the method of the Department's selection of state housing finance agencies to participate in a pilot program for the sale of HUD-held subsidized mortgages.

FOR FURTHER INFORMATION CONTACT: Audrey Hinton, Associate Director for Program Operations, Office of Multifamily Asset Management and Disposition, Department of Housing and Urban Development, Room 6160, 451 Seventh Street, S.W., Washington, D.C., 20410, telephone (202) 708–3730, Ext. 2691 or Susan Sacco, Multifamily Mortgage Sales Specialist, Office of Multifamily Asset Management and Disposition, Department of Housing and Urban Development, Room 6278, 451 Seventh Street, S.W., Washington, D.C., 20410, telephone (202) 708–1220, Ext. 2667. Hearing- or speech-impaired individuals may call (202) 708–4594 (TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: To facilitate the disposition of the HUD-held portfolio of subsidized mortgages to eligible purchasers, HUD has decided to initiate several mortgage sales involving state housing finance agencies (''HFAs''). The initial sales program will involve 3–5 HFAs. HUD's objective in launching this initiative is to transfer ownership of portfolios of HUD-held subsidized mortgages for the applicable state to HFAs which will service and restructure mortgages within the portfolio taking into account the economic, physical, social, and financial realities of each individual loan. On October 6, 1995, HUD mailed an invitation to all HFAs inviting them to submit a proposal to participate in the pilot program. HUD will select 3–5 HFAs to participate. In making its selection, HUD intends to give preference to those housing finance agencies which will make financial and resource commitments to this initiative and/or will refinance the mortgages using FHA risk sharing or credit guarantees which do not involve FHA insurance. HUD intends to sell subsidized mortgages within an HFA's jurisdiction to the selected pilot agencies and expects that each HFA will service and restructure the mortgages, where feasible, based on existing market factors and assuming termination of project-based subsidies at contract expiration. HUD will not sell any unsubsidized or partially assisted mortgages as part of this transaction.

A pre-proposal submission conference with HFAs that are interested in responding to the October 6, 1995 invitation will be held on October 25, 1995, in Washington, D.C.

Authority: 12 U.S.C 1701z–11 and 1731(k)(3).

Dated: October 16, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–26411 Filed 10–20–95; 10:44 am]

BILLING CODE 4210-27-P

Federal Register

Tuesday
October 24, 1995

Part III

The President

Executive Order 12978—Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers

Federal Register
Vol. 60, No. 205
Tuesday, October 24, 1995

Presidential Documents

Title 3—

The President

Executive Order 12978 of October 21, 1995

Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

Section 1. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, I hereby order blocked all property and interests in property that are or hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, of:

(a) the foreign persons listed in the Annex to this order;

(b) foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

(i) to play a significant role in international narcotics trafficking centered in Colombia; or

(ii) materially to assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to this order; and

(c) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to this order.

Sec. 2. Further, except to the extent provided in section 203(b) of IEEPA and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, I hereby prohibit the following:

(a) any transaction or dealing by United States persons or within the United States in property or interests in property of the persons designated in or pursuant to this order;

(b) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 3. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, corporation, or other organization, group or subgroup;

(c) the term ''United States person'' means any United States citizen or national, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States:

(d) the term ''foreign person'' means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States) or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state; and

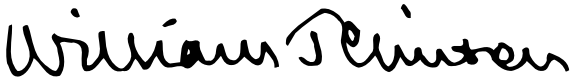
(e) the term ''narcotics trafficking'' means any activity undertaken illicitly to cultivate, produce, manufacture, distribute, sell, finance or transport, or otherwise assist, abet, conspire, or collude with others in illicit activities relating to, narcotic drugs, including, but not limited to, cocaine.

Sec. 4. The Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out this order.

Sec. 5. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 6. (a) This order is effective at 12:01 a.m. Eastern Daylight Time on October 22, 1995.

(b) This order shall be transmitted to the Congress and published in the Federal Register.



THE WHITE HOUSE,
October 21, 1995.

Billing code 3195–01–P

ANNEX

Gilberto Rodriguez Orejuela
Miguel Angel Rodriguez Orejuela
José Santacruz Londoño
Helmer Herrera Buitrago

[FR Doc. 95–26569
Filed 10–23–95; 11:21 am]
Billing code 4810–31–P

Federal Register

Tuesday
October 24, 1995

Part IV

Department of the Treasury

Office of Foreign Assets Control

List of Specially Designated Narcotics Traffickers; Notice

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

List of Specially Designated Narcotics Traffickers

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice of blocking.

SUMMARY: The Treasury Department is issuing a list of 80 blocked persons who have been designated by the President for their significant role in international narcotics trafficking centered in Colombia, or have been determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, either to have materially assisted in or provided financial or technological support for, or goods or services in support of, the narcotics trafficking activities of other blocked persons on the list, or to be owned or controlled by, or to act for or on behalf of, other blocked persons on the list.

EFFECTIVE DATE: October 23, 1995.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220; Tel.: (202) 622–2420.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the Federal Register. By modem, dial 202/512–1387 and type ''/GO FAC,'' or call 202/512–1530 for disks or paper copies. This file is available for downloading in WordPerfect, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library (''TEL'') in the ''Business, Trade and Labor Mall'' of the FedWorld bulletin board. By modem dial 703/321–3339, and select self–expanding file ''T11FR00.EXE'' in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205).

Background

On October 21, 1995, President Clinton signed Executive Order 12978, ''Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers'' (the ''Order'').

The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four principal figures in the Cali drug cartel who are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Colombia, or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, persons designated in or pursuant to the Order. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively ''Specially Designated Narcotics Traffickers'' or ''SDNTs'').

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Office of Foreign Assets Control, acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

Specially Designated Narcotics Traffickers

PRINCIPAL INDIVIDUALS:

HERRERA BUITRAGO, HELMER (A.K.A. ''PACHO''; A.K.A. ''H7''), DOB: 24 August 1951; alt. DOB: 5 July 1951; Passport: J287011 (Colombia); Cedula No. 16247821 (Colombia); Cali, Colombia.

RODRIGUEZ OREJUELA, GILBERTO, (A.K.A. ''THE CHESS PLAYER''; A.K.A. ''LUCAS''), DOB: 31 January 1939; Passports: T321642 (Colombia), 77588 (Argentina), 10545599 (Venezuela); Cedula No. 6068015 (Colombia); Cali, Colombia.

RODRIGUEZ OREJUELA, MIGUEL ANGEL, (A.K.A. ''EL SEÑOR''; A.K.A. ''PATRICIA''; A.K.A. ''PATRICIO''; A.K.A. ''PATTY''; A.K.A. ''PAT''; A.K.A. ''MANUEL''; A.K.A. ''MANOLO''; A.K.A. ''MIKE''; A.K.A. ''MAURO''; A.K.A. ''DOCTOR M.R.O.''), DOB: 23 November 1943; alt. DOB: 15 August 1943; Cedula No. 6095803 (Colombia); Casa No. 19, Avenida Lago, Ciudad Jardin, Cali, Colombia.

SANTACRUZ LONDOÑO, JOSÉ, (A.K.A. ''CHEPE''; A.K.A. ''DON CHEPE''; A.K.A. ''EL GORDO CHEPE''; A.K.A. ''07''), DOB: 1 October 1943; Passport: AB149814 (Colombia); Cedula No. 14432230 (Colombia); Cali, Colombia.

ENTITIES:

AUREAL INMOBILIARIA LTDA., Avenida 7 No. 112–38 of. 104, Bogota, Colombia.

CARS & CARS LTDA., (A.K.A. COMERCIALIZADORA INTEGRAL LTDA.; A.K.A. PROYECTO CARS & CARS; A.K.A. CENTRO COMERCIAL DEL AUTOMOVIL), Avenida Roosevelt entre carreras 38 y 38A esquinas, Cali, Colombia.

DISTRIBUIDORA DE DROGAS CONDOR LTDA., (A.K.A. CONDOR), Calle 10 No. 32A–64, Bogota, Colombia; Calle 68 52–05, Bogota, Colombia.

DISTRIBUIDORA DE DROGAS LA REBAJA S.A., (A.K.A. DROGAS LA REBAJA; A.K.A. DISTRIBUIDORA DE DROGAS LA REBAJA PRINCIPAL S.A.), Calle 10 No. 4–47 Piso 19, Cali, Colombia; Calle 18 121–130, Cali, Colombia; Calle 14 6–66, Cali, Colombia; Carrera 7 13–132 piso 4, Cali, Colombia; Carrera 7A 14–25 piso 2, Cali, Colombia; Carrera 10 11–71, Cali, Colombia; Carrera 99 No. 46 A–10 Bdg 6 y 8, Bogota, Colombia.

DISTRIBUIDORA MIGIL LTDA., (A.K.A. MIGIL; A.K.A. DISTRIBUIDORA MIGIL CALI S.A.; F.K.A. DISTRIBUIDORA MIGIL BOGOTA LTDA.), Calle 5C 41–30, Cali, Colombia; Carrera 26 5B–65, Cali, Colombia; Carrera 30–5–12, Cali, Colombia.

DROGAS LA REBAJA BARRANQUILLA S.A., Avenida Pedro Heredia, Barranquilla, Colombia; Local Cerete, Barranquilla, Colombia; Local de Riohacha, Barranquilla, Colombia.

DROGAS LA REBAJA BUCARAMANGA S.A., Local No. 1, Bucaramanga, Colombia; Local No. 1, Cucuta, Colombia; Local No. 2, Cucuta, Colombia; Local No. 6, Cucuta, Colombia; Local No. 7, Cucuta, Colombia; Local No. 9, Cucuta, Colombia; Local 201, Valledupar, Colombia.

DROGAS LA REBAJA CALI S.A., Barrio Siloe, Cali, Colombia; Calle 13 #6–85, Cali, Colombia; Calle 3 #4–02 B/Ventura, Cali, Colombia; Local Comuneros No. 20, Cali, Colombia; Local del Poblado No. 17, Cali, Colombia; Santander de Quilichao, Cali, Colombia.

DROGAS LA REBAJA NEIVA S.A., Neiva, Colombia.

DROGAS LA REBAJA PASTO S.A., Calle 18 #26–40, Pasto, Colombia; Local No. 6, Pasto, Colombia; Local No. 13, Puerto Asis, Colombia.

DROGAS LA REBAJA PEREIRA S.A., Local Cajamarca, Pereira, Colombia; Local Dos Quebradas, Pereira, Colombia; Local Santa Rosa de Cabal, Pereira, Colombia; Local la Virginia, Pereira, Colombia.

GANADERA LTDA., (A.K.A. GANADERIA), Carrera 4 12–41 piso 15, Edificio Seguros Bolivar, Cali, Colombia.

GRUPO SANTA LTDA., Calle 18 106–98 of. 201/202, Cali, Colombia; Carrera 4 12–41 piso 14 y 15, Edificio Seguros Bolivar, Cali, Colombia; Carrera 84 17–29, Cali, Colombia.

HACIENDA LA NOVILLERA, (A.K.A. NOVILLERA; A.K.A. NOVILLERA GANADERA), Carrera 4 12–41 piso 15, Edificio Seguros Bolivar, Cali, Colombia; Paso de la Bolsa, Jamundi, Valle del Cauca, Colombia.

HACIENDA SANDRANA, (A.K.A. SANDRANA; A.K.A. SANDRANA GANADERA), Carrera 4 12–41 piso 15, Edificio Seguros Bolivar, Cali, Colombia; San Pedro, Valle del Cauca, Colombia.

INMOBILIARIA AURORA LTDA., Avenida Canasgordas con Avenida Guali Casa 35, Cali, Colombia; Carrera 4 12–41 piso 15, Edificio Seguros Bolivar, Cali, Colombia; Carrera 24F Oeste 3–70, Cali, Colombia; Carrera 38A No. 5E–31, Edificio Conquistadores, Cali, Colombia.

INMOBILIARIA SAMARIA LTDA., Calle 13 3–32 piso 13, Cali, Colombia; Calle 13A 64–50 F201, Cali, Colombia; Calle 18, No. 106–98 of. 201/202, Cali, Colombia; Carrera 4 12–41 piso 15, Edificio Seguros Bolivar, Cali, Colombia.

INTERCREDITOS S.A., (A.K.A. INTERCREDITOS BOGOTA), Bogota, Colombia; **(A.K.A. INTERCREDITOS CALI)**, Avenida Roosevelt No. 38–32, piso 2, Cali, Colombia.

INVERSIONES ARA LTDA., Avenida 4N 6N–67 of. 601, Cali, Colombia; Avenida 6AN 18–69 1–128, Cali, Colombia; Avenida 6AN 23DN–16 of. 402, Cali, Colombia; Club El Remanso, Jamundi, Colombia.

INVERSIONES EL PASO LTDA., (F.K.A. INVERSIONES NEGOAGRICOLA S.A.), Carrera 4 No. 12–41 of. 1403, Cali, Colombia.

INVERSIONES INTEGRAL Y CIA., Calle 16B No. 114–80 Casa 2, Cali, Colombia; Carrera 2 Oeste 5–46 apt./of. 503, Cali, Colombia.

INVERSIONES MIGUEL RODRIGUEZ E HIJO, Avenida 4N 6N–67 of. 601, Cali, Colombia; Avenida 6N 23DN–16 of. 202, 301, 302, 401, 402, Cali, Colombia.

INVERSIONES SANTA LTDA., (F.K.A. INVERSIONES Y CONSTRUCCIONES SANTA LIMITADA), Calle 5 66B–49 piso 3, Cali, Colombia; Calle 5 Oeste 3A–26 apt/of 103, 301, 404, 502, 503, Cali, Colombia; Calle 7 Oeste 25–48, Cali, Colombia; Calle 9 No. 46–69 of. 302, Cali, Colombia; Calle 13 3–32 piso 14, Cali, Colombia; Carrera 2 Oeste 5–46 of 502, Cali, Colombia; Carrera 4 12–41 piso 14, Edificio Seguros Bolivar, Cali, Colombia; Carrera 4 12–41 piso 15, Edificio Seguros Bolivar, Cali, Colombia.

LABORATORIOS BLAIMAR DE COLOMBIA S.A., (A.K.A. BLAIMAR), Calle 12B 27 39, Bogota, Colombia.

LABORATORIOS KRESSFOR DE COLOMBIA S.A., (A.K.A. KRESSFOR), Calle 16 28A 51, Bogota, Colombia; Calle 16 28A 57, Bogota, Colombia; Calle 17 28A–43, Bogota, Colombia; Calle 17A 28 43, Bogota, Colombia.

PREVIA S.A., (A.K.A. PREVENCION Y ANALISIS DE RIESGOS), Carrera 3 No. 10–20 of. 202, Cali, Colombia; Carrera 3 No. 12–40 of. 504, Cali, Colombia.

SAMARIA ARRENDAMIENTO, Cali, Colombia.

SAMARIA CAÑAS, Cali, Colombia.

SAMARIA INTERESES, Cali, Colombia.

SAMARIA LTDA., Cali, Colombia.

SAMARIA TIERRAS, Cali, Colombia.

SANDRANA CAÑAS, Cali, Colombia.

SOCIEDAD CONSTRUCTORA LA CASCADA S.A., (A.K.A. CONSTRUCTORA CASCADA), Calle 1A 62A–120, Cali, Colombia; Calle 1A 62A–120 B2 108, Cali, Colombia; Calle 1A 62A–120 2305, Cali, Colombia; Calle 1A 62A–120 2418, Cali, Colombia; Calle 1A 62A–120 4114, Cali, Colombia; Calle 1A 62A–120 6245, Cali, Colombia; Calle 13 3–32 piso 12 y piso 14, Cali, Colombia; Carrera 4 12–41 of. 1401, Cali, Colombia; Carrera 4 No. 12–41 of. 1403, Cali, Colombia; Carrera 64 1C–63, Cali, Colombia; Carrera 64 1B–83, Cali, Colombia.

OTHER INDIVIDUALS:

ARBELAEZ PARDO, AMPARO, DOB: 9 November 1950; alt. DOB: 9 August 1950; Passports: AC568973 (Colombia), PE001850 (Colombia); Cedula No. 31218903 or 31151067 (Colombia); Casa No. 19, Avenida Lago, Ciudad Jardin, Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

ARLONE FACELLI, ROBERTO, Cedula No. 16632415 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia.

BORRERO Q., HECTOR FABIO, c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.

CALDERON RODRIGUEZ, SOLANGE, c/o INMOBILIARIA AURORA LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.

CARDONA OCHOA, CARLOS JULIO, Cedula No. 7524996 (Colombia); c/o AUREAL INMOBILIARIA LTDA., Bogota, Colombia; c/o GRUPO SANTA LTDA., Cali, Colombia.

CASTRO DE SANTACRUZ, AMPARO, DOB: 13 January 1948; alt. DOBs: 13 January 1946, 14 April 1959, 14 April 1957; SSN 150–50–6323; Passports: PE027370 (Colombia), AA429676 (Colombia); Cedula No. 38983611 (Colombia); c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES EL PASO LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SAMARIA LTDA., Cali, Colombia.

CAVIEDES CRUZ, LEONARDO, DOB: 23 November 1952; Passports: AB151486 (Colombia), AC444270 (Colombia), OC444290 (Colombia); Cedula No. 16593470 (Colombia); c/o INVERSIONES SANTA LTDA., Cali, Colombia.

DAZA QUIROA, HUGO CARLOS, Cedula No. 19236485 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

DONNEYS GONZALEZ, FEDERICO, c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.

ESTRADA URIBE, OCTAVIO, c/o GRUPO SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.

GIL OSORIO, ALFONSO, DOB: 17 December 1946; alt. DOB: 17 December 1940; Passports: 14949229 (Colombia), 14949279 (Colombia), 14949289 (Colombia), AC342060 (Colombia); Cedula No. 14942279 or 14949279 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

GOMEZ V., MANUEL ANTONIO, Cedula No. 7921814 (Colombia); c/o GANADERA LTDA., Cali, Colombia.

GUTIERRES C., ALVARO (A.K.A. GUTIERREZ C., ALVARO), DOB: 9 May 1942; Cedula No. 14966562 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia;

GUTIERREZ CANCINO, FERNANDO ANTONIO, DOB: 4 December 1941; Cedula No. 6089071 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA, S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

GUTIERREZ LOZANO, ANA MARIA, DOB: 1972; Cedula No. 39783954 or 39783975 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

GUTIERREZ LOZANO, JUAN PABLO, DOB: 11 April 1972; Passport: AC480604 (Colombia); Cedula No. 79570028 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

HOLGUIN SARRIA, ALVARO, Cedula No. 14950269 or 18950260 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

IDARRAGA ORTIZ, JAIME, Cedula No. 8237011 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia.

IZQUIERDO OREJUELA, PATRICIA, Cedula No. 41594424 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

LOZANO DE GOMEZ, ZILIA, Cedula No. 41577886 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

LOZANO CANCINO DE GUTIERREZ, MARIA GLADYS, (A.K.A. LOZANO DE GUTIERREZ, GLADYS), DOB: 19 October 1948; Cedula No. 41444092 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

MAZUERO ERAZO, HUGO, DOB: 17 July 1936; alt. DOB: 1945; Cedula No. 2445590 (Colombia); c/o GRUPO SANTA LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.

MOGOLLON RUEDA, EDUARDO, DOB: 5 February 1953; Cedula No. 19149691 or 19194691 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.

MONDRAGON DE RODRIGUEZ, MARIELA, DOB: 12 April 1935; Passport: 4436059 (Colombia); Cedula No. 29072613 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

MUÑOZ RODRIGUEZ, JUAN CARLOS, DOB: 25 September 1964; Passport: 16703148 (Colombia); Cedula No. 16703148 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA, S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

MUÑOZ RODRIGUEZ, SORAYA, DOB: 26 July 1967; Passport: AC569012 (Colombia); Cedula 31976822 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

PINZON, MARCO ANTONIO, Cedula No. 17801803 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.

RAMIREZ LIBREROS, GLADYS MIRIAM, DOB: 20 November 1945; Passport: 38974109 (Colombia); Cedula No. 38974109 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia.

RIZO, DIEGO, Cedula No. 144483334 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

RODRIGUEZ ABADIA, WILLIAM, DOB: 31 July 1965; Cedula No. 16716259 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA, S.A., Bogota, Colombia.

RODRIGUEZ ARBELAEZ, CAROLINA, DOB: 17 May 1979; c/o INVERSIONES ARA LTDA., Cali, Colombia.

RODRIGUEZ ARBELAEZ, MARIA FERNANDA, DOB: 28 November 1973; alternate DOB: 28 August 1973; Passport: AC568974 (Colombia); Cedula No. 7382804819 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia.

RODRIGUEZ MONDRAGON, HUMBERTO, DOB: 21 June 1963; Passport: AD387757 (Colombia); Cedula No. 16688683 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA, S.A., Bogota, Colombia.

RODRIGUEZ MONDRAGON, JAIME, Cedula No. 16637592 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

RODRIGUEZ MONDRAGON, MARIA ALEXANDRA, (A.K.A. RODRIGUEZ MONDRAGON, ALEXANDRA), DOB: 30 May 1969; alt. DOB: 5 May 1969; Passport: AD359106 (Colombia); Cedula No. 66810048 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia.

RODRIGUEZ OREJUELA DE GIL, AMPARO, DOB: 13 March 1949; Passport: AC342062 (Colombia); Cedula No. 3121877003 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

RODRIGUEZ OREJUELA DE MUÑOZ, HAYDEE, (A.K.A. RODRIGUEZ OREJUELA DE ROJAS, HAYDEE), DOB: 22 September 1940; Cedula No. 38953333 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

RODRIGUEZ RAMIREZ, CLAUDIA PILAR, DOB: 30 June 1963; alt. DOB: 30 August 1963; alt. DOB: 1966; Passports: 007281 (Colombia), P0555266 (Colombia); Cedula No. 51741013 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

SANTACRUZ CASTRO, ANA MILENA, DOB: 31 March 1965; Passports: 31929808 (Colombia), AB151189 (Colombia); Cedula No. 31929808 (Colombia); c/o AUREAL INMOBILIARIA LTDA., Bogota, Colombia; c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES EL PASO LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SAMARIA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.

SANTACRUZ CASTRO, SANDRA, DOB: 28 September 1973; SSN 090–80–3433; Passports: 043827307 (United States), D1690693 (United States), 100330728 (United States), J24728201 (Country unknown); c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia.

TORRES CORTES, JOSELIN, Cedula No. 19482747 (Colombia); c/o AUREAL INMOBILIARIA LTDA., Bogota, Colombia.

VILLALOBOS, LUIS E., Cedula No. 14875020 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.

ZABALETA SANDOVAL, NESTOR, DOB: 1927; Cedula No. 20305353 (Colombia); Passports: 1690693 (United States), 100330728 (United States), J24728201 (Country unknown); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia.

Dated: October 23, 1995

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 23, 1995

John P. Simpson

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).

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