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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Three Sessions]

WHEN: November 14 at 9:00 am
November 28 at 9:00 am
December 5 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register

Vol. 60, No. 207

Thursday, October 26, 1995

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–135–AD; Amendment 39–9416; AD 95–22–08]

Airworthiness Directives; British Aerospace Model Viscount 744, 745D, and 810 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace Model Viscount 744, 745D, and 810 airplanes, that currently establishes time-in-service limits for components of the fuselage pressure vessel, and requires modifications and inspections of various fuselage components to assure the continued structural integrity of these airplanes through the manufacturer's design life goal. This amendment requires additional modifications and inspections of the fuselage pressure vessel to extend the fuselage pressure vessel life from 30 to 45 years since new. This amendment is prompted by results of a review of fatigue test findings, stress analysis, and in-service history associated with pressure vessel components. The actions specified by this AD are intended to prevent reduced structural capability of the fuselage pressure vessel.

EFFECTIVE DATE: November 27, 1995.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 65–20–04, amendment 39–3138 (23 FR 5506, February 9, 1978), which is applicable to certain British Aerospace Model Viscount 744, 745D, and 810 airplanes, was published in the Federal Register on May 9, 1995 (60 FR 24587). The action proposed to require various modifications and inspections of the fuselage pressure vessel to extend the fuselage pressure vessel life from 30 to 45 years since new.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 29 Model Viscount 744, 745D, and 810 series airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 65–20–04 take approximately 200 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $37,000 per airplane. Based on these figures, the total cost impact on U.S. operators of the actions required by AD 65–20–04 is estimated to be $1,421,000, or $49,000 per airplane.

The new actions that are required by this new AD will take approximately 400 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $37,400 per airplane. Based on these figures, the total cost impact on U.S. operators of the new requirements of this AD is estimated to be $1,780,600, or $61,400 per airplane.

The total cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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, 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 removing amendment 39–3138 (23 FR 5506, February 9, 1978), and by adding a new airworthiness directive (AD), amendment 39–9416, to read as follows:

95–22–08 British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vicker-Armstrongs Aircraft Limited): Amendment 39–9416. Docket 94–NM–135–AD. Supersedes AD 65–20–04, Amendment 39–3138.

Applicability: All Model Viscount 744, 745D, and 810 airplanes, 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 (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 reduced structural capability of the fuselage pressure vessel, accomplish the following:

(a) To operate the airplane for a maximum of 30 years since the date of manufacture or 75,000 total landings, whichever occurs first, accomplish the following:

(1) Perform visual, eddy current, dye penetrant, and x-ray inspections in accordance with Sections 2 through 10 of British Aerospace Preliminary Technical Leaflet (PTL) No. 221, Issue 10, dated May 1, 1994 (for Model Viscount 744 and 745D airplanes); or PTL No. 94, Issue 10, dated September 1, 1993 (for Model Viscount 810 airplanes); as applicable. Perform the initial inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(2)(ii) of this AD. Thereafter, repeat these inspections at the repetitive intervals specified in the applicable PTL.

(i) Prior to the threshold specified in Sections 2 through 10 of the applicable PTL; or within the next repetitive inspection specified in Sections 2 through 10 of the applicable PTL following the immediately preceding inspection accomplished in accordance with PTL No. 221, Issue 4 (for Model Viscount 744 and 745D airplanes), or PTL No. 94, Issue 4 (for Model Viscount 810 airplanes); whichever occurs first. Or

(ii) Within 60 days after the effective date of this AD.

(2) Install the modifications specified in Sections 2 through 10 of British Aerospace PTL No. 221, Issue 10, dated May 1, 1994 (for Model Viscount 744 and 745D airplanes); or PTL No. 94, Issue 10, dated September 1, 1993 (for Model Viscount 810 airplanes); as applicable. Accomplish this installation at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Prior to the accumulation of the number of equivalent flights at 6.5 pounds per square inch (psi) specified in the initial compliance columns of Sections 2 through 10 of the applicable PTL. Or

(ii) Within 60 days after the effective date of this AD.

Note 2: The number of equivalent flights at 6.5 psi is determined by using the procedure specified in Section 1, Part 6, Paragraph 6.6, of PTL No. 221 or PTL No. 94, as applicable.

(3) Modify the components of the pressurization system to reduce the cabin pressure maximum pressure setting to 3.5 psi, in accordance with Section 1, Part 7, Paragraph 7.5.2 of British Aerospace PTL No. 221, Issue 10, dated May 1, 1994 (for Model Viscount 744 and 745D airplanes); or PTL No. 94, Issue 10, dated September 1, 1993 (for Model Viscount 810 airplanes); as applicable. Accomplish this modification at the later of the times specified in paragraphs (a)(3)(i) and (a)(3)(ii) of this AD.

(i) Prior to the accumulation of 25 years since date of manufacture, or prior to the accumulation of the number of flights equivalent to 17,000 flights at 6.5 psi; whichever occurs first. Or

(ii) Within 30 days after the effective date of this AD.

(b) This paragraph is applicable only to airplanes listed in British Aerospace PTL No. 320, Issue 3, dated October 1, 1993 (for Model Viscount 744 and 745 D airplanes); and PTL No. 189, Issue 5, dated May 1, 1994 (for Model Viscount 810 airplanes). To operate the airplane for a maximum of 45 years since date of manufacture or 75,000 total landings, whichever occurs first: Prior to the accumulation of 30 years since date of manufacture, or within 2 months after the effective date of this AD, whichever occurs later, perform the inspections, change the inspection times, install the modifications, and perform all other actions specified in the applicable PTL.

(c) If any crack(s) or corrosion is found during any inspection required by this AD, prior to further flight, repair in accordance with British Aerospace PTL No. 221, Issue 10, dated May 1, 1994 (for Model 744 and 745D airplanes), or PTL No. 94, Issue 10, dated September 1, 1993 (for Model 810 airplanes).

(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 3: 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) This amendment becomes effective on November 27, 1995.

Issued in Renton, Washington, on October 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–26557 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–135–AD; Amendment 39–9343; AD 95–17–13]

Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in airworthiness directive (AD) 95–17–13, amendment 39–9343, that was published in the Federal Register on August 28, 1995 (60 FR 44417). The typographical error resulted in reference to paragraph numbers of that AD that do not exist. This AD is applicable to certain British Aerospace Model BAe 146 and Model Avro 146–RJ airplanes and requires modification of the left- and right-hand elevators to improve water drainage.

DATES: Effective September 12, 1995.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of September 12, 1995 (60 FR 44417, August 28, 1995).

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: On August 15, 1995, the FAA issued AD 95–17–13, amendment 39–9343 (60 FR 44417, August 28, 1995), to require modification of the left- and right-hand elevators to improve water drainage. As published, that AD contained a typographical error in paragraph (a)(1) of the AD. That paragraph specified that the requirements of paragraphs (a)(1)(i), (a)(2)(ii), and (a)(3)(iii) are to be accomplished. However, paragraphs (a)(2)(ii) and (a)(3)(iii) do not exist in this AD. The correct paragraph references are paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii).

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of the AD remains September 12, 1995.

Accordingly, the final rule document (FR Doc. 95–20629), which was published on August 28, 1995, at 60 FR 44417, is corrected as follows:

§ 39.13 [Corrected]

On page 44418, in the third column, the introductory text of paragraph (a)(1) of AD 95–17–13, amendment 39–9343, is corrected to read as follows:

* * * * *

(a) * * *

(1) For all airplanes: Accomplish the following requirements of paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD:

* * * * *

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25991 Filed 10–25–95; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 9, 10, 11, and 21

Change of Address; Change in Titles of Office and Personnel

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to reflect changes in office titles, personnel titles and address in its regulations.

EFFECTIVE DATE: October 26, 1995.

FOR FURTHER INFORMATION CONTACT: Stacy Yochum, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5157.

SUPPLEMENTARY INFORMATION: In 1984, the Commission changed the title of the Division of Economics and Education to the Division of Economic Analysis. Also in 1984, the Commission combined the Office of Hearings and Appeals with the Complaints Section to create the Office of Proceedings. The former Hearing Clerk was given the title of Proceedings Clerk. At the same time, the Commission reassigned the administrative duties of the vacant position of Chief Administrative Law Judge to the Director of the Office of Proceedings. In 1990, the Commission eliminated the Opinions Section as a separate entity within the Office of General Counsel and the Chief of the Opinions Section became the Deputy General Counsel for Opinions and Review. As of October 1, 1995, the Commission moved its headquarters offices, including the Office of Proceedings, to Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The Commission is now amending its regulations to reflect these changes.

List of Subjects in 17 CFR Parts 1, 3, 9, 10, 11, and 21

Administrative practice and procedure, Commodity Futures Trading Commission, and Reporting and recordkeeping requirements.

Based upon the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j), the Commission hereby amends 17 CFR Chapter I of the Code of Federal Regulations as follows:

PART 1—[AMENDED]

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, 24.

§ 1.66 [Amended]

2. Section 1.66, paragraphs (b)(2), (b)(3) and (b)(5)(ii) are amended by removing ‘‘Hearing Clerk’’ and adding ‘‘Proceedings Clerk’’ in each place it occurs.

PART 3—[AMENDED]

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

Authority: 7 U.S.C. 1a, 2, 4, 4a, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23; 5 U.S.C. 552, 552b.

§ 3.50 [Amended]

2. Section 3.50, paragraph (d) is amended by removing ‘‘Hearing Clerk’’ and adding ‘‘Proceedings Clerk’’ in its place.

§ 3.55 [Amended]

3. Section 3.55, paragraphs (b), (c) and (e)(2) are amended by removing ‘‘Hearing Clerk’’ and adding ‘‘Proceedings Clerk’’ in each place it occurs.

§ 3.56 [Amended]

4. Section 3.56, paragraphs (b)(3), (c) and (e)(2) are amended by removing ‘‘Hearing Clerk’’ and adding ‘‘Proceedings Clerk’’ in each place it occurs.

§ 3.60 [Amended]

5. In § 3.60, the introductory text of paragraph (b), paragraph (b)(2)(ii), the introductory test of paragraph (c), paragraph (d)(3), paragraph (h)(4) and paragraph (h)(5)(i) are amended by removing ‘‘Hearing Clerk’’ and adding ‘‘Proceedings Clerk’’ in each place it occurs.

§ 3.64 [Amended]

6. Section 3.64, paragraphs (a), (b)(1), (b)(2) and (d) are amended by removing ‘‘Hearing Clerk’’ and adding ‘‘Proceedings Clerk’’ in each place it occurs.

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 4a, 6c, 7a, 12a, 12c, 16a, unless otherwise noted.

§ 9.9 [Amended]

2. Section 9.9, paragraph (b)(1) introductory text is amended by removing ‘‘Chief of the Opinions Section, or the Chief’s designee’’ and adding ‘‘Deputy General Counsel for Opinions and Review, or designee’’ in its place.

3. Section 9.9, paragraphs (b)(3) and (b)(4) are amended by removing ‘‘Chief of the Opinions Section’’ and adding ‘‘Deputy General Counsel for Opinions and Review’’ in each place it occurs.

PART 10—[AMENDED]

1. The authority for part 10 continues to read as follows:

Authority: Pub. L. 93–463, sec. 101(a)(11), 88 Stat. 1391; 7 U.S.C. 4a(j), unless otherwise noted.

2. Section 10.2, paragraph (i) is revised to read as follows:

§ 10.2 Definitions.

* * * * *

(i) *Proceedings Clerk* means that member of the Commission’s staff designated as such in the Commission’s Office of Proceedings.

* * * * *

3. The first sentence of § 10.4 is revised to read as follows:

§ 10.4 Business address; hours.

The Office of Proceedings is located at Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.* * *

§ 10.7 [Amended]

3. Section 10.7 is amended by removing ‘‘Hearing Clerk’’ and adding ‘‘Proceedings Clerk’’ in its place.

4. Section 10.10, paragraph (a)(1)(iii) is revised to read as follows:

§ 10.10 Ex parte communications.

(a) * * *

(1) * * *

(iii) The Deputy General Counsel for Opinions and Review and staff of the Office of General Counsel.

* * * * *

5. Section 10.10, paragraph (a)(1)(iv) is amended by removing ‘‘Office of Hearings and Appeals’’ and adding ‘‘Office of Proceedings’’ in its place.

§ 10.12 [Amended]

6. Section 10.12, paragraph (a)(3) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

7. Section 10.12, paragraph (b) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

8. Section 10.12, paragraph (d) is revised to read as follows:

§ 10.12 Service and filing of documents; form and execution.

* * * * *

(d) *Filing of documents with the Proceedings Clerk.* (1) All documents which are required to be served upon a party shall be filed concurrently with the Proceedings Clerk. A document shall be filed by delivering it in person or by certified or registered mail with return receipt requested to:

Proceedings Clerk, Office of Proceedings, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

(2) To be timely filed, a document must be received by the Proceedings Clerk within the time prescribed for filing.

* * * * *

9. Section 10.12, paragraphs (e)(1), (e)(2), (e)(5) and (e)(6) are amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in each place it occurs.

10. In § 10.12, the concluding text of paragraph (f)(1) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

11. Section 10.12, paragraph (g) is revised to read as follows:

* * * * *

(g) *Official docket.* The Proceedings Clerk will maintain the official docket for each proceeding. The official docket is available for public inspection in the Commission's Office of Proceedings.

§ 10.22 [Amended]

12. Section 10.22, paragraph (b) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.23 [Amended]

13. Section 10.23, paragraph (a) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.26 [Amended]

14. Section 10.26, paragraph (a), introductory text, is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.42 [Amended]

15. Section 10.42, paragraph (c)(1) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.44 [Amended]

16. Section 10.44, paragraphs (d)(2)(ii) and (f)(1) are amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in each place it occurs.

§ 10.65 [Amended]

17. Section 10.65, paragraph (b) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.68 [Amended]

18. Section 10.68, paragraphs (a)(1) and (b)(3) are amended by removing ''Chief Administrative Law Judge'' and adding ''Director of the Office of Proceedings'' in each place it occurs.

§ 10.81 [Amended]

19. Section 10.81 is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.83 [Amended]

20. Section 10.83 is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.84 [Amended]

21. Section 10.84, paragraph (b) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in each place it occurs.

22. Section 10.84, paragraph (c) concluding text is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.92 [Amended]

23. Section 10.92, paragraphs (a), (b)(2) and (b)(3) are amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in each place it occurs.

§ 10.102 [Amended]

24. Section 10.102, paragraph (a) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in each place it occurs.

25. Section 10.102, paragraph (c) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.103 [Amended]

26. Section 10.103, paragraph (a) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.105 [Amended]

27. Section 10.105 is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.108 [Amended]

28. Section 10.108, paragraph (d) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

§ 10.109 [Amended]

29. The introductory text of § 10.109 is amended by removing ''Chief of the Opinions Section'' and adding ''Deputy General Counsel for Opinions and Review'' in its place.

30. Section 10.109, paragraph (a)(2)(ii) is amended by removing ''Chief'' and adding ''Deputy General Counsel for Opinions and Review'' in its place.

31. Section 10.109, paragraph (b) is amended by removing ''Chief of the Opinions Section'' and adding ''Deputy General Counsel for Opinions and Review'' in its place.

32. Section 10.109, paragraph (c) is amended by removing ''Hearing Clerk'' and adding ''Proceedings Clerk'' in its place.

PART 11—[AMENDED]

1. The authority citation for part 11 continues to read as follows:

Authority: 7 U.S.C. 4a(j), 9 and 15, 12, 12a(5), unless otherwise noted.

§ 11.2 [Amended]

2. Section 11.2, paragraph (a) is amended by removing ''Director of the Division of Economics and Education'' and adding ''Director of the Division of Economic Analysis'' in its place.

PART 21—[AMENDED]

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 6a, 6c, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 7, 7a, 12a, 19, and 21; 5 U.S.C. 552 and 552(b), unless otherwise noted.

§ 21.02a [Amended]

2. Section 21.02a, paragraph (c) is amended by removing ''Director of Economics and Education'' and adding ''Director of the Division of Economic Analysis'' in its place.

The foregoing rules shall be effective October 26, 1995. The Commission finds that the amendments relate solely to agency organization, procedure or practice and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, DC, on October 19, 1995, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 95–26371 Filed 10–25–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 40

[TD 8616]

RIN 1545–AT26

Deposits of Excise Taxes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains a correction to the temporary regulations (TD 8616), which were published in the Federal Register for Tuesday, August 29, 1995 (60 FR 44758). The temporary regulations relate to deposits of excise taxes.

EFFECTIVE DATE: August 29, 1995.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction are under section 6302 of the Internal Revenue Code.

Need for Correction

As published, TD 8616 contains a typographical error that is in need of correction.

Correction of Publication

Accordingly, the publication of the temporary regulation which is the subject of FR Doc. 95–21438, is corrected as follows:

On page 44759, column one, the authority citation ‘‘ Authority: 26 U.S.C. 780 * * *’’ is corrected to read ‘‘Authority: 26 U.S.C. 7805 * * *’’.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–26583 Filed 10–25–95; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 502 and 503

Workers Employed in Seasonal Agricultural Services Under Section 201A of the Immigration and Nationality Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule; removal of regulations.

SUMMARY: The Department of Labor is issuing a final rule to remove the regulations found at 29 CFR parts 502 and 503, which were promulgated under § 210A of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA). These regulations implement requirements of a special program for nonimmigrants in seasonal agricultural services which ended with fiscal year 1992, or September 30, 1992. The regulations do not affect the current operation of any program and are being removed from the CFR.

EFFECTIVE DATE: This rule is effective November 27, 1995.

FOR FURTHER INFORMATION CONTACT: Richard M. Brennan, Acting Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3506, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 219–8412. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The information collection requirements previously approved by the Office of Management and Budget under Regulations, 29 CFR parts 502 and 503 expired September 30, 1992.

II. Background

Section 302 of the Immigration Reform and Control Act of 1986 (Public Law 99–603, November 6, 1986) added sections 210 and 210A to the Immigration and Nationality Act (INA), which established a special program for certain agricultural workers. Under this special agricultural worker (SAW) program, the status of a nonimmigrant worker could be adjusted during an 18-month period ending November 30, 1988 to ‘‘lawfully admitted for temporary residence’’ if certain resident and work conditions were demonstrated. Section 210A of INA established a framework for admitting additional nonimmigrants, referred to as replenishment agricultural workers (RAWs), if a shortage of workers in seasonal agricultural services developed during the period beginning with Fiscal Year 1990 and ending with Fiscal Year 1993, or September 30, 1992.

The regulations, 29 CFR parts 502 and 503, were promulgated pursuant to § 210A of the INS, as amended. The regulations at 29 CFR part 502 establish a reporting procedure for employers to report employment information on certain resident nonimmigrant workers employed in seasonal agricultural services (SAWs), and the regulations at 29 CFR part 503 establish the procedure to be used by the Secretaries of Agricultural and Labor in determining the number of additional individuals who could acquire status under § 210A of the INA as replenishment agricultural workers (RAWs) to replenish a shortage of seasonal agricultural workers.

The employer reporting requirements and the agricultural worker replenishment process established by § 210A ceased with the Fiscal Year ending September 30, 1992. Because the regulations at 29 CFR parts 502 and 503 do not affect the current operation of any program, the Department has decided that it is no longer necessary to continue publication of these regulations, in future editions of title 29, and the regulations are, therefore, being removed from the CFR.

Executive Order 12866/Section 202 of the Unfunded Mandates Reform Act of 1995

This rule is not a ‘‘significant regulatory action’’ within the meaning of Executive Order 12866. The regulations at 29 CFR parts 502 and 503 do not affect the current operation of any program, and their removal from title 29 will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in Executive

Order 12866. Therefore, no regulatory impact analysis has been prepared.

The requirements of the Unfunded Mandates Reform Act of 1995 (Public Law 104–5) do not apply to non-notice rules issued under 5 U.S.C. 553(b).

Regulatory Flexibility Analysis

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2). In any event, this rule will not have a significant economic impact on a substantial number of small entities. The obligations and responsibilities established under the regulations to be removed from title 29 ceased with the Fiscal Year ending September 30, 1992.

Document Preparation. This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and House Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Parts 502 and 503

Administrative practice and procedures, Agriculture, Aliens, Farmers, Immigration, Investigations, Penalties, Reporting requirements, Transportation.

Promulgation of Final Rule

For the reasons set out in the preamble:

PART 502—[REMOVED]

1. Under the authority of 5 U.S.C. 301 and Reorganization Plan Number 6 of 1950 (64 Stat. 1263) and 5 U.S.C. 552–556, Title 29, Code of Federal Regulations, is hereby amended by removing part 502.

PART 503—[REMOVED]

2. Under the authority of 5 U.S.C. 301 and Reorganization Plan Number 6 of 1950 (64 Stat. 1263) and 5 U.S.C. 552–556, Title 29, Code of Federal Regulations, is hereby amended by removing part 503.

Signed at Washington, D.C., on this 20th day of October, 1995.

Maria Echaveste,

Administrator, Wage and Hour Division.

[FR Doc. 95–26534 Filed 10–25–95; 8:45 am]

BILLING CODE 4510–27–M

29 CFR Parts 517 and 526

Training Wage and Seasonal Industry Provisions Under the Fair Labor Standards Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule; removal of regulations.

SUMMARY: The Department of Labor is issuing a final rule to remove the regulations found at 29 CFR parts 517 and 526, which were promulgated under the Fair Labor Standards Act (FLSA). These regulations implement provisions of the FLSA which have ended or were repealed by subsequent amendments. The training wage authorization under 29 CFR part 517 expired March 31, 1993, and the partial exemptions from the FLSA's overtime requirements for employees in industries of a seasonal nature or for employees in industries with annual recurring seasonal peaks of operation were repealed by 1974 amendments effective December 31, 1976. These regulations do not affect the current operation of any program and are being removed from the CFR.

EFFECTIVE DATE: This rule is effective November 27, 1995.

FOR FURTHER INFORMATION CONTACT: Richard M. Brennan, Acting Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3506, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 219–8412. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Information collection requirements under these regulations, previously approved by the Office of Management and Budget, have expired.

II. Background

Section 6 of The Fair Labor Standards Amendments of 1989 (Public Law 101–157), enacted on November 17, 1989, among other provisions, permitted employers to pay employees under the age of 20 a training wage rate of at least 85 percent of the minimum wage for up to 90 days. Different employers were permitted to pay the employee the training wage for an additional 90 days if such employer(s) provided on-the-job training in accordance with criteria established by the Secretary. The new training wage provisions were effective from April 1, 1990 through March 31, 1993, and were implemented by Regulations, 29 CFR part 517, on March 1, 1990 (55 FR 7450). Because the training wage authority ceased on March 31, 1993, the regulations at 29 CFR part 517 do not effect the current operation of any program.

Regulations, 29 CFR part 526, were promulgated pursuant to partial overtime exemptions in §§ 7 (c) and (d) of the FLSA for employers employing employees in an industry found by the Secretary to be of a seasonal nature; or for employers who employ employees in industries found by the Secretary to be characterized by marked annual recurring peaks of operation, or to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state. The exemptions provided by §§ 7 (c) and (d) were repealed by Section 19 of the Fair Labor Standards Amendments of 1974 (Public Law 93–259, enacted April 8, 1974, 88 Stat. 55), effective as of December 31, 1976. The regulations at 29 CFR part 526 do not affect the current operation of any program.

For the above reasons, the Department has decided that it is no longer necessary to continue publication of these regulations in future editions of title 29, and the regulations are, therefore, being removed from the CFR.

Executive Order 12866/Section 202 of the Unfunded Mandates Reform Act of 1995

This rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866. The regulations at 29 CFR parts 517 and 526 do not affect the current operation of any program, and their removal from title 29 will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

The requirements of the Unfunded Mandates Reform Act of 1995 (Public Law 104–5) do not apply to non-notice rules issued under 5 U.S.C. 553(b).

Regulatory Flexibility Analysis

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2). In any event, this rule will not have a significant economic impact on a substantial number of small entities. The obligations and responsibilities established under the regulations to be removed from title 29 have either ceased or have been repealed.

Document Preparation. This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects

29 CFR Part 517

Employment, Investigations, Labor, Law enforcement, Training.

29 CFR Part 526

Agriculture, Employment, Labor, Wages.

Promulgation of Final Rule

For the reasons set out in the preamble:

PART 517—[REMOVED]

1. Under the authority of 5 U.S.C. 301 and Reorganization Plan Number 6 of 1950 (64 Stat. 1263) and 5 U.S.C. 552–556, Title 29, Code of Federal Regulations, is hereby amended by removing part 517.

PART 526—[REMOVED]

2. Under the authority of 5 U.S.C. 301 and Reorganization Plan Number 6 of 1950 (64 Stat. 1263) and 5 U.S.C. 552–556, Title 29, Code of Federal Regulations, is hereby amended by removing part 526.

Signed at Washington, D.C., on this 20th day of October, 1995.

Maria Echaveste,

Administrator, Wage and Hour Division.

[FR Doc. 95–26533 Filed 10–25–95; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–95–023]

Drawbridge Operation Regulations; York River, Yorktown, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting as final the interim rule published in the Federal Register on June 14, 1995, changing the regulations governing the operation of the drawbridge across York River, mile 7.0, at Yorktown, Virginia, by extending the periods of restricted bridge openings during the morning and evening rush hours. This is intended to provide relief to highway traffic during the extended rush hours on the roads and highways linked by this drawbridge, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This rule is effective on November 27, 1995.

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

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Administration Section, and CAPT R. A. Knee, Project Counsel, Fifth Coast Guard District Legal Office.

Regulatory History

On June 14, 1995, the Coast Guard published an interim final rule with request for comments entitled York River, Yorktown, Virginia, in the Federal Register (60 FR 31246). The comment period ended September 12, 1995. The Coast Guard received no comments on the interim final rule. On July 7, 1995, the Coast Guard issued Public Notice 5–857 requesting comments on the interim final rule. The comment period ended September 12, 1995. The Coast Guard received no comments on the public notice. A public hearing was not requested and one was not held.

Background and Purpose

The Virginia Department of Transportation requested further regulation of the George P. Coleman Memorial Bridge across York River, mile 7.0, at Yorktown, Virginia, during the morning and evening rush hours. The Coast Guard is extending the periods of restricted bridge openings during the morning and evening rush hours by requiring the bridge to remain closed from 5 a.m. to 8 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, year round. Vessels in distress, or in an emergency situation will be allowed passage through the bridge at any time as stated in Title 33 CFR 117.31(b).

The Virginia Department of Transportation's (VDOT) request was based in part on traffic problems associated with current construction of a new bridge at this location. VDOT also cited an increase in highway traffic crossing the bridge since the Park Service recently closed access to Route 17 at the Colonial Parkway and a change in the operating schedule of the Newport News Shipbuilding and Drydock which has resulted in motorists crossing the bridge earlier in the morning and later in the evening.

In developing this schedule, the Coast Guard considered all views, and believes this final rule will not unduly restrict vessel passage through the bridge, since vessel operators can plan transits around the operating schedule. The Coast Guard believes that it is in the public interest to further limit openings of the Coleman Bridge.

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.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the U.S. Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, 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 principals and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, (as amended, 59 FR 38654, 29 July 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Accordingly, the interim rule amending 33 CFR part 117 which was published at 60 FR 31246 on June 14, 1995, is adopted as a final rule without change.

Dated: October 11, 1995.

W.J. Ecker,

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

[FR Doc. 95–26524 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD 05–95–068]

RIN 2115–AA97

Safety Zone: Atlantic Intracoastal Waterway, MCB Camp Lejeune, NC

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard Captain of the Port, Wilmington, has established a safety zone in the Atlantic Intracoastal Waterway (AICW) along Marine Corps Base Camp Lejeune (MCB), North Carolina. The safety zone encompasses the waters of the Atlantic Intracoastal Waterway between lighted dayboards 64 and 65. The safety zone is needed to protect people, vessels, and property from safety hazards associated with the launching of inert line charges in support of amphibious assault training. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective from 8 a.m. on October 28, through 6 p.m. October 31, 1995 local time, unless sooner terminated by the Captain of the Port Wilmington.

FOR FURTHER INFORMATION CONTACT: Ltjg K.J. Delooff, USCG, Project Officer, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, 272 North Front Street, Wilmington, North Carolina 28401–3907. Phone: (910) 343–4895, Extension 108.

SUPPLEMENARY INFORMATION:

Drafting Information

The drafters of this regulation are Ltjg K.J. Delooff, project officer for the Captain of the Port, October Wilmington, North Carolina, and Lt K.A. Duignan, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulation

The Coast Guard has been requested by MCB Camp Lejeune to establish a safety zone to prevent damage or injury which could result from a training exercise. The exercise involves a training assault on a simulated mined beach. The assault involves firing an inert line charge which clears the simulated minefield. The line charge is propelled by a 5 foot solid fuel rocket which trails the inert explosives. The rocket is typically prevented from flying its full flight by a cable attached to the firing point. If this cable breaks, the rocket motor and possibly the line charge could impact in the Atlantic Intracoastal Waterway. The safety zone will prevent vessels from transiting during the firing of the line charge and prevent possible property damage, injury, or death.

The safety zone will be effective from 8 a.m. on October 28, 1995 and will cease at 6 p.m. on October 31, 1995 unless terminated sooner by the Captain of the Port Wilmington. The actual times the waterway will be closed will be approximately 30–90 minute periods one to three times per day. When actual firing is not scheduled to take place, the waterway will be open for traffic. Mariners will be notified via VHF channel 16 when the waterway is about to be closed for firing. Vessels from either the U.S. Coast Guard or U.S. Navy will be patrolling each end of the safety zone to inform and control vessel traffic.

The safety zone can be described as follows:

The waters of the Atlantic Intracoastal Waterway from lighted dayboard number 64 at approximately 34° 33′ 59.7″ North, 077° 16′ 50.5″ West to lighted dayboard 65 at approximately 34° 33′ .03″ North, 077° 18′ 30″ West.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making this regulation effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying the effective date would be contrary to the public interest since immediate action is needed to protect mariners from potential hazards associated with potential flight of an inert rocket propelled line charge over navigable waters. The final schedule for this event and other related activities was not communicated to the Coast Guard in sufficient time to allow for a period for comments.

Assessment

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 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Collection of Information

This rule contains no information collection 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 proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and conclude that, under paragraph 2.B.2.e(34) of Commandant Instruction M16475.1B (amended by 59 FR 38654), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 165 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; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T5068 is added to read as follows:

§ 165.T5068 Safety Zone: Atlantic Intracoastal Waterway, Marine Corps Base Camp Lejeune, North Carolina.

(a) *Location.* The following area is a safety zone:

(1) The waters of the Atlantic Intracoastal Waterway from lighted dayboard number 64 at approximately 34° 33′ 59.7″ North, 077° 16′ 50.5″ West to lighted dayboard 65 at approximately 34° 33′ .03″ North, 077° 18′ 30″ West (Datum: NAD 83).

(b) *Definitions.* The following definition applies to this section: *The designated representative of the Captain of the Port* means: Any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Wilmington, North Carolina to act on his behalf.

(c) The Captain of the Port and the Duty Officer at the Marine Safety Office, Wilmington, North Carolina, can be contacted at telephone number (910) 343–4895.

(d) The designated representative on each vessel enforcing the safety zone can be contacted on VHF–FM channel 16.

(e) *Regulation.* The limitations on entry and use of the water area of the safety zone created by this regulation as described in the general regulations contained in 33 CFR 165.23, will only be in effect during the time periods announced on VHF channel 16.

(f) During the announced time periods, entry into this safety zone is prohibited except as authorized by the Captain of the Port.

(g) *Effective Dates.* This section is effective from 8 a.m. on October 28 through 6 p.m. October 31, 1995 local time, the zone will be activated intermittently up to three times daily (approximately 30–90 minutes each period in duration) by announcement on VHF channel 16.

Dated: September 19, 1995.

T.L. Rice,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, NC.

[FR Doc. 95–26522 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL125–1–7030a; FRL–5312–7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On May 5, 1995, the State of Illinois submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) for automotive/transportation and business machine plastic parts coatings operations as part of the State's 15 percent (%) Reasonable Further Progress (RFP) plan control measures for Volatile Organic Matter (VOM) emissions. VOM, as defined by the State of Illinois, is identical to ''volatile organic compounds'' (VOC), as defined by USEPA. VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. RFP plans are intended to bring areas which have been exceeding the public health based Federal ozone air quality standard closer toward the goal of reaching and maintaining attainment with this standard. The control measures specified in this plastic parts SIP revision are expected by Illinois to reduce VOC (VOM) emissions by 0.28 tons per day in the Chicago area. No applicable sources exist in the Metro-East (East St. Louis) area at this time.

A supplement to the May 5, 1995, SIP revision request was submitted on May 26, 1995. USEPA made a finding of completeness in a letter dated July 13, 1995. A final approval action is being taken because the submittal meets all pertinent Federal requirements. This SIP revision establishes VOM emission limits for applicable plastic parts sources located in the Chicago and Metro-East ozone nonattainment areas. The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. If USEPA receives comments adverse to or critical of the approval, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time.

DATES: The direct final rule is effective on December 26, 1995, unless USEPA receives adverse or critical comments by November 27, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Clean Air Act (the Act) requires all moderate and above ozone nonattainment areas to achieve a 15% reduction of 1990 emissions of VOC (VOM) by 1996. In Illinois, the Chicago area is classified as ''severe'' nonattainment for ozone, while the Metro-East area is classified as ''moderate'' nonattainment. As such, these areas are subject to the 15% RFP requirement.

On September 12, 1994, the Illinois Environmental Protection Agency (IEPA) filed the proposed plastic parts coating rule with the Illinois Pollution Control Board (Board). A public hearing on the rule was held on November 4, December 2, and December 16, 1994, in Chicago, Illinois; on April 20, 1995, the Board adopted a Final Opinion and Order for the proposed amendment. The rule became effective on May 9, 1995; it was published in the Illinois State Register on May 19, 1995. The IEPA formally submitted the plastic parts coating rule to USEPA on May 5, 1995, as a revision to the Illinois SIP for ozone; supplemental documentation to this revision was submitted on May 26, 1995. In doing so, IEPA believes that this SIP revision's new control requirements for plastic parts coating sources will help reduce VOM emissions enough to meet the 15% RFP requirements.

II. Analysis of State Submittal

The May 5, 1995, submittal includes the following new or revised rules:

Part 211: Definitions and General Provisions

Subpart B: Definitions

211.660 Automotive/Transportation Plastic Parts
211.670 Baked Coatings
211.820 Business Machine Plastic Parts
211.1880 Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1900 Electrostatic Prep Coat
211.2360 Flexible Coating
211.2630 Gloss Reducers
211.4055 Non-Flexible Coating
211.4740 Plastic Part
211.5480 Reflective Argent Coating
211.5600 Resist Coat
211.6060 Soft Coat
211.6140 Specialty Coatings
211.6400 Stencil Coat
211.6580 Texture Coat
211.6880 Vacuum Metallizing

Part 218: Organic Material Emission Standards and Limitations for the Chicago Area

Subpart F: Coating Operations

218.204(n) Emission Limits for Plastic Parts Coating: Automotive/Transportation
218.204(o) Emission Limits for Plastic Parts Coating: Business Machine
218.205(g) Daily-Weighted Average Limits for Plastic Parts
218.207(i) Alternative Emission Limitations for Plastic Parts

Part 219: Organic Material Emission Standards and Limitations for the Metro-East St. Louis Area

Subpart F: Coating Operations

219.204(m) Emission Limits for Plastic Parts Coating: Automotive/Transportation
219.204(n) Emission Limits for Plastic Parts Coating: Business Machine
219.205(f) Daily-Weighted Average Limits for Plastic Parts
219.207(h) Alternative Emission Limitations for Plastic Parts

This SIP revision applies to sources in the Chicago and Metro-East St. Louis ozone nonattainment area which apply coatings to the following plastic parts:

(1) The interior and exterior plastic components of automobiles, trucks, tractors, lawn mowers, and other like mobile equipment intended for primary use on land, with the exception of the following: plastic parts coated on the main (body) paint line in automobile and light duty refinishing of automobiles, trucks, tractors, lawn mowers, and other like mobile equipment.

(2) The plastic housings and other exterior plastic components of electronic office equipment and of medical and musical equipment, including, but not limited to the following: computers, monitors, printers and keyboards, facsimile machines, copiers, microfiche readers, cellular and standard phones, and pencil sharpeners. The internal electrical components of business machines are, however, excluded from being applicable to this rule.

The Illinois plastic parts coating rule establishes VOM emission limitations which can be met in one of three ways: (a) Through the use of coatings meeting a low-VOM content limit (218.204 [n] and [o]/219.204 [m] and [n]), (b) having coating lines which apply coatings that are all subject to the same VOM content limit (specified in section 218/219.204) meet a daily-weighted average limit based upon that content limit (218.205[g]/219.205[f]), or (c) use of an add-on capture system and control device (218.207[i]/219.207[h]).

The VOM content limits for plastic parts coatings established in sections 218/219.204 are specified below. The limits are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

	kg/l	lb/gal
Plastic Parts Coating: Automotive/Transportation		
(1) Interiors:		
(A) Baked:		
(i) Color coat	0.49	4.1
(ii) Primer	0.46	3.8
(B) Air Dried:		
(i) Color coat	0.38	3.2
(ii) Primer	0.42	3.5
(2) Exteriors (flexible and non-flexible):		
(A) Baked:		
(i) Primer	0.60	5.0
(ii) Primer non-flexible	0.54	4.5
(iii) Clear coat	0.52	4.3
(iv) Color coat	0.55	4.6
(B) Air Dried-		
(i) Primer	0.66	5.5
(ii) Clear coat	0.54	4.5
(iii) Color coat (red & black)	0.67	5.6
(iv) Color coat (others)	0.61	5.1
(3) Specialty:		
(A) Vacuum metallizing basecoats, texture basecoats	0.66	5.5
(B) Black coatings, reflective argent coatings, air bag cover coatings, and soft coatings	0.71	5.9
(C) Gloss reducers, vacuum metallizing topcoats, and texture topcoats	0.77	6.4
(D) Stencil coatings, adhesion primers, ink pad coatings, electrostatic prep coatings, and resist coatings	0.82	6.8
(E) Head lamp lens coatings	0.89	7.4
Plastic Parts Coating: Business Machine		
(1) Primer	0.14	1.2
(2) Color coat (non-texture coat)	0.28	2.3
(3) Color coat (texture coat)	0.28	2.3
(4) Electromagnetic interference/radio frequency interference shielding coatings	0.48	4.0
(5) Specialty Coatings:		
(A) Soft Coat	0.52	4.3
(B) Plating Resist	0.71	5.9
(C) Plating Sensitizer	0.85	7.1

In addition to meeting the provisions for emission limitations found within the Illinois plastic parts rule, applicable sources will have to meet provisions for test methods and reporting and recordkeeping, as specified in the rule.

III. Final Rulemaking Action

The USEPA has undertaken its analysis of the SIP revision request, based upon its plastic parts coating Alternative Control Techniques (ACT) document, and has determined that the rule's control requirements are equivalent to what is Reasonably Available Control Technology (RACT) for this source category. On this basis, the USEPA has determined that this SIP revision request is approvable.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on December 26, 1995, unless USEPA receives adverse or critical comments by November 27, 1995. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register notice which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on December 26, 1995.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

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

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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 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 the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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)).

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference.

Dated: September 22, 1995.

David A. Ullrich,

Acting Regional Administrator.

For the reasons stated in the preamble, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(116) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(116) On May 5, 1995, and May 26, 1995, the State submitted a rule for automotive/transportation and business machine plastic parts coating operations, which consisted of new volatile organic compound emission limitations to the Ozone Control Plan for the Chicago and Metro-East St. Louis areas.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 211: Definitions and General Provisions, Subpart B; Definitions, Sections 211.660 Automotive/Transportation Plastic Parts, 211.670 Baked Coatings, 211.820 Business Machine Plastic Parts, 211.1880 Electromagnetic Interference/Radio Frequency Interference Shielding Coatings, 211.1900 Electrostatic Prep Coat, 211.2360 Flexible Coatings, 211.2630 Gloss Reducers, 211.4055 Non-Flexible Coating, 211.4740 Plastic Part, 211.5480 Reflective Argent Coating, 211.5600 Resist Coat, 211.6060 Soft Coat, 211.6140 Specialty Coatings, 211.6400 Stencil Coat, 211.6580 Texture Coat, and 211.6880 Vacuum Metallizing, amended at 19 Ill. 6823, effective May 9, 1995.

(B) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F; Coating Operations, Sections 218.204 Emission Limitations, Subsection (n) Plastic Parts Coating: Automotive/Transportation and (o) Plastic Parts Coating: Business Machine, 218.205 Daily-Weighted Average Limitations, Subsection (g), and 218.207 Alternative Emission Limitations, Subsection (i), amended at 19 Ill. 6848, effective May 9, 1995.

(C) Part 219: Organic Material Emissions Standards and Limitations for the Metro-East Area, Subpart F; Coating Operations, Section 219.204 Emission Limitations, Subsection (m) Plastic Parts Coating: Automotive/Transportation and (n) Plastic Parts Coating: Business Machine, 219.205 Daily-Weighted Average Limitations, Subsection (f), and 219.207 Alternative Emission Limitations, Subsection (h), amended at 19 Ill. Reg. 6958, effective May 9, 1995.

[FR Doc. 95–26585 Filed 10–25–95; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 52

[IL126–1–7031a; FRL–5299–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On May 5, 1995, the State of Illinois submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) for wood furniture coating operations as part of the State's 15 percent (%) Reasonable Further Progress (RFP) plan control measures for Volatile Organic Matter (VOM) emissions. A supplement to this request was submitted on May 26, 1995. USEPA made a finding of completeness in a letter dated July 13, 1995. A final approval action is being taken because the submittal meets all pertinent Federal requirements. The SIP revision modifies the source size applicability cut-off for wood furniture coating operation facilities located in the Chicago and Metro-East St. Louis ozone nonattainment areas from 100 to 25 tons of VOM emitted, or potential to emit, per year. The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. If USEPA receives comments adverse to or critical of the approval, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time.

DATES: The direct final rule is effective on December 26, 1995, unless USEPA receives adverse or critical comments by November 27, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Clean Air Act (the Act) requires all moderate and above ozone nonattainment areas to achieve a 15% reduction of 1990 emissions of VOM by 1996 (VOM, as defined by the State of Illinois, is identical to ''volatile organic compounds'', as defined by USEPA). In Illinois, the Chicago area is classified as ''severe'' nonattainment for ozone, while the Metro-East area is classified as ''moderate'' nonattainment. As such, these areas are subject to the 15% RFP requirement.

On September 12, 1994, the Illinois Environmental Protection Agency (IEPA) filed the proposed amended wood furniture coating rule with the Illinois Pollution Control Board (Board). A public hearing on the rule was held on November 4, December 2, and December 16, 1994, in Chicago, Illinois, and on April 20, 1995, the Board adopted a Final Opinion and Order for the proposed amendment. The rule became effective on May 9, 1995, and it was published in the Illinois State register on May 19, 1995. The IEPA formally submitted the wood furniture coating rule to USEPA on May 5, 1995, as a revision to the Illinois SIP for ozone, and supplemental documentation to this revision was submitted on May 26, 1995. In doing so, IEPA believes that this SIP revision will insure that no increase in VOM emission for this source category occurs which negatively impacts Illinois' 15% RFP plan.

II. Analysis of State Submittal

The May 5, 1995 revision extends the applicability of Illinois' wood furniture coating rule requirements to those sources emitting, or having the potential to emit, 25 tons of VOM per year. The requirements were originally applicable only to those sources emitting or having a potential to emit 100 tons or more per year of VOM.

USEPA's Control Techniques Guideline (CTG) for wood furniture coating operations, which is to specify what Reasonably Available Control Technology (RACT) is for this source category, has yet to be finally published. (Section 182(b)(2) of the Act requires moderate and above ozone nonattainment areas to submit rules covering each post-1990 CTG source category which are equivalent to RACT as specified by each source category's CTG, by certain dates set forth by USEPA upon issuing each CTG.) The Illinois rule is considered to be interim RACT at this time; however, after the wood furniture coating CTG is issued by USEPA, Illinois will need to revise its rule, as necessary, in light of the new document, as required by Section 182(b)(2) of the Act.

III. Final Rulemaking Action

The USEPA has undertaken its analysis of the SIP revision request and has determined that this SIP revision request is approvable. However, after the final wood furniture coating CTG is issued by USEPA, Illinois will need to revise its wood furniture coating rule, as necessary, in light of the new document, as required by Section 182(b)(2) of the Act.

This rule, applicable to the Chicago and Metro-East St. Louis ozone nonattainment areas, amends 35 Illinois Administrative Code section 218.208(b) and 219.208(b).

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on December 26, 1995, unless USEPA receives adverse or critical comments by November 27, 1995. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on December 26, 1995.

This action has been classified as a Table 3 action 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 has exempted this regulatory action from Executive Order 12866 review.

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

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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 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 the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*., 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,Incorporation by reference.

Dated: August 9, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(115) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(115) On May 5, 1995, and May 26, 1995, the State submitted an amended coating rule which consisted of a tightened applicability cut-off level for wood furniture coating operations to the Ozone Control Plan for the Chicago and Metro-East St. Louis areas.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F; Coating Operations, Sections 218.208 Exemptions from Emission Limitations, Subsection (b), amended at 19 Ill. Reg. 6848, effective May 9, 1995.

(B) Part 219: Organic Material Emissions Standards and Limitations for the Metro-East Area, Subpart F; Coating Operations, Section 219.208 Exemptions from Emission Limitations, Subsection (b), amended at 19 Ill. Reg. 6958, effective May 9, 1995.

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BILLING CODE 6560–50–P

40 CFR Part 52

[WA8–1–5478a; WA36–1–6951a; FRL–5315–7]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) approves PM–10 contingency measures for Seattle and Kent, Washington. At the same time, EPA is providing notice that the conditions required under the June 23, 1994 (59 FR 32370), conditional approval of the Seattle PM–10 attainment plan have been met.

DATES: This action is effective on December 26, 1995, unless adverse or critical comments are received by November 27, 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, EPA Air & Radiation Branch (AT–082), Docket WA36–1–6951, 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, 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 Washington Department of Ecology, PO Box 47600, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, EPA Air & Radiation Branch (AT–082), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–6511.

SUPPLEMENTARY INFORMATION:

I. Background

The Seattle and Kent, Washington areas were designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, by operation of law upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (Nov. 6, 1991) (official designation codified at 40 CFR 81.348). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act. The EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in this proposal and the supporting rationale. In this rulemaking action on the Washington moderate PM–10 SIP for the Seattle and Kent nonattainment areas, EPA is proposing to apply its interpretations, taking into consideration the specific factual issues presented. Additional information supporting EPA's action on these particular areas is available for inspection at the address indicated above.

Those States containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit attainment plans by November 15, 1991, with some provisions due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–44).

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). Section 110(k)(4) of the Act authorizes EPA to conditionally approve a plan revision based on a commitment by the State to adopt specific enforceable measures by a date certain, but not later than one year after the date of approval of the plan revision. EPA would then assess the approvability of the submittal after the State fulfilled its commitment. Previous EPA actions include approval of the Kent attainment area plan and conditional approval of the Seattle attainment area plan.

EPA conditionally approved the Seattle moderate area plan on June 23, 1994 (see 59 FR 32370). The conditional approval was based on the commitment, contained in the May 11, 1994, SIP submittal, by the Washington Department of Ecology (Ecology) to decrease the emission limits for point sources contributing to the PM–10 problem. During review of the November 15, 1991 SIP submittal for Seattle, EPA concluded that the plan needed specific enforceable emission limits for several point sources in the area. Emission contributions from those sources had been estimated in the plan at the actual level. Those actual emissions were unenforceable because the sources could emit additional pollution without violating any regulation. Washington's regulations in effect set higher emission limits than the facilities were actually emitting. Before EPA could fully approve the attainment plan, the attainment and three year maintenance demonstrations would have to be based on the allowable emissions from the point sources. On May 11, 1995, Ecology submitted these new emission limits and adequately demonstrated attainment and three year maintenance using the new limits. Progress in attaining the PM–10 standards in Seattle has been demonstrated by the area not exceeding the PM–10 24-hour health standard since 1989. The emission limits were developed, implemented and will be enforced by the Puget Sound Air Pollution Authority (PSAPCA) through Orders of Approval issued for each source by the agency.

In addition to the enforceable emission limits, Ecology also submitted on May 11, 1995 a contingency measure for the Seattle nonattainment area. As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–44). These measures were required to be submitted by November 15, 1993 for the initial moderate PM–10 nonattainment areas. These measures must take effect without further regulatory action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline.

Ecology did not submit a contingency measure for Seattle by the November 15, 1993, statutory deadline. EPA sent a letter (dated January 13, 1994) to the

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (''the Act''). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

Governor of Washington noting the deficiency to submit the contingency measure and initiating an 18 month timeframe for the state to correct the problem. On May 11, 1995, Ecology submitted the Seattle contingency measure. This measure bans the use of all uncertified woodstoves in the area where woodstoves are a major contributing factor to any NAAQS violations. Implementation of this measure would occur if the area fails to attain or maintain the NAAQS for PM–10. The PSAPCA regulation which allows implementation of the contingency measure is Regulation I, Section 13.07. State law allows this regulation to take effect on or after July 1, 1995.

EPA approved all elements of the Kent, Washington, PM–10 nonattainment plan that were due on November 15, 1991, in a March 16, 1993 Federal Register document (see 58 FR 14194). In that approval, EPA took no action on the contingency measure element because it was not due until November 15, 1993. Ecology made the case in a May 11, 1994, letter that the shut down of a major point source, Salmon Bay Steel, resulted in significantly more control than was necessary to demonstrate attainment. After further discussion with Ecology and PSAPCA, EPA has concluded that the contingency measure requirement has been met in the Kent area through the attainment and three-year maintenance emission reduction plan. The magnitude and permanence of the closing of the steel facility reduced the emissions so dramatically that EPA thinks it is reasonable for Ecology to include some of the actual reductions as early implementation of a contingency measure. Actual air quality monitoring in the nonattainment area verifies significant improvement to the air quality of the area. Neither the 24-hour or annual PM–10 NAAQS have been exceeded since 1986. The highest 24-hour value in the past three years was 92 $\mu g/m_3$. This action completes EPA approval of all elements of the Kent PM–10 attainment plan.

II. This Action

EPA is taking three separate actions with this notice; approval of an uncertified woodstove ban contingency measure for the Seattle, Washington PM–10 nonattainment area, approval of the major plant closure overcontrol contingency measure element for the Kent, Washington PM–10 area, and notice that the conditions have been met for the June 23, 1994, conditional approval of the Seattle PM–10 plan which includes allowable emission limitations. These actions will complete EPA's State Implementation Plan (SIP) attainment area plan approvals for both the Kent and Seattle PM–10 nonattainment areas.

III. 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 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 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 27, 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)).

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

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: October 2, 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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c) (58) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(58) On February 21, 1995 and May 11, 1994, WDOE submitted to EPA revisions to the Washington SIP addressing the contingency measures for the Seattle and Kent PM–10 nonattainment plans.

(i) Incorporation by reference.

(A) February 21, 1995 letter from the Washington Department of Ecology to EPA Region 10 submitting PSAPCA Section 13.07—Contingency Plan, adopted December 8, 1994, as a revision to the Seattle PM–10 attainment plan and the Washington SIP.

(B) May 11, 1994 letter from WDOE to EPA Region 10 submitting clarifying documentation to the contingency measure for Kent Valley PM–10 attainment plan.

[FR Doc. 95–26592 Filed 10–25–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7169

[OR–943–1430–01; GP5–134; OR–51332]

Withdrawal of National Forest System Land for Wocus Point; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 86.85 acres of National Forest System land in the Winema National Forest from mining for a period of 20 years for the Department of Agriculture, Forest Service, to protect the cultural resource sites at Wocus Point. The land has been and will remain open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: October 26, 1995.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the cultural resource sites at Wocus Point:

Willamette Meridian

Winema National Forest

T. 31 S., R. 9 E.,

Sec. 30, lots 2 and 3, and N½NE¼SW¼.

The area described contains 86.85 acres in Klamath County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: October 16, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–26607 Filed 10–25–95; 8:45 am]

BILLING CODE 4310–33–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 79–143]

Connection of Terminal Equipment to the Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains typographical corrections to final regulations which were published March 31, 1980 (45 FR 20830). The regulations relate to conditions, to registration of terminal equipment, regarding hazardous voltage limitations.

EFFECTIVE DATE: November 27, 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth Nightingale, (202) 418–2352, Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections concern conditions, to registration of terminal equipment under Part 68, regarding hazardous voltage limitations under § 68.306(a).

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 47 CFR Part 68

Communications common carriers, Telecommunications.

Accordingly, 47 CFR Part 68 is corrected by making the following correcting amendments:

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. The authority citation for 47 CFR Part 68, Subpart D, continues to read as follows:

Authority: Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).

§ 68.306 [Corrected]

2. In § 68.306, paragraph (a)(4) is amended by removing the designations

for (i), (ii), (iii), and (iv) each place they appear.

3. In § 68.306, paragraph (a)(5) is amended by removing the designations for (i), (ii), and (iii) each place they appear.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25247 Filed 10–25–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 76

[MM Docket Nos. 92–266, 93–215, FCC 95–343]

Rates for Cable Programming Service Tiers; External Costs

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Twelfth Order on Reconsideration (''The Order'') amends the Commission's rules to eliminate the requirement that cable operators, when adding home shopping channels to cable programming service tiers, offset the per channel mark up with revenues received as sales commissions from such home shopping channels.

EFFECTIVE DATE: February 23, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Glenchur, Cable Services Bureau, (202) 416–1150.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Twelfth Order on Reconsideration in MM Docket Nos. 92–266 and 93–215, FCC 95–343, adopted August 7, 1995 and released August 8, 1995. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St. NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service (ITS) at 2100 M St. NW., Washington, DC 20037, (202) 857–3800.

I. Introduction

1. In the Sixth Order on Reconsideration, Fifth Report and Order, and Seventh Notice of Proposed Rulemaking (''Going Forward Order''), 59 FR 62614 (December 6, 1994), the Commission adopted rules providing incentives for cable operators to add new channels to their cable programming service tiers. Those rules allow operators a per channel mark up of up to 20 cents. With respect to home shopping channels, however, operators are required to offset this mark up with sales commission revenues received from such channels. Several programming entities, including Home Shopping Network, Inc. (''HSN'') and QVC, Inc. (''QVC''), filed petitions for reconsideration of the sales commission offset requirement. In this Twelfth Order on Reconsideration, the Commission grants these petitions for reconsideration and eliminates the home shopping offset requirement.

II. Elimination of Offsets

A. Background

2. Generally, an operator will pay a licensing fee to a programmer for the right to carry that programmer's service. This licensing fee, or program cost, is part of the overall cost that a programmer can recover as an ''external cost'' when rates are adjusted to account for the addition of a program service to an operator's channel lineup. In an effort to ensure that an operator's program cost reflects the actual cost of carrying a program service, the Commission, in the Report and Order and Further Notice of Proposed Rulemaking, 58 FR 29736 (May 21, 1993), required that revenues received from a programmer, or shared by a programmer with an operator, be netted against programming costs when calculating net programming costs that can be recovered through regulated rates.

3. In the Going Forward Order, the Commission established new rules governing the amount by which an operator can mark up its rates in addition to license fees to account for the addition of new channels to its CPST. These rules establish a mark up per channel of up to 20 cents subject to an overall cap of $1.20 for the first two years. Moreover, in that Order, the Commission applied the revenue offsetting requirement to the per channel mark up for channels added to Cable Programming Service Tiers (''CPSTs''). Specifically, the Going Forward Order provided that revenues received from programmers must be deducted from programming costs and, to the extent revenues remain, from the operator's mark up. Offsetting applies on a channel-by-channel basis. In addition, the Going Forward Order reaffirmed that commissions received by an operator from programmers will be treated as revenues received from programmers. Thus, commissions received by operators must first be netted against programming costs. Remaining commission revenues must be deducted from the per channel adjustment.

B. Petitions for Reconsideration

4. A number of parties filed petitions for reconsideration in response to the Going Forward Order. Home shopping entities such as QVC, Inc. and Home Shopping Network, Inc. contend that requiring operators to offset the operator's mark up with sales commissions discriminates against home shopping services. They argue that other programming networks offer advertising availabilities to operators and the value represented by such advertising availabilities is not offset against programming costs or the channel adjustment. In their view, this establishes a regulatory disincentive to add home shopping while encouraging the addition of traditional programming. Moreover, QVC contends that mark ups for channels added to the CPST reflect ''network costs'' which, unlike programming costs, are not as susceptible to manipulation or artificial inflation. Consequently, QVC argues, a primary purpose for restricting external cost recovery to net operator cost is absent in the case of network cost recovery embodied in the operator's mark up. HSN and Jones Infomercial Network further contend that the regulatory complexity and burdens associated with the accounting and offset of commission revenues discourage operators from adding home shopping channels. Furthermore, Petitioner Black Entertainment Television (''BET'') argues that the elimination of the offset for sales commission revenues could benefit subscribers by allowing sales commission revenues to cover some of its channel's operating costs. In turn, BET asserts, operators would be less inclined to raise subscriber rates for the service. BET also contends that the offset rule discourages operators from carrying niche programming that may contain both a traditional programming component and a shopping service.

5. Several parties, in response to petitions for reconsideration, have urged the Commission to retain the offset requirement for home shopping revenues. The Arts and Entertainment Network favors retention of the offset requirement. It argues that direct cash payments to operators in the form of commissions encourage operators to base programming choices on financial incentives offered by home shopping services rather than on the quality of a channel's programming. Lifetime TV argues that the offset requirement is needed to enable non-shopping networks to compete for limited channel space on cable systems. According to Lifetime, traditional program networks

cannot match the economic incentives of home shopping channels if carriage of such channels allows recovery of both a channel adjustment mark up and unrestricted revenue from sales commissions. With respect to advertising availabilities, a number of respondents challenge the petitioners' view that the absence of an offset for advertising availabilities discriminates against home shopping channels. Respondents argue that local advertising availabilities differ from commissions because they do not involve direct cash compensation and require operators to incur costs to produce advertisements and to acquire equipment necessary to air them. In addition, ESPN claims that home shopping channels are not disadvantaged in comparison to traditional programmers because home shopping channels can also provide advertising availabilities to local operators. Finally, the City of St. Joseph and Benton Charter Township (West Michigan Communities), in a petition for reconsideration, urge application of the revenue offset as a tier-based adjustment rather than an adjustment on a channel-by-channel basis. In response to the West Michigan Communities Petition, QVC and Time Warner argue that governing statutes do not require tier-based offsets and that Commission rules properly apply the offsets on a channel-by-channel basis.

C. Discussion

6. Based on the petitions for reconsideration and other comments in the record, we have determined that requiring operators to offset the mark up with home shopping sales commissions creates a disincentive for operators to carry home shopping services. Accordingly, in this Order, we eliminate this requirement.

7. We agree with petitioners that requiring operators to offset the per channel mark up with home shopping sales commissions creates a disincentive for operators to add home shopping services. As we explained in the Going Forward Order, the twenty-cent per channel operator mark up falls within the historical range of rate increases imposed by operators who add new channels and adjust their rates accordingly in competitive environments. The allowance of this mark up is independent of the type of programming or the program licensing fee associated with adding the channel. Requiring operators to offset this mark up with revenues derived from sales commissions effectively eliminates the mark up in any case where commission revenues exceed program costs to the operator (usually zero in the case of home shopping channels) and the otherwise allowable mark up. Although we presume that cash payments to the operator in the form of commissions represent significant value to the operator, the partial or complete elimination of the mark up for adding a home shopping channel is a disincentive for an operator to add such a service. At the same time, we recognize that other programming networks may offer local advertising availabilities to operators for carriage of their services without putting the mark up at risk. By reducing or eliminating the operator mark up when home shopping channels raise sales commission revenue for operators, the offset requirement effectively penalizes the operator, and home shopping channels indirectly, by taking away the mark up simply because many customers in the operator's territory purchase products from the home shopping service. Consequently, the offset requirement has the effect of disfavoring carriage of home shopping services while favoring the carriage of traditional programming services that can provide incentives to operators in the form of advertising availabilities not subject to the revenue offset rule.

8. As indicated above, some commenters argue that the Commission does not have to treat offsets against sales commission revenues and advertising availabilities in the same way to promote neutral incentives to add channels. For example, it has been argued that availabilities are different because operators may incur production and equipment costs when utilizing the availabilities. Although advertising availabilities may entail some production costs, as suggested by ESPN and Lifetime Television, we believe that operators, as a general matter, limit their utilization of availabilities to instances where the net gain from such use exceeds the associated costs. Therefore, we do not think commissions are so different from availabilities to warrant granting different offset treatment. Finally, we are unpersuaded by suggestions that, because home shopping services theoretically could offer advertising availabilities, exempting the value of advertising availabilities from the offset requirement does not provide a comparative advantage to traditional networks. Generally, home shopping channels, unlike traditional program networks, are not developed or designed to attract commercial advertisers to air advertising time as is traditionally the case with other programmers. Consequently, advertising availabilities do not appear to be a viable alternative for home shopping channels. Exempting the revenue offset requirement for advertising availabilities creates an inherent disparity between home shopping services and channels that have been developed with the objective of becoming attractive advertising vehicles.

9. The offset requirement for home shopping sales commissions also creates administrative and practical difficulties. Although the channel adjustment factor remains available to the operator if revenues from an added shopping service fail to match the 20-cent markup, the operator is still obligated to incur accounting costs and burdens, and some degree of regulatory scrutiny, to ensure compliance with the revenue offset rule. This burden may be sufficient to discourage an operator from adding to the CPST an innovative shopping service or a hybrid channel containing both additional programming and shopping services. As a regulatory matter, the revenues derived from sales commissions can vary with each reporting period which renders difficult the incorporation of these fluctuations into the ratemaking process. Indeed, the Commission has not applied the offset requirement to advertising availabilities in part because of similar administrative burdens. Recently, the Court of Appeals upheld as reasonable the Commission's decision to forgo an offset requirement for advertising revenues.

10. We recognize respondents' concerns that allowing operators the ability to recover the 20-cent mark up regardless of the success of an added shopping service enhances the economic attractiveness of adding such channels. We reaffirm our belief, however, that Commission regulations should not influence the operator's decision for or against such services by making standard cost recovery available for carriage of one type of program service but not another. The decision to add a shopping service or a traditional programming service should be left to the operator's business judgment. Similarly, we will not discourage ''traditional'' services from adding a shopping component or providing advertising availabilities, with concomitant revenue incentives for operators, to their program offerings. By eliminating the revenue offset requirement as it applies to the operator's mark up, we neutralize availability of the mark up as a factor in the operator's decision to determine what kinds of program services should be added to the CPST.

11. This Order does not affect our requirement that revenue from shopping

commissions must be applied as an offset against program costs. We remain concerned that a programmer's definition of program cost can be manipulated to raise such costs artificially. Accordingly, we limit the scope of this Order to the revenue offset requirement for home shopping sales commissions as it applies to the per channel mark up only.

III. Regulatory Flexibility Act Analysis

12. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–12, the Commission's final analysis with respect to the Twelfth Order on Reconsideration is as follows:

13. *Need for and purpose of this action.* The Commission, in compliance with section 3 of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. 543 (1992), pertaining to rate regulation, adopts revised rules intended to ensure that cable services are offered at reasonable rates with minimum regulatory and administrative burdens on cable entities.

14. *Summary of issues raised by the public in response to the Initial Regulatory Flexibility Analysis.* Comments were filed in response to the Initial Regulatory Flexibility Analysis. HSN and Jones Informercial Network explain that operators face significantly less complexity when deciding to carry traditional advertiser-supported channels rather than home shopping services. They argue that advertising availabilities represent value to operators and that such value, unlike shopping commission revenue, need not be offset against the channel adjustment mark up, rendering less burdensome the addition of non-shopping channels.

15. *Significant alternatives considered and rejected.* In the course of this proceeding, home shopping channels and other programming entities submitted requests to delete shopping commission revenue from the offset rule. This was the only proposal advanced by petitioners and the only alternative to current rules considered in connection with this specific action. In this Order, the Commission is providing relief to certain programmers seeking the elimination of regulatory burdens associated with the carriage of their channels.

IV. Paperwork Reduction Act

16. The requirements adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and have been found to impose new or modified information collection requirements on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

V. Ordering Clauses

17. Accordingly, *it is ordered* that, pursuant to sections 4(i), 4(j), 303(r), 612 and 623 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 154(j), 303(r), 532, 542(c) and 543, the rules, requirements and policies discussed in this Order are adopted and part 76 of the Commission's rules, 47 CFR part 76, is amended as set forth below.

18. *It is further ordered* that the petitions for reconsideration filed by QVC, Inc. and Home Shopping Network, Inc. are granted consistent with this Order. The Petition for Reconsideration filed by the West Michigan Communities is denied.

19. *It is further ordered* that the regulations established in this Order shall become effective February 23, 1996.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Amendatory Text

Title 47, Part 76 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 543(c).

2. Section 76.922 is amended by revising paragraph (e)(3)(ii) to read as follows:

§ 76.922 Rates for the basic service tier and cable programming services tiers.

* * * * *

(e) * * *

(3) * * *

(ii) *Per Channel Adjustment.* Operators may increase rates by a per channel adjustment of up to 20 cents per subscriber per month, exclusive of programming costs, for each channel added to a CPST between May 15, 1994, and December 31, 1997, except that an operator may take the per channel adjustment only for channel additions that result in an increase in the highest number of channels offered on all CPSTs as compared to May 14, 1994, and each date thereafter. Any revenues received from a programmer, or shared by a programmer and an operator in connection with the addition of a channel to a CPST shall first be deducted from programming costs for that channel pursuant to paragraph (d)(3)(x) of this section and then, to the extent revenues received from the programmer are greater than the programming costs, shall be deducted from the per channel adjustment. This deduction will apply on a channel by channel basis. With respect to the per channel adjustment only, this deduction shall not apply to revenues received by an operator from a programmer as commissions on sales of products or services offered through home shopping services.

* * * * *

[FR Doc. 95–26526 Filed 10–25–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 11, 12, and 52

[FAC 90–32 Correction]

Federal Acquisition Regulation; Corrections

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Corrections.

SUMMARY: The Federal Acquisition Regulatory Council is issuing corrections to Federal Acquisition Circular 90–32, FAR Case 94–790, Acquisition of Commercial Items, published at 60 FR 48206, September 18, 1995.

DATES: Effective Date: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite correction to FAC 90–32.

Corrections

PART 11—DESCRIBING AGENCY NEEDS

1. On page 48238, in the center column, following the table of contents, the authority citation for Part 11 should read as follows:

Authority: 40 U.S.C. 486 (c); 10 U.S.C. Chapter 137; 42 U.S.C. 2473 (c).

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.303 [Corrected]

2. In 12.303 on page 48244, in the third column, in paragraphs (b)(2)

through (b)(5) ''Block 16B'', ''Block 18'', ''Block 19'', and ''Block 24'' should read ''Block 18B'', ''Block 19'', ''Block 20'', and ''Block 25'', respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212–3 [Corrected]

3. In 52.212–3 on page 48252, in the center column, under the definition of *Women-owned small business concern*, paragraphs (a) and (b) should be correctly designated as (1) and (2).

Dated: October 19, 1995.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

[FR Doc. 95–26488 Filed 10–25–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106003; I.D. 102095A]

Pacific Halibut Fisheries; Close Area 2A to Non-treaty Commercial Fishing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason action.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes this inseason action pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of the Pacific halibut stock.

EFFECTIVE DATE: 6 p.m., local time, September 26, 1995 through December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, 907-586-7221; William W. Stelle, Jr., 206-526-6140; or Donald McCaughran, 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by NMFS (60 FR 14651, March 20, 1995). On behalf of the IPHC, this inseason action is published in the Federal Register to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1995 Halibut Landing Report No. 16

Area 2A Non-treaty Commercial Halibut Fishery Closed

The IPHC estimates that the Area 2A catch limit of 105,000 lb (47.62 metric tons (mt)) was reached after the September 26 fishing period. This catch limit includes approximately 14,000 lb (6.35 mt) that was ''rolled-over'' from the incidental commercial catch of halibut allocated to the salmon troll fishery. Therefore, Area 2A is closed to commercial halibut fishing for the remainder of 1995.

Dated: October 23, 1995.

Richard W. Surdi,

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

[FR Doc. 95–26619 Filed 10–25–95; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 102395B]

Groundfish of the Gulf of Alaska; Trawl Gear Directed Fishery for Groundfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for groundfish by vessels using trawl gear in the Gulf of Alaska (GOA), except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock. This action is necessary because the 1995 Pacific halibut prohibited species catch (PSC) limit for trawl gear in the GOA has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 23, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

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

The Final 1995 Harvest Specifications of Groundfish for the GOA (60 FR 8470, February 14, 1995) established the 1995 Pacific halibut PSC limit for vessels using trawl gear at 2,000 metric tons (mt). The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(f)(3)(i), that vessels engaged in directed fishing for groundfish with trawl gear in the GOA have caught the 1995 Pacific halibut PSC limit. Therefore, NMFS is closing the directed fishery for groundfish by vessels using trawl gear in the GOA, except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock.

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

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

Dated: October 23, 1995.

Richard W. Surdi,

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

[FR Doc. 95–26641 Filed 10–23–95; 3:51 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 60, No. 207

Thursday, October 26, 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 308, 310, 318, 320, 325, 326, 327, and 381

[Docket No. 93–016E]

Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Extension of Comment Period

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food Safety and Inspection Service (FSIS) is extending the comment period for the proposed rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' (60 FR 6774, February 3, 1995) until Monday, November 13, 1995, so that the transcript of the Secretary's Food Safety Forum, announced elsewhere in this issue of the Federal Register, can be added to the rulemaking record.

DATES: Comments must be received on or before November 13, 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 3801, South Building, Washington, DC 20250, (202) 720–7164.

Done at Washington, DC, on October 20, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–26614 Filed 10–23–95; 1:38 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 24

[Docket No. 95–26]

RIN 1557–AB46

Community Development Corporation and Project Investments

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend its regulation regarding Community Development Corporation and Project Investments. The proposal removes a provision that requires banks to reinvest profits, dividends and other distributions from community development investments in activities that promote the public welfare and is intended to encourage public welfare investments by national banks.

DATES: Comments must be received by November 27, 1995.

ADDRESSES: Comments should be directed to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Fax # 202–874–5274. Attention: Docket No. 95–26. In addition, comments may be sent by electronic mail to REG.COMMENTS@OCC.TREAS.GOV. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Matthew Roberts, Director, Community and Consumer Law Division, 202/874–5750; Janice Booker, Director, Community Development Division, 202/874–4940.

SUPPLEMENTARY INFORMATION:

Introduction

The OCC is currently reviewing 12 CFR part 24 as another component of its Regulation Review Program. Part 24 permits public welfare investments by national banks, subject to certain limitations. As part of the review of 12 CFR part 24, the OCC is proposing to change one provision immediately. Currently, part 24 requires a bank to reinvest the profits, dividends and other distributions from its equity and debt investments in a community development corporation (CDC) or community development (CD) project in activities that primarily promote the public welfare. This proposal would remove that requirement.

Background

National banks are authorized under 12 U.S.C. 24 (Eleventh) to make investments that are designed primarily to promote the public welfare, including the welfare of low- and moderate-income families and communities (such as through the provision of housing, services, or jobs) consistent with safe and sound banking practices.[1] Pursuant to this authority, the OCC issued part 24 on December 27, 1993, to establish various requirements for permissible public welfare investments. These requirements include a provision, codified at 12 CFR 24.4(a)(4), that prescribes how a bank may use certain proceeds from its 12 U.S.C. 24(Eleventh) investments. This provision requires that the profits, dividends, tax credits, and other distributions from equity investments, or interest income from debt investments, received by a bank from a CDC or CD project investment be devoted to activities that primarily promote the public welfare. Further, in the case of an investment in a for-profit CDC subsidiary, the profits, dividends and other distributions must be reinvested in the CDC during its first three years of operation.

Section 24(Eleventh) does not require reinvestment of proceeds. The OCC included this provision in part 24 based on its practice in implementing 12 U.S.C. 24(Eighth), which was enacted prior to 12 U.S.C. 24(Eleventh). Under 12 U.S.C. 24(Eighth), as construed in former Interpretive Ruling 7.7480, (12 CFR 7.7480), national banks were authorized to contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to the public welfare.[2] In 1971, the OCC revised Interpretive Ruling 7.7480 to permit banks to make ''investments,'' as long as the investments were predominantly civic, community or

[1] The Eleventh paragraph was added to section 24 by the Depository Institutions Disaster Relief Act of 1992, enacted on October 23, 1992. Pub.L. 102–485, Section 6(a), 106 Stat. 2774 (1992).

[2] 12 U.S.C. 24(Eighth). The interpretive ruling was replaced by 12 CFR part 24 in 1993. 58 FR 68464 (December 27, 1993).

public in nature. At that time, the OCC concluded that it may be inconsistent with the underlying charitable purposes of 12 U.S.C. 24(Eighth) for a bank to retain profits on these investments. Interpretive Ruling 7.7480 therefore required banks to reinvest profits, dividends and other distributions in public purpose activities.

Although part 24 was drafted under the authority of 12 U.S.C. 24(Eleventh), which provides direct authority for public welfare ''investments,'' it retained the reinvestment provision as one means of furthering the public welfare nature of investments made pursuant to this authority.

Discussion

The OCC proposes to remove the reinvestment provision, 12 CFR 24.4(a)(4). The statute does not restrict institutions from earning and retaining profits on investments made pursuant to 12 U.S.C. 24(Eleventh), as long as such investments are designed primarily to promote the public welfare. Reactions to the current rule indicate, however, that in some instances the reinvestment provision discourages banks from making such investments. For example, the requirement that banks reinvest low-income housing tax credits in restricted activities can diminish a bank's economic incentive for participating in that type of low-income housing development. The OCC believes that removal of the reinvestment provision will further the basic objective of 12 U.S.C. 24(Eleventh) by helping to encourage banks to make more investments.

The OCC also believes that the proposal is consistent with bank safety and soundness. The proposal will enable banks to retain profits, dividends and other distributions from CDC subsidiaries and CD projects or to redeploy such proceeds to the CDC or other public welfare investments based upon an overall assessment by a bank's management of its financial needs and public welfare investment objectives. While the proposal will encourage banks to make investments to promote the public welfare, it will not constrain a bank's use of investment proceeds nor hamper a bank's ability to ensure the sound operation of the bank as a whole.

Commenters are invited to address with as much specificity as possible:

(1) The extent to which removal of the provision will encourage public welfare investments;

(2) whether there are safety and soundness reasons to retain or remove the provision; and

(3) any other reasons why the current requirement should be retained or eliminated.

Regulatory Flexibility Act

It is hereby certified that this notice of proposed rulemaking, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This notice of proposed rulemaking, if adopted as a final rule, will reduce somewhat the regulatory burden on national banks, regardless of size, by removing a requirement for making public welfare investments.

Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The OCC has determined that this proposal will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 12 CFR Part 24

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 24 of title 12, chapter I, of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 24—COMMUNITY DEVELOPMENT CORPORATION AND PROJECT INVESTMENTS

1. The authority citation for part 24 continues to read as follows:

Authority: 12 U.S.C. 24(Eleventh), 93a, 161, 481, and 1818.

§ 24.4 [Amended]

2. Paragraph (a)(2) of § 24.4 is amended by adding ''and'' at the end of the paragraph.

3. Paragraph (a)(3) of § 24.4 is amended by removing the ''; and'' at the end of the paragraph and adding a period.

4. Paragraph (a)(4) of § 24.4 is removed.

Dated: October 2, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 95–26556 Filed 10–25–95; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–156–AD]

Airworthiness Directives; Airbus Model A300, A300–600, A310, A330, and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Airbus Model A300, A300–600, A310, A330, and A340 series airplanes, that currently requires an inspection of the sliding side windows in the cockpit to identify the part number of the windows. For airplanes on which a certain suspect window is installed, that AD also requires either deactivation of the sliding window defogging system; or installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the defogging system, if necessary; or replacement of the window with a serviceable window. The actions specified by the proposed AD are intended to prevent rupture of a cockpit sliding window and subsequent rapid decompression of the fuselage due to fracture of the window as a result of thermal stress created by overheating of the wires of the heating element in a localized area. This action would require replacement of certain windows with serviceable windows, which, when accomplished, terminates the requirements of the AD.

DATES: Comments must be received by December 6, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–156–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from

Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Charles D. Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–156–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–156–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On January 19, 1995, the FAA issued AD 95–01–51, amendment 39–9125 (60 FR 5564, January 30, 1995), applicable to all Airbus Model A300, A300–600, A310, A330, and A340 series airplanes, to require an inspection of the sliding side windows in the cockpit to identify the part number of the windows. For airplanes on which a certain suspect window is installed, that AD also requires either deactivation of the sliding window defogging system; or installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the defogging system, if necessary; or replacement of the window with a serviceable window. That action was prompted by reports of fracture of the sliding side window in the cockpit due to thermal stress created by overheating of the wires of the heating element in a localized area. The requirements of that AD are intended to prevent such fractures, which could lead to rupture of a cockpit sliding window and subsequent rapid decompression of the fuselage.

AD 95–01–51 also contains a provision for the optional replacement of PPG Industries windows with serviceable windows manufactured by PPG Industries or by SPS. If accomplished, this replacement constitutes terminating action for the requirements of the AD. In the preamble to AD 95–01–51, the FAA indicated that the AD was considered to be interim action until final action was identified. The FAA has determined that ''final action'' in addressing the unsafe condition that is the subject of this AD is the replacement of the suspect PPG Industries windows with serviceable windows (provided as an optional action in AD 95–01–51).

Additionally, since the issuance of AD 95–01–51, Airbus has issued All Operators Telex (AOT) 30–01, Revision 2, dated March 6, 1995, which describes procedures for an inspection of the left- and right-hand sliding side windows in the cockpit to identify the part number of the windows. For airplanes equipped with certain suspect windows manufactured by PPG Industries, the AOT also describes procedures for deactivation of the associated window defogging system; or installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the window defogging system, if necessary. The AOT also describes procedures for replacement of certain sliding windows with serviceable windows. Accomplishment of the replacement eliminates the need for the inspections, deactivation of the window defogging system, and installation of thermo-sensitive indicators. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified this AOT as mandatory and issued French airworthiness directives 94–285–173(B)R1 (for Model A300, A300–600, and A310 series airplanes), 94–283–006(B)R1 (for Model A330 series airplanes), and 94–284–014(B)R1 (for Model A340 series airplanes), all dated April 12, 1995, in order to assure the continued airworthiness of these airplanes in France.

These airplane models are manufactured in France and are 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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, the proposed AD would supersede AD 95–01–51 to continue to require an inspection of the sliding side windows in the cockpit to identify the part number of the windows. For airplanes on which a certain suspect window is installed, the proposed AD also would continue to require either deactivation of the sliding window defogging system; or installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the defogging system, if necessary. The proposed AD also would require the eventual replacement of suspect windows with serviceable windows. Replacement of the windows would constitute terminating action for the requirements of the AD. The actions would be required to be accomplished in accordance with the AOT described previously.

There are approximately 66 Model A300, A300–600, and A310 series airplanes of U.S. registry that would be affected by this proposed AD. (Currently, there are no Model A330 or A340 series airplanes on the U.S. Register.)

The inspections that are currently required by AD 95–01–51 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact on U.S. operators of the actions currently required is estimated to be $3,960, or $60 per airplane.

The replacement of the windows, which is proposed in this new AD action, would take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $27,720, or $420 per airplane.

The total cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 removing amendment 39–9125 (60 FR 5564, January 1, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 95–NM–156–AD. Supersedes AD 95–01–51, Amendment 39–9125.

Applicability: All Model A300, A300–600, A310, A330, and A340 series airplanes, 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 rupture of a cockpit sliding window and subsequent rapid decompression of the fuselage due to fracture of the window as a result of thermal stress created by overheating of the wires of the heating element in a localized area, accomplish the following:

(a) Within 7 days after February 14, 1995 (the effective date of AD 95–01–51, amendment 39–9125), perform an inspection of the left- and right-hand sliding side windows in the cockpit to identify the part number (P/N) of those windows, in accordance with paragraph 4.1 of Airbus All Operators Telex (AOT) 30–01, dated December 22, 1994; or Revision 2, dated March 6, 1995.

(b) If no window manufactured by PPG Industries having P/N NP175202–1 (left-hand side) or NP175202–2 (right-hand side) is installed, no further action is required by this AD.

(c) If any window manufactured by PPG Industries having P/N NP 175202–1 (left-hand side) or NP 175202–2 (right-hand side) is installed, prior to further flight, accomplish either paragraph (c)(1) or (c)(2) of this AD in accordance with Airbus AOT 30–01, dated December 22, 1994; or Revision 2, dated March 6, 1995.

(1) Deactivate the associated sliding window defogging system in accordance with the procedures specified in paragraph 4.2.2 of the AOT. The defogging system may remain deactivated until the window is replaced in accordance with paragraph (d) of this AD. Or

Note 2: This AD may permit the defogging system to be deactivated for a longer time than is specified in the Master Minimum Equipment List (MMEL). In any case, the provisions of this AD prevail.

(2) Install thermo-sensitive indicators in two areas of the sliding side window (left- and right-hand sides) in accordance with the procedures specified in paragraph 4.3 of the AOT. Thereafter, perform a daily inspection of the indicators to determine if the 60-degree segment of any indicator turns from light grey to black, in accordance with the procedures specified in paragraph 4.3 of the AOT. If any indicator turns black, prior to further flight, deactivate the associated sliding window defogging system in accordance with paragraph (c)(1) of this AD.

(d) Within 90 days after the effective date of this AD, replace any PPG Industries window having part number (P/N) NP 175202–1 (left-hand side) or NP 175202–2 (right-hand side) with a serviceable window manufactured by PPG Industries or by SPS, as listed in paragraph 5.1 of AOT 30–01, dated December 22, 1994; or paragraphs 5.2.1 (PPG Industries windows) and 5.2.2 (SPS windows) of AOT 30–01, Revision 2, dated March 6, 1995. Accomplish the replacement in accordance with the procedures specified in AOT 30–01, dated December 22, 1994, or Revision 2, dated March 6, 1995. After such replacement, no further action is required by this AD.

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

(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 requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–26558 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 34–36356A; 35–26389A; IC–21406A; File No. S7–21–94]

RIN 3235–AF66

Ownership Reports and Trading by Officers, Directors and Principal Security Holders; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to proposed rules.

SUMMARY: This document contains a correction to the alternative proposed amendment to Securities Exchange Act Rule 16b–3 that was published on October 17, 1995 (60 FR 53832).

DATES: Comments should be received on or before December 15, 1995.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7–21–94. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C., 20549.

FOR FURTHER INFORMATION CONTACT: Anne M. Krauskopf at (202) 942–2900, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On October 11, 1995, the Commission proposed amendments to the rule that exempts certain employee benefit plan transactions from the short-swing profit recovery provisions of Section 16(b) [1] of the Securities Exchange Act of 1934 (''Exchange Act'') [2] that would broaden the exemption and extend it to other transactions between issuers and their officers and directors.[3] As published, the text of the proposed amended rule inadvertently omitted from the shareholder approval standard of Alternative Proposed Rule 16b–3(c)(1)(ii) the requirement that, where a meeting is held, the vote be of the majority of the securities of the issuer present, or represented, and entitled to vote at the meeting. It is the Commission's intention that the procedural standards for obtaining shareholder approval for purposes of Alternative Proposed Rule 16b–3(c)(1)(ii) would remain the same as currently required under Rule 16b–3(b).[4]

Accordingly, the proposed rule that would exempt transactions between issuers and their officers and directors that was the subject of FR Document 95–25626 is corrected as follows:

PART 240—[CORRECTED]

On page 53840, in the first column, paragraph (c)(1)(ii) of proposed § 240.16b–3 is revised to read as follows:

§ 240.16b–3 Transactions between an issuer and its officers or directors.

* * * * *

(c) * * *

(1) * * *

(ii) The transaction is approved or ratified, in compliance with section 14 of the Act, by either: the affirmative votes of the holders of a majority of the securities of the issuer present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the state or other jurisdiction in which the issuer is incorporated; or the written consent of the holders of a majority of the securities of the issuer entitled to vote, *provided that* such ratification occurs no later than the date of the next annual meeting of shareholders; or

* * * * *

Dated: October 20, 1995.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26576 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78p(b).

[2] 15 U.S.C. 78a *et seq.* (1988).

[3] Release No. 34–36356 (Oct. 17, 1995) [60 FR 53832].

[4] 17 CFR 240.16b–3(b).

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–95–022]

RIN–2115–AE47

Drawbridge Operation Regulations; Buffalo River, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a change to the operating regulations governing the Michigan Avenue bridge, mile 1.3, Ohio Street bridge, mile 2.1 South Park Avenue bridge, mile 5.3, and the Conrail railroad bridges at miles 4.02 and 4.39 across the Buffalo River, all at Buffalo, NY. The proposed rule would not require drawtenders to be in constant attendance at their bridges during periods of time when there is little or no significant navigation on the river. Additionally, the City of Buffalo would be allowed to use a roving drawtender to operate the Ohio Street and Michigan Avenue bridges. This action would relieve the bridge owners of the burden of having drawtenders in constant attendance at their bridges and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before December 26, 1995.

ADDRESSES: Comments may be mailed to Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199–2060, or may be delivered to room 2083D at the above address between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 522–3993.

The Commander Ninth Coast Guard District maintains the public docket for this rulemaking. Comments will become part of the docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Bloom, Jr., Chief, Bridge Branch at (216) 522–3993.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD09–95–022) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Robert W. Bloom, Jr. at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information: The principal persons involved in drafting this document are Mr. Bob Bloom, Project Manager, Bridge Branch, and Lieutenant C. Dahill, Project Counsel, Ninth Coast Guard District.

Background and Purpose

Presently, the City of Buffalo bridges are required to open on signal. However, the Michigan Avenue and Ohio Street bridges need not open for the passage of vessels from 7:30 a.m. to 9 a.m. and from 4 p.m. to 5:45 p.m., Monday through Saturday; and South Park Avenue bridge need not open for the passage of vessels from 7 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m., Monday through Saturday. On Sundays, and on New Years's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day or days observed in lieu of any of these under State law, the closed periods are not in effect.

The Conrail railroad bridges are required to open on signal between the Hours of 7 a.m. and 11 p.m., and between the hours of 11 p.m. and 7 a.m. if notice is received at least four hours in advance of a vessel's time of intended passage through the draws.

As allowed by 33 CFR 117.45, during the winter months, 26 December through 20 March, bridges on the Buffalo River have not been required to have a drawtender in constant attendance and have been required to open on signal only if notice was received at least four hours in advance of a vessel's time of intended passage through the draws.

The City of Buffalo requested that they not be required to keep a drawtender in constant attendance at the Ohio Street bridge and that the drawtender from the Michigan Avenue bridge be used as a roving drawtender to open the Ohio Street bridge for the passage of vessels. Additionally, the City requested that the year round operation of South Park Avenue bridge be changed by not requiring the drawtender to be in attendance at the bridge unless a four hour advance notice has been provided.

The two Conrail railroad bridges over Buffalo River at miles 4.02 and 4.39, respectively, would be required to open on signal only when notice is received at least four hours in advance of a vessel's time of intended passage through the draws all year long.

Discussion of Proposed Amendment

Bridgetender logs furnished by the City of Buffalo and Conrail showed that vessel traffic through South Park Avenue bridge and the two Conrail bridges is greatly reduced, especially during the winter months. Conrail also noted that the marine interests expected to navigate above the Conrail bridges expressed no objection to a four hour advance notice requirement.

The proposal would not require the City to keep a drawtender at the Ohio Street bridge. That bridge would be operated by having the drawtender from the Michigan Avenue bridge respond to a vessel signaling for the Ohio Street bridge to open by driving a vehicle to the bridge and opening it for the passage of the vessel. The City reports that the average travel time to drive between the bridges and start the opening procedure is approximately 20 minutes. Additionally, the roving drawtender will be equipped with a marine radiotelephone at all times while enroute between the bridges to maintain communications with inbound and outbound vessels.

The periods of time during the morning and evening vehicle rush hours when the City's drawbridges need not open for the passage of vessels will not be changed. The proposed winter operating schedule will not require drawtenders to be at the Michigan Avenue and Ohio Street bridges at all times from December 16 through March 21. The bridges would be required to open on signal only after receiving notice at least four hours in advance of a vessels time of intended passage through the draws.

Regulatory Evaluation

This proposal 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We conclude this because the periods of time specified by these regulations when the bridge would be unattended are periods when there are few requests to have the bridge opened for the passage of a vessel. Also, the addition of a marine radiotelephone will enable the roving drawtender to keep in communications with a transiting vessel which will allow the vessel to begin approaching the draw in a more timely manner.

All marine interests in the area have agreed to the change during preliminary discussions.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

Since the proposed rule allows the owners of the highway and railroad bridges to remove bridgetenders from the bridge during times when there is little or no significant vessel traffic on the Buffalo River, and because those vessels that would transit the River during these times can do so by giving notice in advance of their time of intended passage through the draw, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities.

Collection of Information

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.g.5 of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATING 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 117.773 is revised to read as follows:

§ 117.773 Buffalo River.

(a) The draw of the Michigan Avenue bridge, mile 1.3, at Buffalo, shall operate as follows:

(1) From March 22 through December 15, the draw shall open within 20 minutes of signal. However, the draw need not open from 7:30 a.m. to 9 a.m., and from 4 p.m. to 5:45 p.m., Monday through Saturday.

(2) From December 16 through March 21, the draw shall open on signal if notice is given at least 4 hours in advance of a vessels's time of intended passage through the draw.

(b) The draw of the Ohio Street bridge, mile 2.1, at Buffalo, shall operate as follows:

(1) From March 22 through December 15, the draw shall open on signal within 20 minutes after a request is made to the Michigan Avenue drawtender. However, the draw need not open from 7:30 a.m. to 9 a.m., and from 4 p.m. to 5:45 p.m., Monday through Saturday.

(2) From December 16 through March 21, the draw shall open on signal if notice is given at least 4 hours in advance of a vessel's time of intended passage through the draw.

(c) The draws of the Conrail railroad bridges, miles 4.02 and 4.39, both at Buffalo, shall open on signal if notice is given at least 4 hours in advance of a vessel's time of intended passage through the draws.

(d) The South Park Avenue, miles 5.3, at Buffalo, shall open on signal if notice is given at least 4 hours in advance of a vessel's time of intended passage through the draw. However, the draw need not open from 7 a.m. to 8:30 p.m. and from 4:30 p.m. to 6 p.m., Monday through Saturday.

(e) The periods when the bridges need not open on signal prescribed in (a)(1), (b)(1), and (d) in this section shall not be effective on Sundays, and on New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, or days observed in lieu of any of these under State law.

(f) Marine radiotelephones shall be maintained at the Michigan Avenue and Ohio Street bridges. The City of Buffalo shall maintain and monitor a marine radiotelephone for use by the Michigan Avenue drawtender while enroute between the Michigan Avenue and Ohio Street bridges. The drawtender shall maintain communications with the vessel until the vessel has cleared both the Ohio Street and Michigan Avenue draws.

Dated: October 13, 1995.

Paul J. Pluta,

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

[FR Doc. 95–26523 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AF01

Schedule for Rating Disabilities; Mental Disorders

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend that portion of its Schedule for Rating Disabilities dealing with Mental Disorders. This is part of the first comprehensive review of the rating schedule since 1945. The intended effect of this action is to update the section of the rating schedule on mental disorders to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances which have occurred since the last review.

DATES: Comments must be received by VA on or before December 26, 1995.

ADDRESSES: Mail written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420 or hand deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye St., NW., Washington, DC 20001. Comments should indicate that they are submitted in response to ''RIN 2900–AF01.'' All written comments received will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye St., NW., Washington, DC 20001 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: Prior to the start of its comprehensive review of the rating schedule, VA contracted with an outside consulting firm to offer suggestions for changes in the rating schedule to help fulfill the goals of revising and updating the medical criteria. This proposed amendment includes many of their suggestions. Some recommendations, however, addressed areas other than evaluation criteria, such as percentage evaluations and frequency of examinations. Since these suggestions are clearly beyond the scope of the contract and deal with issues which would affect the internal consistency of the entire rating schedule rather than one section, we have generally not adopted them. The comments of the consultants are incorporated into the discussions below.

VA published an advance notice of proposed rulemaking in the Federal Register on May 2, 1991 (56 FR 20170) in order to solicit comments and suggestions from interested groups and the general public. In response to this notice, we received comments from several employees of VA and one from The American Legion. All of the commenters recommended a change in the rating criteria for mental disorders, urging more clarity and objectivity, and more extensive and definitive guidelines.

In the current rating schedule, §§ 4.125 through 4.131 and the notes in § 4.132 contain general information about mental disorders and guidelines for their evaluation. The material is organized randomly, however, and we propose to reorganize it so that everything dealing with a single topic is grouped together. We also propose to make a number of editorial changes in the material to make the provisions clearer and less ambiguous and to make the terminology more current. We further propose to remove material which is not regulatory, i.e., which neither prescribes VA policy nor limits the action a rating board may take. Additionally, we propose to incorporate regulatory material from the notes in § 4.132 into §§ 4.125 through 4.129, reorganizing and rewording it, and removing repetitious material. This will assure that all of the regulatory provisions are in one area of the schedule, in orderly groupings, rather than spread throughout.

Much of § 4.125 contains general information stating, for example, that there have been rapid advances in modern psychiatry during and since World War II, which have produced a better understanding of the etiology, psychodynamics, and psychopathological changes which occur in mental diseases and emotional disturbances, and that the field of mental disorders represents the greatest possible variety of etiology, chronicity, and disabling effects and requires differential consideration in these respects. We propose to remove that material because it neither prescribes VA policy nor establishes procedures a rating board must follow and is, therefore, not appropriate in a regulation.

The only information in § 4.125 which is essential is the statement that psychiatric nomenclature in the rating schedule is based on the third edition of the Diagnostic and Statistical Manual (DSM–III), published by the American Psychiatric Association in 1980, and that rating specialists should familiarize themselves thoroughly with that manual. The contract consultants recommended that we make changes in the mental disorders section to assure that it is consistent with the current DSM Manual, and we propose to update the terminology and categories of mental disorders by basing them on the newest revised edition, DSM–IV, which was published in 1994. The DSM Manuals are used in the United States as the basis for the diagnosis and classification of mental disorders. They are referred to by, and their terminology is incorporated into, psychiatry textbooks. They represent the common language of both VA and non-VA health care providers and researchers and, therefore, provide rating specialists with a standard by which examinations from all sources can be compared and assessed. The use of DSM–IV as the basis for terminology and diagnostic classification of mental disorders for VA purposes is, therefore, unquestionably appropriate. We propose to present this material in a note rather than assigning it an entire section of the CFR.

We propose to change the title of § 4.125 from ''General considerations'' to ''Diagnosis of mental disorders'' and to divide it into two paragraphs, the first requiring that the rating board return an examination report to the examiner if the diagnosis does not conform to DSM–IV or is not supported by the findings in the report, and the second directing the rating board to determine whether a change in diagnosis of a mental disorder represents progression of a prior diagnosis, correction of an error in a prior diagnosis, or development of a new and separate condition. This material is taken from §§ 4.126 (Substantiation of diagnosis) and 4.128 (Change of diagnosis).

We propose to place all material about evaluation of mental disorders in § 4.126 and to change the title from ''Substantiation of diagnosis'' to ''Evaluation of disability from mental disorders.'' This material is taken from §§ 4.129 and 4.130, a statement and notes under DC 9511, notes (1) and (4) under DC 9325, and notes under the general rating formula for psychoneurotic disorders. We propose to divide this section into four paragraphs dealing with symptoms and remissions, social impairment, organic mental disorders, and conditions diagnosed both as physical and mental disorders.

Paragraph (a) of § 4.126 establishes the general basis for evaluating mental disorders as the frequency, severity, and duration of psychiatric symptoms, the length of remissions, and the veteran's capacity for adjustment during remissions. It further requires that an evaluation be based on all evidence of record bearing on occupational and social impairment. This material is derived from material currently found at § 4.130, Evaluation of psychiatric disability. We have deleted the statement currently found in § 4.130 that the examiner's analysis of the symptomatology is an ''essential.'' Since we propose to revise the evaluation criteria to rely on specific signs and symptoms rather than on a subjective determination as to whether a disorder results in total, severe, considerable, definite, or mild social and industrial impairment, it is the signs and symptoms that the examiner documents rather than his or her assessment of their level of severity that will determine the evaluation that the rating specialist assigns. We also propose to delete the statement that describes time lost from gainful work and decrease in work efficiency as ''two of the most important determinants of disability.'' Since the proposed evaluation criteria are structured around the nature and extent of occupational and social impairment, including decreased reliability, productivity, and work efficiency, that statement is no longer necessary.

Paragraph (b) directs the rating board to consider the extent of social impairment, but not to assign an evaluation solely on the basis of social impairment. This is based on the current regulatory material in § 4.129 and in note (1) following the general rating formula for psychoneurotic disorders, and represents no substantive change. The contract consultants recommended a greater emphasis on social impairment in rating mental disability, but because our statutory authority to establish the rating schedule, 38 U.S.C. 1155, requires that ratings be based, as far as practicable, upon the average impairments of earning capacity, we do not propose to adopt that recommendation.

Paragraph (c) directs the rating board to evaluate delirium, dementia, and amnestic and other cognitive mental disorders under the general rating formula for mental disorders and to combine this evaluation with those for neurological or other physical impairments stemming from the same etiology, e.g., a head injury. This represents no substantive change from material currently contained in notes (1) and (2) under DC 9325.

Paragraph (d) directs the rating board to evaluate a single disability that has been diagnosed both as a physical condition and as a mental disorder under the diagnostic code which represents the dominant (more disabling) aspect of the condition. This represents no substantive change from information in notes (4) and (2) at the end of the rating schedules for psychoneurotic disorders and psychological factors affecting physical condition, respectively, except that we have deleted ''major degree of disability'' and substituted ''dominant (more disabling) aspect of the condition'' for clarity.

We propose to change the title of § 4.127 from ''Mental deficiency and personality disorders'' to ''Mental retardation and personality disorders,'' since the term ''mental deficiency'' is obsolete and no longer in common use. This is not a substantive change.

We propose that § 4.127 state that although mental retardation and personality disorders will not be considered as disabilities under the terms of the schedule, a mental disorder that is superimposed upon, but clearly separate from, the mental retardation or personality disorder may be a disability for VA compensation purposes. This represents a revision of the language in the current § 4.127 for the sake of clarity but does not represent a substantive change.

Although the contract consultants suggested that we add a category for psychoactive substance abuse disorders, we have not done so because substance-related disorders are addressed elsewhere in regulations (38 CFR 3.1 (m) and 3.301).

We propose to change the title of § 4.128 from ''Change of diagnosis'' to ''Convalescence ratings following extended hospitalization,'' and to include in it material from a note under DC 9210 regarding the need to continue a total evaluation following a period of hospitalization lasting six months or more and to schedule a mandatory examination six months after the veteran is discharged or released to nonbed care. We propose to add a requirement that a change in evaluation based on that or any subsequent examination shall be subject to the provisions of 38 CFR 3.105(e), which require a 60-day notice before VA can reduce an evaluation and an additional 60-day notice before the reduced evaluation takes effect. While the fact that an individual is no longer hospitalized usually means there has been some improvement, stabilization and return to usual activities in the face of a severe mental disorder is often difficult to achieve. Making changes subject to § 3.105(e) will preclude changes in evaluation unless a stable level of improvement has occurred, and will help to prevent a cycle of changes in evaluations followed by further examinations, further changes in evaluations, etc.

We propose to move the regulatory material on social impairment from § 4.129 to § 4.126, paragraph (b), as discussed above, and to change the title of § 4.129 from ''Social inadaptability'' to ''Mental disorders due to psychic trauma.'' We propose to include in the revised § 4.129 the regulatory material from § 4.131, which requires an evaluation of not less than 50 percent when a mental disorder that develops in service as a result of a highly stressful event is severe enough to cause the veteran's release from active service.

As discussed above, we propose to delete the contents of § 4.130, titled ''Evaluation of psychiatric disability'' in favor of the proposed paragraph (a) of § 4.126 and the proposed evaluation criteria for mental disorders.

We propose to retain the substance of § 4.131, ''Mental disorders due to psychic trauma,'' in § 4.129 and to delete § 4.131.

There are currently four notes in § 4.132 following the rating formula for psychoneuroses. Notes (1), prohibiting assignment of evaluations based on social impairment only, and (4), concerning evaluation of a single disability which has been diagnosed both as a physical and mental disability, have been incorporated into § 4.126, as discussed above. We propose to delete note (2), which discusses the requirements for a compensable rating from mental disorders; it is redundant since the proposed §§ 4.125 and 4.126 and general rating formula set forth clear diagnostic and evaluation requirements. We also propose to incorporate the regulatory content of note (3), regarding the return of an inadequate examination report to the examiner, and note (1) under DC 9511, concerning the diagnosis of psychological disorders, into § 4.125, the section on diagnosis. We propose to delete the part of note (3) that discusses requirements for the diagnosis of conversion disorder, as this is discussed in detail in DSM–IV.

We propose to incorporate the regulatory content of note (2) under DC 9511, about the evaluation of a single condition diagnosed both as a mental and a physical disorder, into § 4.126, the section on evaluation, in order to keep in one place all of the regulatory material on evaluation of mental disorders.

The conditions included under § 4.132 are currently divided into four categories: psychotic disorders (DC's 9201 through 9210), organic mental disorders (DC's 9300 through 9325), psychoneurotic disorders (DC's 9400 through 9411), and psychological factors affecting physical condition (DC's 9500 through 9511). The contract consultants recommended that we reclassify some diseases in accordance with the current version of the DSM, and we propose to do that. We propose to reorganize the conditions into eight categories that conform more closely to the categories in DSM–IV, thus making it easier for rating specialists to correlate the diagnoses given on VA and non-VA exams with the conditions in the rating schedule. This reorganization will require a number of changes in the arrangement and titles of diagnostic codes. We also propose to add diagnostic codes for several conditions that are encountered frequently enough in VA claims to warrant their inclusion in the rating schedule, but which are not currently found there.

We propose a new category of ''Schizophrenia and other psychotic disorders.'' Except for schizoaffective disorder, discussed below, we propose no change in the diagnostic codes pertaining to schizophrenia (DC's 9201 through 9205), which cover conditions with characteristic psychotic symptoms during the active phase, involving delusions, hallucinations, or certain characteristic disturbances in affect and the form of thought. We do, however, propose to change the evaluation criteria for schizophrenia and all other conditions in the section on mental disorders, as will be discussed later in the preamble.

We propose to delete diagnostic codes 9206, bipolar disorder, manic, depressed, or mixed, and 9207, major depression with psychotic features, since we are providing a category for mood disorders that will include conditions such as these, and these changes will be addressed further when mood disorders are discussed.

We propose to update the title of diagnostic code 9208 from ''paranoid disorders (specify type)'' to ''delusional disorder'' and place it in the category of schizophrenia and other psychotic disorders, in accord with DSM–IV. This disorder is characterized by a persistent, nonbizarre delusion that is not due to any other mental or physical disorder.

We also propose to delete DC 9209, major depression with melancholia, another condition that will be moved to the category of mood disorders.

We propose to revise the title of DC 9210, ''atypical psychosis,'' to ''psychotic disorder, not otherwise specified (atypical psychosis),'' and put it in the same category with other psychotic disorders, in accord with DSM–IV. We also propose to put schizoaffective disorder, now part of DC 9205 (schizophrenia, residual type; schizoaffective disorder; other and unspecified types), in this category as diagnostic code 9211. Although schizoaffective disorder is linked to schizophrenia in the current schedule, DSM–IV names it as a separate psychotic disorder rather than as a type of schizophrenia.

We propose to change the title of the current category of ''Organic mental disorders'' to ''Delirium, dementia, and amnestic and other cognitive disorders'' in accordance with DSM–IV. The conditions in this section demonstrate a psychological or behavioral abnormality associated with transient or permanent dysfunction of the brain. We also propose to consolidate the 16 types of dementia in the current schedule into fewer categories, since several, such as dementia associated with endocrine disorder (DC 9322) and dementia associated with systemic infection (DC 9324), are quite uncommon (only about one-tenth of one percent of VA beneficiaries being compensated for dementia have one of these types of dementia); and a number of others, such as dementia associated with central nervous system syphilis (DC 9301), dementia associated with intracranial infections other than syphilis (DC 9302), and dementia associated with epidemic encephalitis (DC 9315), lend themselves to logical groupings based on etiology (in this case, infection).

DSM–IV provides a classification of dementias that is more complex than is needed or useful for VA purposes. For example, it has separate categories for dementia due to Huntington's disease, due to Pick's disease, and due to Creutzfeldt-Jacob disease, all of which are uncommonly seen for VA rating purposes.

We propose a reorganization better suited to VA purposes, and requiring less revision of the schedule than would be needed to adopt the entire DSM–IV structure. We propose to use six diagnostic codes for specific dementias, many of them the same as are now present. We propose to retain some types because of their frequent occurrence and relevance to veterans, dementia due to head trauma, (DC 9304, dementia associated with brain trauma in the current schedule), for example, and some because they represent clusters of a particular etiology, as discussed above. We propose to retain diagnostic codes for the types of dementia most commonly seen in the general population, vascular dementia (currently DC's 9305 and 9306, multi-infarct dementia with cerebral arteriosclerosis and multi-infarct dementia due to causes other than cerebral arteriosclerosis, respectively), and dementia of the Alzheimer's type (currently DC 9312, primary degenerative dementia). This reorganization will not affect how dementias are evaluated, since all types will be evaluated under the same criteria, but will allow separation of the most common types by etiology.

We propose to delete DC's 9303 (currently dementia associated with alcoholism) and 9325 (currently dementia associated with drug or poison intoxication (other than alcohol)), in accord with DSM–IV, which categorizes them as subtypes of dementia due to general medical conditions, further discussed below. We propose to change DC 9304 (dementia associated with brain trauma) to dementia due to head trauma, because this is more modern terminology, and DC 9301 (dementia associated with central nervous system syphilis) to dementia associated with infection. We propose to include in the revised DC 9301 the conditions now evaluated under DC's 9301, 9302 (dementia associated with intracranial infections other than syphilis), 9315 (dementia associated with epidemic encephalitis), and 9324 (dementia associated with systemic infection), since the number of cases of dementia due to infection is small, and the specific type of infection has no bearing on the evaluation.

We propose to delete current diagnostic codes 9307 (dementia associated with convulsive disorder), 9308 (dementia associated with disturbances of metabolism), 9309 (dementia associated with brain tumor), and 9322 (dementia associated with endocrine disorder), and to rate these conditions under a single new diagnostic code, 9326, titled dementia due to other neurologic or general medical conditions (including endocrine disorders, metabolic disorders, drugs, alcohol, poisons, Pick's disease, brain tumors, etc.). This category encompasses in a single miscellaneous category a number of uncommon conditions that DSM–IV names separately.

We propose to change the title of DC 9305 from multi-infarct dementia with cerebral arteriosclerosis to vascular dementia and to have it encompass multi-infarct dementia due to causes other than cerebral arteriosclerosis (DC 9306), which we propose to delete, since both are due to vascular disease and may be difficult to distinguish. They are addressed as a single entity in DSM–IV.

In practice, it may be impossible to determine whether a dementia fits into DC 9310 (dementia due to unknown cause) or DC 9311 (dementia due to undiagnosed cause). We therefore propose to delete DC 9311 and revise DC 9310 to encompass both as dementia of unknown etiology. We propose to retain DC 9312 but to alter the title from dementia, primary, degenerative, to dementia of the Alzheimer's type, in accord with DSM–IV.

We also propose to add diagnostic code 9327, organic mental disorder, other, to provide a code for conditions such as amnestic disorder, organic personality disorder, and other cognitive disorders that are not dementias.

We propose to create a new category for anxiety disorders, in accord with DSM–IV. This category will include several of the conditions currently listed under the category of psychoneurotic disorders: ''generalized anxiety disorder'' (DC 9400), ''obsessive compulsive disorder'' (DC 9404), ''other and unspecified neurosis'' (DC 9410), ''post-traumatic stress disorder'' (DC 9411), and ''specific (simple) phobia; social phobia'' (DC 9403) (modified from the current ''phobic disorder,'' in accord with terminology in DSM–IV).

We propose to move some of the conditions now listed under psychoneurotic disorders to new categories: DC 9401, dissociative amnesia; dissociative fugue; dissociative identity disorder (currently psychogenic amnesia; psychogenic fugue; multiple personality) and DC 9408, depersonalization disorder, to the category of dissociative disorders, as discussed below; DC 9402, conversion disorder; psychogenic pain disorder, and DC 9409, hypochondriasis, to somatoform disorders, as discussed below; and to delete DC 9405, dysthymic disorder; adjustment disorder with depressed mood; major depression without melancholia, also as discussed below. We also propose to add to anxiety disorders two conditions that occur frequently enough that diagnostic codes are needed and which are not now included in the rating schedule: ''panic disorder and/or agoraphobia'' (DC 9412) and ''anxiety disorder, not otherwise specified'' (DC 9413). While ''other and unspecified neurosis'' (DC 9410 in the current schedule) is not limited to anxiety disorders, we propose to place it in this category as a matter of convenience, rather than giving it a separate category.

We propose to create a category for dissociative disorders, conditions, according to DSM–IV, where there is a disturbance in the usually integrated functions of identity, memory, consciousness, or perception of the environment. Included in this category will be: ''dissociative amnesia; dissociative fugue; dissociative identity disorder (multiple personality disorder)'', (DC 9416, changed from 9401 to keep conditions in this category together) and ''depersonalization disorder'' (DC 9417, changed from 9408 for the same reason).

In accord with DSM–IV, we propose to add a category for somatoform disorders, conditions characterized by the presence of physical symptoms that suggest a general medical condition and are not explained by a general medical condition, by the direct effects of a substance, or by another mental disorder. We propose to move two disorders, ''conversion disorder; psychogenic pain disorder'' (DC 9402) and ''hypochondriasis'' (DC 9409), that are currently listed under the category of psychoneuroses to this category and give them new diagnostic codes (DC's 9424, 9422, and 9425) so that the somatoform disorders can be grouped together. We propose to split ''conversion disorder; psychogenic pain disorder'' into ''conversion disorder,'' DC 9424, and ''pain disorder'' (the current term for psychogenic pain disorder), DC 9422, since the two conditions are distinct, and to change the diagnostic code for ''hypochondriasis'' from DC 9409 to DC 9425. We also propose to add two other conditions: ''somatization disorder'' (DC 9421), a commonly seen somatoform disorder not included in the present schedule, and ''undifferentiated somatoform disorder'' (DC 9423), for somatoform disorders that do not fit elsewhere and for which there is no suitable code in the current schedule.

We propose to establish a new category in the rating schedule for mood disorders, which are characterized, according to DSM–IV, by a disturbance in mood as the predominant feature. We propose to place in this category: bipolar disorder (DC 9432), dysthymic disorder (DC 9433), and major depressive disorder (DC 9434). Major depressive disorder is currently included under three diagnostic codes: 9207 (major depression with psychotic features), 9209 (major depression with melancholia), and 9405 (dysthymic disorder; adjustment disorder with depressed mood; major depression without melancholia). Since DSM–IV does not recognize three varieties of major depressive disorder, we propose to evaluate it under a single diagnostic code, 9434 (major depressive disorder). We also propose to change the diagnostic codes for dysthymic disorder (currently dysthymia, DC 9405) and bipolar disorder (DC 9206) to DC's 9433 and 9432, respectively, in order to group the mood disorders together.

For the sake of completeness, we propose to provide diagnostic codes for two additional mood disorders not currently included in the rating schedule: cyclothymic disorder (DC 9431), which, although related to bipolar disorder, is classified as a separate entity by DSM–IV, and mood disorder, not otherwise specified (DC 9435), which allows the evaluation of conditions with mood symptoms that do not meet the criteria for any specific mood disorder. As part of this reorganization, we propose to remove DC 9405 (''dysthymic disorder; adjustment disorder with depressed mood; major depression without melancholia'') since we are providing separate diagnostic codes for both ''dysthymic disorder'' (DC 9433) and ''major depressive disorder'' (DC 9434) under the category of mood disorders.

A category of mental disorders that the current rating schedule does not specifically address, but that is seen fairly often in the veteran population, is adjustment disorder. The essential feature of an adjustment disorder is the development of clinically significant emotional or behavioral symptoms in response to an identifiable psychosocial stressor or stressors. We propose to add a new category and diagnostic code (9440) for chronic adjustment disorder.

The current rating schedule provides separate rating formulas for psychotic disorders, organic mental disorders, and psychoneurotic disorders. The formula for psychoneurotic disorders provides some specific criteria at each evaluation level, but also uses ''mild,'' ''definite,'' ''considerable,'' and ''severe'' industrial impairment at certain levels. Formulas for the other two provide specific criteria only at the 100 percent level and assign less than total evaluations based on whether there is ''mild,'' ''definite,'' ''considerable,'' or ''severe'' impairment of social and industrial adaptability at the other levels. Because those are non-specific terms, they are subject to interpretation by individual rating boards, and it is possible that they may not be applied consistently. For example, the current criterion for the 50 percent level of evaluation for psychotic disorders is: ''considerable impairment of social and industrial adaptability.'' This offers no objective guidance for the rating board and makes comparison of one exam with another difficult. We propose to provide more objective criteria that will in turn result in more consistent evaluations.

The contract consultants recommended that we base the evaluation of mental disorders on more extensive objective descriptions of their possible effects and with examples of signs and symptoms at various levels. In keeping with that recommendation, we propose to evaluate all mental disorders except eating disorders under a single formula, providing objective criteria based on signs and symptoms which characteristically produce a particular level of disability. For example, we propose criteria for the 50 percent level to be: ''moderately severe impairment in social and occupational functioning with reduced reliability and productivity due to such symptoms as: flattened affect; circumstantial, circumlocutory, or stereotyped speech; panic attacks more than once a week; difficulty in understanding complex commands; impairment of short—and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks); impaired judgment; impaired abstract thinking; disturbances of motivation and mood; difficulty in establishing and maintaining effective relationships at work and socially.'' These criteria are clearly more objective than the present rating formulas, and providing such objective criteria at each level of evaluation will result in more consistent evaluations and will offer greater ease in comparing examinations.

The symptoms indicated at each level are not intended to be comprehensive (and could not be, because of the multitude of symptoms in mental disorders), but to provide an objective framework that will enable rating boards to assign consistent evaluations for mental disorders based on signs and symptoms. The proposed criteria are more objective than the current ones because they focus on the level of impairment of occupational and social functioning as related to the specific symptoms which are present, whether the symptoms are persistent or transient, their frequency (e.g., of panic attacks), and their severity (e.g., degrees of memory loss are given at different levels). With more specific and objective criteria, the rating board can make a determination of the level of severity based on all the evidence of record, including the detailed report of all signs and symptoms, relevant information regarding employment, report of daily activities, etc., and will not have to attempt an assessment based on whether the evidence corresponds to the non-specific language in the current schedule.

In the current rating schedule, DC's 9500 through 9511 represent psychological factors affecting physical conditions in various body systems, and they are in their own category. Evaluation is directed to be made under the general rating formula for psychoneurotic disorders. In DSM–IV, the condition of ''psychological factors affecting physical condition'' has been renamed ''psychological factors affecting medical condition'' (PFAMC) and placed in a new category, ''Other conditions that may be a focus of clinical attention.'' DSM–IV states that PFAMC refers to the presence of one or more specific psychological or behavioral factors that adversely affect a general medical condition. There are therefore two components in PFAMC: a medical condition and psychological factors. There is no need for a separate code and evaluation criteria for this condition, and we propose to delete DC's 9500 through 9511. Psychological factors that do not constitute a recognized mental disorder would not be service-connectable in their own right. A separate evaluation for each service-connected component would be made as usual under the appropriate diagnostic code(s). An additional separate evaluation for PFAMC would not be warranted, and in fact would represent pyramiding (see 38 CFR 4.14).

We propose to add one other category, ''eating disorders,'' a group of mental disorders characterized by gross disturbances in eating behavior. This category will include anorexia nervosa (DC 9520) and bulimia nervosa (DC 9521), conditions which are commonly diagnosed but cannot be appropriately rated under the proposed general rating criteria for mental disorders because their more disabling aspects are manifested primarily by physical findings rather than by psychological symptoms. We propose that the criteria be based partly on the extent of weight loss (per DSM–IV) and partly on the extent of incapacitating episodes and needed periods of hospitalization.

The contract consultants suggested we include the categories of sexual disorders and sleep disorders in the revised schedule. Sexual disorders, which include sexual dysfunctions such as sexual desire disorders and orgasmic disorders, paraphilias such as fetishism and sexual sadism, and gender identity disorders, do not have any inherent effect on employability, and we do not propose to include them in the schedule. Sleep disorders are often manifested by significant physical manifestations, and narcolepsy is currently addressed in the rating schedule under neurologic disorders (as DC 8108). We published a proposed revision of the respiratory disorders section of the rating schedule (58 FR 4962–69) that will include sleep apnea (as DC 6846). We therefore do not propose to add a separate category for sleep disorders to the mental disorders section of the schedule.

Section 4.16 of 38 CFR was established to assure that any veteran unable to secure or follow a substantially gainful occupation because of service-connected disabilities will be awarded a total evaluation even though the schedular evaluation does not reach that level. Section 4.16(c) provides that where the only service-connected disability is a mental disorder assigned a 70 percent schedular evaluation, but which nonetheless precludes the veteran from securing or following a substantially gainful occupation, the mental disorder will be assigned a 100 percent schedular evaluation rather than an extra-schedular total evaluation. We propose to delete § 4.16 (c), because, in our judgment, it is possible that a veteran may be properly evaluated at a level less than 100 percent based on average impairment, but because of unique aspects of his or her individual situation, might still be unable to secure or follow a substantially gainful occupation. In order to allow rating specialists the flexibility to fairly evaluate such situations, we propose to have § 4.16(a) apply to mental disorders in the same manner that it does to other disabilities.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This rule has been reviewed under Executive Order 12866 by the Office of Management and Budget.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: July 19, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4 is proposed to be amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

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

Authority: 38 U.S.C. 1155.

§ 4.16 [Amended]

2. In § 4.16, paragraph (c) is removed.

Subpart B—Disability Ratings

3. Section 4.125 is revised to read as follows:

§ 4.125 Diagnosis of mental disorders.

(a) If the diagnosis of a mental disorder does not conform to DSM–IV or is not supported by the findings on the examination report, the rating board shall return the report to the examiner to substantiate the diagnosis.

(b) If the diagnosis of a mental disorder is changed, the rating board shall determine whether the new diagnosis represents progression of the prior diagnosis, correction of an error in the prior diagnosis, or development of a new and separate condition. If it is not clear from the available records what the change of diagnosis represents, the rating board shall return the report to the examiner for a determination.

4. Section 4.126 is revised to read as follows:

§ 4.126 Evaluation of disability from mental disorders.

(a) When evaluating a mental disorder, the rating board shall consider the frequency, severity, and duration of psychiatric symptoms, the length of remissions, and the veteran's capacity for adjustment during periods of remission. The rating board shall assign an evaluation based on all the evidence of record that bears on occupational and social impairment rather than on the examiner's assessment of the level of disability at the moment of the examination.

(b) When evaluating the level of disability from a mental disorder, the rating board will consider the extent of social impairment, but shall not assign an evaluation solely on the basis of social impairment.

(c) Delirium, dementia, and amnestic and other cognitive disorders shall be evaluated under the general rating formula for mental disorders; neurologic deficits or other impairments stemming from the same etiology (e.g., a head injury) shall be evaluated separately and combined with the evaluation for delirium, dementia, or amnestic or other cognitive disorder (see § 4.25 of this part).

(d) When a single disability has been diagnosed both as a physical condition and as a mental disorder, the rating board shall evaluate it using a diagnostic code which represents the dominant (more disabling) aspect of the condition (see § 4.14 of this part).

5. Section 4.127 is revised to read as follows:

§ 4.127 Mental retardation and personality disorders.

Mental retardation and personality disorders will not be considered as disabilities under the terms of the schedule, but a mental disorder that is superimposed upon, but clearly separate from, the mental retardation or personality disorder may be a disability for VA compensation purposes.

6. Section 4.128 is revised to read as follows:

§ 4.128 Convalescence ratings following extended hospitalization.

If a mental disorder has been assigned a total evaluation due to a continuous period of hospitalization lasting six months or more, the rating board shall continue the total evaluation indefinitely and schedule a mandatory examination six months after the veteran is discharged or released to nonbed care. A change in evaluation based on that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.

7. Section 4.129 is revised to read as follows:

§ 4.129 Mental disorders due to psychic trauma.

When a mental disorder that develops in service as a result of a highly stressful event is severe enough to bring about the veteran's release from active military service, the rating board shall assign an evaluation of not less than 50 percent and schedule an examination within the six month period following the veteran's discharge.

8. Section 4.130 is revised to read as follows:

§ 4.130 Schedule of ratings—mental disorders.

Note: The nomenclature employed in this portion of the rating schedule is based upon the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, of the American Psychiatric Association (DSM–IV). Rating boards must be thoroughly familiar with this manual to properly implement the directives in § 4.125 through § 4.129 and to apply the general rating formula for mental disorders in § 4.130.

Schizophrenia and Other Psychotic Disorders

9201 Schizophrenia, disorganized type
9202 Schizophrenia, catatonic type
9203 Schizophrenia, paranoid type
9204 Schizophrenia, undifferentiated type
9205 Schizophrenia, residual type; other and unspecified types
9208 Delusional disorder
9210 Psychotic disorder, not otherwise specified (atypical psychosis)
9211 Schizoaffective disorder

Delirium, Dementia, and Amnestic and Other Cognitive Disorders)

9300 Delirium
9301 Dementia due to infection (HIV infection, syphilis, or other systemic or intracranial infections)
9304 Dementia due to head trauma
9305 Vascular dementia
9310 Dementia of unknown etiology
9312 Dementia of the Alzheimer's type
9326 Dementia due to other neurologic or general medical conditions (endocrine disorders, metabolic disorders, drugs, alcohol, poisons, Pick's disease, brain tumors, etc.)
9327 Organic mental disorder, other

Anxiety Disorders

9400 Generalized anxiety disorder
9403 Specific (simple) phobia; social phobia
9404 Obsessive compulsive disorder
9410 Other and unspecified neurosis
9411 Post-traumatic stress disorder
9412 Panic disorder and/or agoraphobia
9413 Anxiety disorder, not otherwise specified

Dissociative Disorders

9416 Dissociative amnesia; dissociative fugue; dissociative identity disorder (multiple personality disorder)
9417 Depersonalization disorder

Somatoform Disorders

9421 Somatization disorder
9422 Pain disorder
9423 Undifferentiated somatoform disorder
9424 Conversion disorder
9425 Hypochondriasis

Mood Disorders

9431 Cyclothymic disorder
9432 Bipolar disorder
9433 Dysthymic disorder
9434 Major depressive disorder
9435 Mood disorder, not otherwise specified

Chronic Adjustment Disorder

9440 Chronic adjustment disorder

General Rating Formula for Mental Disorders

Total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene); disorientation to time or place; memory loss for names of close relatives, own occupation, or own name—100.

Severe occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as: Suicidal ideation; obsessional rituals which interfere with routine activities; speech intermittently illogical, obscure, or irrelevant; near-continuous panic or depression affecting the ability to function independently, appropriately and effectively; impaired impulse control (such as unprovoked irritability with periods of violence); spatial disorientation; neglect of personal appearance and hygiene; difficulty in adapting to stressful circumstances (including work or a worklike setting); inability to establish and maintain effective relationships—70,

Occupational and social impairment with reduced reliability and productivity due to such symptoms as: Flattened affect; circumstantial, circumlocutory, or stereotyped speech; panic attacks more than once a week; difficulty in understanding complex commands; impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks); impaired judgment; impaired abstract thinking; disturbances of motivation and mood; difficulty in establishing and maintaining effective work and social relationships—50.

Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal), due to such symptoms as: Depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, mild memory loss (such as forgetting names, directions, recent events)—30.

Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or; symptoms controlled by continuous medication—10.

A mental condition has been formally diagnosed, but symptoms are not severe enough either to interfere with occupational and social functioning or to require continuous medication—0.

Eating Disorders

9520 Anorexia nervosa
9521 Bulimia nervosa

Rating Formula for Eating Disorders

Self-induced weight loss to less than 80 percent of expected minimum weight, with incapacitating episodes of at least six weeks total duration, and requiring hospitalization more than twice a year for parenteral nutrition or tube feeding—100.

Self-induced weight loss to less than 85 percent of expected minimum weight with incapacitating episodes of six or more weeks total duration per year—60.

Self-induced weight loss to less than 85 percent of expected minimum weight with incapacitating episodes of more than two but less than six weeks total duration per year—30.

Binge eating followed by self-induced vomiting or other measures to prevent weight gain, or resistance to weight gain even when below expected minimum weight, with diagnosis of an eating disorder and incapacitating episodes of up to two weeks total duration per year—10.

Binge eating followed by self-induced vomiting or other measures to prevent weight gain, or resistance to weight gain even when below expected minimum weight, with diagnosis of an eating disorder but without incapacitating episodes—0.

Note: An incapacitating episode is a period during which bed rest and treatment by a physician are required.

§§ 4.131 and 4.132 [Removed]

9. § 4.131 and § 4.132 are removed.

[FR Doc. 95–26567 Filed 10–25–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL125–1–7030b; FRL–5312–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' May 5, 1995, State Implementation Plan (SIP) revision request establishing new rules for automotive/transportation and business machine plastic parts coating operations as part of the State's 15 percent Reasonable Further Progress Plan control measures for the control of Volatile Organic Compounds (VOC). In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action 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 that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA 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 the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before November 27, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: September 22, 1995.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 95–26586 Filed 10–25–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IL126–1–7031b; FRL–5299–9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' May 5, 1995, request to revise the State's Wood Furniture Coating rule as part of the State's 15 percent Reasonable Further Progress Plan control measures for the control of Volatile Organic Matter. In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action 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 that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA 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 the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before November 27, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: August 9, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–26588 Filed 10–25–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WA8–1–5478b; WA36–1–6951b; FRL–5315–8]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the PM–10 contingency measures for Seattle and Kent, Washington into the Washington State Implementation Plan (SIP). At the same time, EPA is providing notice that the conditions required under the June 23, 1994 (59 FR 32370), conditional approval of the Seattle PM–10 attainment plan have been met. The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements for contingency measures. 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 27, 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 State of Washington Department of Ecology, P.O. Box 47600, Olympia, WA 98504–7600.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–6511.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: October 2, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–26591 Filed 10–25–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–72; Notice 1]

RIN 2127–AF75

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendments to Standard No. 108, the Federal motor vehicle standard on lighting, which are intended to harmonize the Standard's geometric visibility requirements for signal lamps, and rear side marker color, with those of the ECE. With harmonization of international standards in mind, the notice also seeks comments on whether the performance and installation of front and rear fog lamps ought to be regulated by Standard No. 108. Harmonization of motor vehicle safety regulations worldwide, *without* reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade. These actions implement the grant of a petition for rulemaking submitted by the Groupe de Travail Bruxelles.

DATES: Comments are due December 26, 1995.

ADDRESSES: Comments should refer to Docket No. 95–72; Notice 1 and be submitted to: Docket Section, room 5109, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Rich Van Iderstine, Office of Safety Performance Standards, NHTSA (Phone: 202–366–5275; FAX: 202–366–4329).

SUPPLEMENTARY INFORMATION:

Harmonization of Geometric Visibility Requirements

The Groupe de Travail Bruxelles 1952 (''GTB'') is composed of vehicle and lamp manufacturers from Europe, Japan, and the United States. GTB is an advisory group for the two organizations operating under the United Nations' Economic Commission for Europe that are involved in establishing motor vehicle lighting standards: The Meeting of Experts on Lighting and Light Signalling (GRE) and the Working Party on the Construction of Motor Vehicles (WP29).

GTB is seeking to ''harmonize'' the geometric visibility requirements of the United States and Europe through petitioning NHTSA for an amendment to Standard No. 108, and GRE and WP29 for amendments to ECE Regulation No.48 *Uniform Provisions Concerning the Approval of Vehicles With Regard to the Installation of Lighting and Light-Signalling Devices* (''ECE R48''), specifically ECE R48.01. Under present lighting regulations, motor vehicle manufacturers must produce four different lighting packages for the same vehicle in order for it to be sold in the United States, the United Kingdom, continental Europe, and Japan. Harmonization of lighting requirements, without reducing safety, would reduce costs to manufacturers and purchasers, and improve the flow of trade.

In its petition of June 15, 1994, GTB asked NHTSA to amend or introduce geometric visibility requirements for the following lamps and reflectors: backup lamp, front and rear turn signal lamps, stop lamps including the center highmounted stop lamp, parking lamps, taillamps, rear fog lamp, reflectors (front, intermediate, side, and rear), marker lamps (front, intermediate, and side), and daytime running lamps. The petition noted that rear fog lamps are not presently included in Standard No. 108, and that many items of lighting equipment are not presently subject to geometric visibility requirements.

By way of explanation, ''geometric visibility'' is not a defined term in Standard No. 108. It refers to the visibility of a lamp or reflector mounted on a vehicle through a range of angles from left to right, and from up to down, with reference to the lens centerpoint (e.g., from 45 degrees left to 45 degrees right). With the exception of the center highmounted stop lamp (S5.1.1.27), the geometric visibility requirements for motor vehicle lamps are not set out in full in the text of Standard No. 108, but are contained in related SAE Standards that have been incorporated by reference in Standard No. 108. SAE requirements are not uniform and were adopted on an ad hoc basis.

The changes that GTB requested would affect passenger cars only, and would expand the range of visibility requirements for many lamps, especially turn signal lamps and parking lamps. GTB believes that a majority of vehicles being sold in the United States already meet the requirements. For those that do not, the petitioner suggests that ''the necessary design changes should not be difficult to implement, assuming that adequate lead time is provided.''

The requested rulemaking would add a fifth table to Standard No. 108 of lamps covered by geometric visibility requirements and a new paragraph in S5.1.1 which would apply to the vehicles presently subject to tables III and IV, i.e., not only passenger cars, but also multipurpose passenger vehicles, trucks, trailers, and buses whose overall width is less than 80 inches (2032 mm). This section would allow manufacturers the option of providing geometric visibility of at least 12.5 sq. cm. or ''meeting ECE Reg 48.01 paragraph 6.'' This would result in imposing geometric visibility requirements on five lamps and four reflectors not currently subject to geometric visibility specifications.

Options Presented by the Petition

NHTSA has examined the possibility of incorporating ECE R48 into Standard No. 108, and decided that it is unnecessarily complex and could be confusing. For example, a turn signal lamp is allowable under R48:

> as meeting ECE Reg. 48.01 *Addendum* 47 paragraph 6, dated March 22, 1994, and meeting the geometric visibility requirements specified in: * * * ECE Regulation, R–6 Revision 2, 9 Aug. 1993 *Front and Rear Turn Signals.*

Geometric visibility requirements appear in both ECE R48 and in ECE R6. According to the text cited above, turn signal lamps shall meet all requirements of ECE R48 other than geometric visibility which would be those of R6. Thus, it seems unnecessary to reference ECE R48 when the geometric requirements appear to be those of ECE R–6. Further, there are numerous references beyond R48 and R–6 incorporated in those regulations. These are automatically updated, unlike Standard No. 108, where the SAE materials incorporated by reference are not automatically changed by updates.

There is also the matter of terminology. SAE J222 refers to parking lamps also as front position lamps. Yet there are separate categories for these in ECE R48 (6.9 Front Position Lamp, p. 37; Parking Lamp, 6.12, p. 41). NHTSA could not recommend incorporating ECE R48 without modifying some of its provisions in the text of Standard No. 108. At the very least, the new Table requested by the petitioner ought to cross reference the appropriate geometric visibility sections of that regulation with the lamps to which they apply.

Further, there needs to be language that more clearly defines the lamp categories and the vehicles to which they apply.

Annex 1 of R6 is far more preferable for incorporation into Standard No. 108. The geometric visibility provisions of R6 are not termed as such but appear to be the ''minimum angles required for light distribution in space of * * * categories of direction indicators'' in Annex 1 to R6. They are expressed in a series of diagrams. This is much clearer. Presumably, NHTSA could adopt text defining the 6 categories of turn signal lamps.

By far, the more preferable amendment would be the incorporation of the requested new Table. However, this raises a further issue: whether the Table should comprise only those items or equipment currently subject to geometric visibility requirements, or whether all lamps and reflectors requested by GTB should be included?

With respect to the option of restricted coverage, Standard No. 108 does not prohibit a manufacturer of vehicles for sale in the United States from meeting European geometric visibility requirements with respect to any of the nine equipment items not now covered. The lack of geometric visibility requirements for these nine items means that European and Japanese manufacturers need not concern themselves with this aspect of performance in designing vehicles for the American market. On the other hand, an American manufacturer must design its vehicles to comply with geometric visibility requirements for these nine items if it wishes to sell in European markets.

Although the silence of Standard No. 108 on geometric visibility requirements for the nine items in no way disadvantages foreign manufacturers, in many minds it may not be synonymous with ''harmonization.'' To some members of GTB, ''harmonization'' often means identicality of regulations while, to NHTSA, a harmonized regulation is not necessarily identical but one that is broad enough to encompass ''windows of harmony.'' This allows a common vehicle to be manufactured and sold in many countries having different regulations. Thus, to encourage the ECE bodies to harmonize their lighting regulations and to forestall any questions of preemption by the individual States in America, NHTSA has tentatively decided that it is in the interest of motor vehicle safety to make the list inclusive and to regulate the aspect of performance of lighting equipment called ''geometric visibility'' for the lighting equipment requested. As previously noted, the geometric visibility of some lighting equipment is already covered by Standard No. 108. NHTSA believes that a geometric visibility requirement for all lamps and reflectors is already either explicit or implicit in paragraph S5.3.1.1. Under this paragraph, each lamp shall be located so that it meets the visibility requirements in any applicable SAE Standard or Recommended Practice.

Additionally, under this paragraph, no part of the vehicle shall prevent any lamp from meeting the photometric output at any test point specified in Standard No. 108. However, if motor vehicle equipment does prevent compliance with photometrics by any required lamp or reflective device, an auxiliary lamp or reflector shall be provided that does meet the photometric requirements. In NHTSA's opinion, the effect of a final rule will make explicit what has always been implied.

To accomplish this, NHTSA is proposing a new paragraph S5.1.1.30, applicable to the vehicles covered by Tables III and IV (i.e., those less than 80 inches in overall width). The new paragraph would allow continued conformance to the existing requirements or to the ''geometric visibility of at least 12.5 square centimeters of the light-emitting surface through a field of view as indicated in Table V, except for side marker lamps and reflex reflectors which have no area requirement.'' Although the petitioner did not request it, as part of NHTSA's good faith effort towards compatibility of standards worldwide, the agency is proposing that the existing requirements be phased out in favor of the harmonized ones after two years (comment is especially requested on lead time). The definition of ''Light-emitting Surface'' that appears in SAE Standard J387 ''Terminology, Motor Vehicle Lighting'' would be added and defined to mean ''that part of the exterior surface of the lens that encloses the light source and is required for conformance with photometric and colorimetric requirements.'' This definition is necessary because the term appears in the proposed requirement.

Table V would be added to cover 15 items of lighting equipment (lamps and reflectors), including the rear fog lamp. While a rear fog lamp is not required motor vehicle equipment, if a manufacturer chooses to provide one, it would then be required to meet the geometric visibility requirements (but no other requirements would apply at the present time).

The visibility requirements are expressed with relation to the Horizontal (H) and Vertical (V) axes of the lamp or reflector. As an example, the geometric visibility requirement for a front turn signal lamp would be minus 45 degrees to plus 45 degrees at Horizontal, and minus 15 degrees to plus 15 degrees at Vertical.

NHTSA, however, is not proposing to adopt ECE's backup lamp geometric visibility requirements because of its possibly adverse effect on safety. Standard No. 108 requires that the center of the backup lamp lens be seen from anywhere on a vertical transverse plane located three feet behind the vehicle and extending to three feet on either side of the vehicle, starting from two feet and ending at six feet above the road surface. For a minivan whose backup lamps are about 33 inches above the ground, Standard No. 108's requirement creates upward visibility angles greater than 45 degrees. For passenger cars with lower lamp heights, the angles are even larger. Allowing these angles to be as small as ECE's 15 degrees upward would allow a significant reduction in the ability of a pedestrian to see the lamp's signal.

Rear Side Marker Color

In its good faith efforts towards worldwide compatibility of standards, NHTSA itself has tentatively decided that a further area where harmonization might be achieved is the color of rear side marker lamps and reflectors. These are not mandatory items of equipment in the ECE, unlike the United States. However, if rear side marker lamps and reflectors are provided, under ECE regulations, they must be amber with a few exceptions. In the United States, the required color is red, with no exceptions.

Allowance of amber as an optional color for rear side marker equipment could improve harmony of requirements world wide without, in the opinion of the agency, derogating from safety. Therefore, the agency is proposing amendments to Tables I and III that would allow amber as an optional color for rear side marker equipment. If there are any safety concerns, NHTSA anticipates that commenters will bring them to the agency's attention.

Regulation of Fog Lamps

Another aspect of motor vehicle lighting that might be appropriate for harmonization is the regulation of front and rear fog lamps. These are not items of motor vehicle equipment mandated by Standard No. 108. They are regulated by the States as each jurisdiction deems appropriate. NHTSA has no information as to the extent that European and Japanese manufacturers must modify the fog lamps and their installations on their vehicles in order to meet the regulations of the States. Should NHTSA assert its jurisdiction over that aspect of motor vehicle equipment performance and specify performance requirements (in addition to geometric visibility) for front and rear fog lamps as optional equipment, that would preempt State regulations and could afford windows of harmonization with standards of the ECE. With respect to this issue, NHTSA is especially desirous of receiving comments from European and Japanese manufacturers and State motor vehicle officials.

The performance requirements that appear appropriate to NHTSA would be SAE Standard J583 JUN93 ''Front Fog Lamps'' and SAE Standard J1319 JUN93 ''Fog Tail Lamp''.

NHTSA is taking this action on its own initiative to demonstrate its good faith in exploring possible areas of harmonization of standards.

Proposed Effective Date

The amendments would be effective 30 days after publication of the final rule in the Federal Register. At that time, manufacturers would have the option for the succeeding two years to conform to either the present or the harmonized geometric visibility requirements. After two years, the harmonized specifications would be the sole geometric visibility requirements. As noted previously, it is likely that many of the proposed requirements are already being met by manufacturers selling in world markets.

However, when compliance with the final rule becomes mandatory, it will affect U.S. vehicle lines that are not sold in world markets. NHTSA therefore seeks comments on the appropriateness of a two-year leadtime for mandatory compliance with the final rule, and a discussion of related costs or other impacts upon the commenter.

Finally, the proposal would reinstate the lighting item ''Headlamps'' and headlamp mounting requirements of SAE J566 in Table I, which were mistakenly omitted when Table I was amended to reflect the addition of section S7 *Headlighting requirements* to the standard. References to S7 would also be added under the vehicle-type columns, in the manner set forth in Table III.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures. This rulemaking action was not reviewed under Executive Order 12866. Further, it has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is to make an existing requirement clearer and to harmonize regulations. It is anticipated that the costs of the final rule would be so minimal as not to warrant preparation of a full regulatory evaluation. Vehicles presently selling in world markets are presumed to comply with the proposed rule. NHTSA has asked for comments on the costs and other impacts associated with a two-year leadtime for mandatory compliance of those vehicles not presently complying. This could involve relocation of certain lamps and reflectors and associated sheet metal changes, or redesign of lamps or reflectors. These could be easily accommodated within the present or next design cycle. If the comments received indicate that the imparts are more than minimal NHTSA will prepare a full regulatory evaluation before issuing a final rule.

National Environmental Policy Act. NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that a final rule based on this proposal would have a significant effect upon the environment. The composition of lighting equipment would not change from those presently in production.

Regulatory Flexibility Act. The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. For the reasons stated above and below, I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and motor vehicle equipment, those affected by the rulemaking action, are generally not small businesses within the meaning of the Regulatory Flexibility Act.

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

Civil Justice. A final rule based on this proposal 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. 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.

Request for 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, 49 CFR Part 571 would 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 571.108 would be amended by:

a. adding to paragraph S4, in alphabetical order, a new definition ''Light-emitting Surface'',

b. adding a new paragraph S5.1.1.30,

c. revising the heading of Table I, revising the text preceding the table, and adding Headlamps as the first entry,

d. revising the text preceding the table and the entries for Reflex reflectors and Side marker lamps in Tables I, II, III and IV, and

e. adding a new Table V to follow Table IV and to precede the Note to the standard, to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S4 *Definitions.*

* * * * *

Light-emitting Surface means all or part of the exterior surface of the transparent or translucent lens that encloses the lighting or light-signalling device and allows conformance with photometric and colorimetric requirements.

* * * * *

S5.1.1.30. (a) Each passenger car, multipurpose passenger vehicle, truck, or bus, of less than 80 inches overall width, manufactured before [two years after the effective date of the final rule], when equipped with any item of lighting equipment listed in Table V, may provide geometric visibility of at least 12.5 square centimeters of the projected light-emitting surface perpendicular to the axis of viewing through a field of view as indicated in Table V, except for side marker and reflex reflectors which have no area requirement.

(b) Each passenger car, multipurpose passenger vehicle, truck, or bus, of less than 80 inches overall width manufactured on or after [two years after the effective date of the final rule], when equipped with any item of lighting equipment listed in Table V, shall provide geometric visibility of at least 12.5 square centimeters of the projected light-emitting surface perpendicular to the axis of viewing through a field of view as indicated in Table V, except for side marker and reflex reflectors which have no area requirement.

* * * * *

TABLE I.—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

[Multipurpose passenger vehicles, trucks, trailers, and buses of 80 (2032) or more inches (MM) overall width]

Item	Multipurpose passenger vehicles, trucks, and buses	Trailers	Applicable SAE standard or recommended practice (See S6 for subreferenced SAE materials)
Headlamps	See S7	None	J566, January 1960.
* *	* *	*	* *
Reflex reflectors	4 red; 2 amber; or 2 red; 4 amber	4 red; 2 amber; or 2 red; 4 amber	J594f, January 1977.
Side marker lamps	2 red; 2 amber; or 4 amber	2 red; 2 amber; or 4 amber	J592e, July 1972.
* *	* *	*	* *

TABLE II.—LOCATION OF REQUIRED EQUIPMENT

[Multipurpose passenger vehicles, trucks, trailers, and buses of 80 (2032) or more inches (MM) overall width]

Item	Location on— Multipurpose passenger vehicles, trucks, and buses	Location on— Trailers	Height above road surface measured from center of item on vehicle at curb weight
* *	* *	*	* *
Reflex reflectors	On the rear—1 red on each side of the vertical centerline, as far apart as practicable, and at the same height. On each side—1 red or amber as far to the rear as practicable, and 1 amber as far to the front as practicable.	On the rear—1 red on each side of the vertical centerline, as far apart as practicable, and at the same height. On each side—1 red or amber as far to the rear as practicable, and 1 amber as far to the front as practicable.	Do.
Side marker lamps	......do	......do	Not less than 15 inches, and on the rear of trailers not more than 60 inches.

TABLE III.—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

[All passenger cars and motorcycles, and multipurpose passenger vehicles, trucks, buses, and trailers, of less than 80 (2032) inches (MM) overall width]

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	Applicable SAE standard or recommended practice (See S6 for subreferenced SAE materials)
*	* *	*	* *	*
Reflex reflectors	4 red; 2 amber; or 2 red; 4 amber.	4 red; 2 amber; or 2 red; 4 amber.	3 red; 2 amber; or 1 red; 4 amber.	J594f, January 1977.
*	* *	*	* *	*
Side marker lamps	2 red; 2 amber; or 4 amber.	2 red; 2 amber; or 4 amber.	None	J592e, July 1972.
*	* *	*	* *	*

TABLE IV.—LOCATION OF REQUIRED EQUIPMENT

[All passenger cars and motorcycles, and multipurpose passenger vehicles, trucks, trailers, and buses of less than 80 (2032) inches (MM) overall width]

Item	Location on— Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Location on— Motorcycles	Height above road surface measured from center of item on vehicle at curb weight
* *	* *	*	* *
Reflex reflectors	On the rear—1 red on each side of the vertical centerline, at the same height, and as far apart as practicable. On each side—1 red as far to the rear as practicable, and 1 amber as far to the front as practicable. On each side—1 red or amber as far to the rear as practicable, and 1 amber as far to the front as practicable.	On the rear—1 red on the vertical centerline, except that, if two are used on the rear, they shall be symmetrically disposed about the vertical centerline. On each side—1 red or amber as far to the rear as practicable, and 1 amber as far to the front as practicable.	Not less than 15 inches, nor more than 60 inches.
* *	* *	*	* *
Side marker lamps	On each side—1 red or amber as far to the rear as practicable, and 1 amber as far to the front as practicable.	Not required	Not less than 15 inches.
* *	* *	*	* *

TABLE V.—SPECIFICATIONS FOR GEOMETRIC VISIBILITY OF INSTALLED LIGHTING DEVICES

Lighting device	Axis	Geometric visibility requirement
Front Turn Signal Lamp	H	−45° to +45°.
	V	−15° to +15°.[1]
Rear Turn Signal Lamp	H	−15° to +45°.
	V	−15° to +15°.[1]
Stop Lamp	H	−45° to +45°.
	V	−15° to +15°.[1]
Front Parking Lamp	H	−45° to +45°.
	V	−15° to +15°.[1]
Tail Lamp	H	−45° to +45°.
	V	−15° to +15°.[1]
Rear Fog Lamp	H	−10° to +10°.
	V	−5° to +5°.
Rear Reflex Reflector	H	−30° to +30°.
	V	−10° to +10°.[1]
Front Side Reflex Reflector	H	−45° to +45°.
	V	−10° to +10°.[1]
Intermediate Side Reflex Reflector	H	−45° to +45°.
	V	−10° to +10°.[1]
Rear Side Reflex Reflector	H	−45° to +45°.
	V	−10° to +10°.[1]
Front Side Marker Lamp	H	−45° to +45°.
	V	−10° to +10°.[1]
Intermediate Side Marker Lamp	H	−45° to +45°.
	V	−10° to +10°.[1]
Rear Side Marker Lamp	H	−45° to +45°.
	V	−10° to +10°.
High Mounted Stop Lamp	H	−10° to +10°.
	V	−5° to +10°.
Daytime Running Lamp	H	−20° to +20°.
	V	−10° to +10°.

[1] Angle below horizontal may be reduced to 5° if the lamp is less than 750 mm. above the ground.

* * * * *

Issued on October 17, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–26498 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 60, No. 207
Thursday, October 26, 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

Agricultural Research Service

Notice of Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Science, intends to grant to Union Camp Corporation of Wayne, New Jersey, an exclusive license for all uses in the field of tree seedling coatings to U.S. Patent Application Serial No. 08/233,173 filed April 26, 1994, ''Non-Separable Starch-Oil Compositions.'' Notice of Availability was published in the Federal Register on October 24, 1994.

DATES: Comments must be received on or before November 27, 1995.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 401, Building 005, BARC–West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patents rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Union Camp Corporation has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.,
Assistant Administrator.

[FR Doc. 95–26532 Filed 10–25–95; 8:45 am]

BILLING CODE 3410–03–M

Animal and Plant Health Inspection Service

[Docket No. 95–075–1]

Dupont Agricultural Products; Receipt of Petition for Determination of Nonregulated Status for Cotton Genetically Engineered for Tolerance to Sulfonylurea Herbicides

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Dupont Agricultural Products seeking a determination of nonregulated status for a cotton line designated as 19–51a that has been genetically engineered for tolerance to sulfonylurea herbicides. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether this cotton line presents a plant pest risk.

DATES: Written comments must be received on or before December 26, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–075–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–075–1. A copy of the petition and any comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing access to that room to inspect the petition or comments are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. Sivramiah Shantharam, Team Leader, Biotechnology Permits, BBEP, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 734–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for determination of nonregulated status must take and the information that must be included in the petition.

On September 13, 1995, APHIS received a petition (APHIS Petition No. 95–256–01p) from Dupont Agricultural Products (Dupont) of Wilmington, DE, requesting a determination of nonregulated status under 7 CFR part 340 for a sulfonylurea-tolerant cotton line designated as 19–51a. The Dupont petition states that the subject cotton line should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, cotton line 19–51a has been genetically engineered with a gene from tobacco which encodes an altered acetolactate synthase enzyme that enhances tolerance to sulfonylurea herbicides. The subject cotton line was developed through the use of the *Agrobacterium tumefaciens* transformation system.

Dupont's cotton line 19–51a is currently considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences derived from the plant pathogen *A.*

tumefaciens. The subject cotton line has been evaluated in field trials conducted since 1991 under APHIS permits or notifications. In the process of reviewing the applications for field trials of the subject cotton, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical containment or isolation, would not present a risk of plant pest introduction or dissemination.

In the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq*.), ''plant pest'' is defined as ''any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants.'' APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

This genetically engineered cotton line is also currently subject to regulation by other agencies. The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq*.). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt by EPA regulation. Plants that have been genetically modified for tolerance or resistance to herbicides are not regulated under the FIFRA because the plants themselves are not considered pesticides.

In cases in which the genetically modified plants allow for a new use of an herbicide or involve a different use pattern for the herbicide, the EPA must approve the new or different use. In conducting such an approval, the EPA considers the possibility of adverse effects to human health and the environment from the use of this herbicide. When the use of the herbicide on the genetically modified plant would result in an increase in the residues of the herbicide in a food or feed crop for which the herbicide is currently registered, or in new residues in a crop for which the herbicide is not currently registered, establishment of a new tolerance or a revision of the existing tolerance would be required. Residue tolerances for pesticides are established by the EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 201 *et seq*.), and the Food and Drug Administration (FDA) enforces tolerances set by the EPA under the FFDCA.

The FDA published a statement of policy on foods derived from new plant varieties in the Federal Register on May 29, 1992 (57 FR 22984–23005). The FDA statement of policy includes a discussion of the FDA's authority for ensuring food safety under the FFDCA, and provides guidance to industry on the scientific considerations associated with the development of foods derived from new plant varieties, including those plants developed through the techniques of genetic engineering.

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the Petition for Determination of Nonregulated Status from any interested person for a period of 60 days from the date of this notice. The petition and any comments received are available for public review, and copies of the petition may be ordered (see the **ADDRESSES** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. Based on the available information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the Federal Register announcing the regulatory status of Dupont's cotton line 19–51a and the availability of APHIS' written decision.

Authority: 7 U.S.C. 150aa–150jj, 151–167, and 1622n; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 20th day of October 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–26616 Filed 10–25–95; 8:45 am]

BILLING CODE 3410–34–P

Food Safety and Inspection Service

[Docket No. 95–047N]

Food Safety Forum

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of meeting and invitation to file comments.

SUMMARY: The Secretary of Agriculture will hold a Food Safety Forum on November 8, 1995, in Washington, DC. The Forum will focus on food safety reform issues beyond the specific issues addressed in FSIS' February 3, 1995, Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems proposed rule. FSIS seeks suggested topics for the Food Safety Forum agenda. Those unable to attend the Food Safety Forum are encouraged to provide written comments on food safety reform issues.

DATES: The Forum will be held on November 8, 1995 from 9 a.m. to 4 p.m.

ADDRESSES: The Forum will be convened at the U.S. Department of Agriculture, 14th and Independence Avenue, Back of the South Building Cafeteria (between the 2nd and 3rd wings).

Suggested topics should be submitted by November 1, 1995. Written comments on food safety reform should be submitted in triplicate by November 13, 1995. Send suggested topics and written comments to the FSIS Docket Clerk, DOCKET 95–047N, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Danner, Director, Planning Office, Policy Evaluation and Planning Staff, FSIS, USDA, Room 6904, Franklin Court, Washington, DC 20250, (202) 501–7138. Persons who wish to attend the Forum should contact Ms. Lisa Parks at (202) 501–7138; fax (202) 501–7642.

SUPPLEMENTARY INFORMATION: Secretary of Agriculture Dan Glickman is holding a Food Safety Forum on November 8, 1995, in Washington, DC. The purpose of the Forum is to foster discussion among all interested parties concerning improvement of the Department of Agriculture's meat and poultry inspection programs. The Forum is intended to address food safety reform issues beyond the specific issues addressed in FSIS' Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems proposal. However, a transcript of the Food Safety Forum discussions will be made part of that rulemaking record.

Food Safety Forum agenda topics include: (1) Whether legislative changes to the Federal meat and poultry inspection acts are needed; (2) how USDA can best improve food safety through FSIS organizational change, regulatory reform, reliance on user fees, effective resource allocation, and other means; (3) cooperation between USDA and State inspection programs; and (4) government and private sector roles in consumer education regarding safe food handling practices. Suggestions for additional topics should be submitted to FSIS no later than November 1, 1995.

Those who wish to express their views on these or other food safety reform issues, but are unable to attend the Forum, are encouraged to provide written comments to FSIS by Monday, November 13, 1995.

Persons who wish to attend the Forum should contact Ms. Lisa Parks at (202) 501–7138; fax (202) 720–7642. Please contact Ms. Parks to make arrangements for sign language and oral interpreters.

Done at Washington, DC, on: October 20, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–26613 Filed 10–23–95; 1:39 pm]

BILLING CODE 3410–DM–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Hawaii Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 5 p.m. on Wednesday, November 29, 1995, at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, Hawaii 96814. The purpose of the meeting is to orient newly appointed members and plan future projects and activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Oswald Stender, 808–523–6203, or Thomas V. Pilla, Acting Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 18, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–26538 Filed 10–25–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–821, A–588–837]

Notice of Postponement of Preliminary Determinations: Antidumping Investigations of Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Germany and Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: William H. Crow II or V. Irene Darzenta, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0116 or (202) 482–6230, respectively.

The Applicable Statute:

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

Postponement of Preliminary Determinations

On October 16, 1995, Rockwell International Corporation, the petitioner, requested that the Department postpone the preliminary determinations of these investigations by 50 days. Pursuant to section 773 (c)(1)(A) of the Act, we are postponing the date of the preliminary determinations as to whether sales of large newspaper printing presses from Germany and Japan have been made at less than fair value until no later than January 26, 1996.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: October 20, 1995.

Richard W. Moreland,

Acting Deputy Assistant Secretary for Investigations, Import Administration.

[FR Doc. 95–26627 Filed 10–25–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–412–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On May 10, 1995, the Department of Commerce (the Department) published in the Federal Register its preliminary results of administrative review of the countervailing duty order on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom for the period September 17, 1992, through December 31, 1993. We have completed this review and determine the net subsidy to be 20.33 percent *ad valorem* for Allied Steel and Wire Limited (ASW Limited), and 7.03 percent *ad valorem* for all other companies for the period September 17, 1992, through December 31, 1992; we further determine the net subsidy to be 20.33 percent *ad valorem* for ASW Limited, 2.68 percent *ad valorem* for United Engineering Steels (UES), and 9.76 percent *ad valorem* for all other companies for the periods January 1, 1993, through January 14, 1993, and March 22, 1993, through December 31, 1993. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: October 26, 1995.

FOR FURTHER INFORMATION CONTACT: Melanie Brown or Christopher Cassel, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4406; (202) 482–4847.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 1995, the Department published in the Federal Register (60 FR 24833) the preliminary results of its administrative review of the countervailing duty order on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On

June 9, 1995, case briefs were submitted by the Government of the United Kingdom (UKG) and UES, a producer of the subject merchandise which exported hot-rolled lead and bismuth carbon steel products to the United States during the review period (respondents), and Inland Steel Bar Co. and USS/Kobe Steel Co. (petitioners). On June 16, 1995, rebuttal comments were submitted by UES and by petitioners.

On July 28, 1995, UES presented an additional argument with respect to the preliminary results. Although it was made after the deadline for submission of briefs and rebuttal briefs in this review, UES' submission was prompted by an event which occurred after those deadlines, and' which according to UES, allegedly affects the results of this review. That event was the Department's remand determination, filed with the Court of International Trade (CIT) on July 17, 1995, in a related case. *See Remand Determination on the General Issue of Privatization: Certain Carbon Steel Products from the United Kingdom* (July 17, 1995) (*Privatization Remand Determination*). Thus, the Department determined that it was appropriate to consider UES' argument and allow interested parties to respond to it. Petitioners submitted their rebuttal argument on August 18, 1995.

The review covers the period September 17, 1992, through December 31, 1993. The review involves two companies accounting for virtually all shipments to the United States of the subject merchandise during the review period, and fifteen programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of the Review

Imports covered by this review are hot-rolled bars and rods of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and for Customs purposes, our written description of the scope of this proceeding is dispositive.

Best Information Available for ASW Limited

Section 776(c) of the Act requires the Department to use best information available (BIA) ''whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation''.

In determining what rate to use as BIA, the Department follows a two-tiered methodology. The Department normally assigns lower BIA rates for those respondents who cooperated in an administrative review and rates based on more adverse assumptions for respondents who did not. *See Final Affirmative Countervailing Duty Determinations; Certain Steel Products from Mexico*, 58 FR 37352, 37361 (July 9, 1993).

In this review ASW Limited did not respond to the Department's two requests for information; therefore, we are assigning ASW Limited a rate based on BIA. The rate we are applying is 20.33 percent *ad valorem*. This rate reflects the rate ASW Limited received in the investigation (*see Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom*, 58 FR 6237, 6243 (January 27, 1993)) (*Lead Bar*). To this rate we added the weighted average rate calculated in this review for the Inner Urban Areas Act, since this program was not examined by the Department during the investigation.

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each company subject to the administrative review. We then weight-averaged the rate received by each company using as the weight its share of total UK exports to the United States of subject merchandise. To determine the value of the exports of ASW Limited based on BIA (*see Best Information Available for ASW Limited*, above), we subtracted the value of UES' exports of subject merchandise to the United States from the total value of merchandise imported under the HTSUS numbers which cover the merchandise subject to this order, as reported in the U.S. IM–146 import statistics.

We then summed the individual companies' weight-averaged rates to determine the subsidy rate from all programs benefitting exports of subject merchandise to the United States. Since the country-wide rate calculated using this methodology was above *de minimis*, as defined by 19 CFR § 355.7 (1994), for both 1992 and 1993, we proceeded to the next step, and examined the net subsidy rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR § 355.22(d)(3).

For 1992, ASW Limited had a significantly different net subsidy rate pursuant to 19 CFR § 355.22(d)(3). This company is treated separately for assessment purposes for the 1992 period. All other companies are assigned the country-wide rate for this period. For 1993, both ASW Limited and UES had significantly different net subsidy rates pursuant to 19 CFR § 355.22(d)(3). These companies are both treated separately for assessment and cash deposit purposes for the 1993 period. All other companies are assigned the country-wide rate for this period.

Analysis of Programs

Based upon analysis of the questionnaire responses, verification, and written comments from the interested parties we determine the following:

I. Programs Conferring Subsidies

A. Allocation of Subsidies From British Steel Corporation to UES

UES is a joint venture company formed in 1986 by British Steel Corporation (BSC) and Guest, Keen & Nettlefolds (GKN). In return for shares in UES, BSC contributed a major portion of its Special Steels Business and GKN contributed its Brymbo Steel Works and its forging business. BSC was wholly owned by the UKG at the time the joint venture was formed; BSC was privatized in 1988 and now bears the name British Steel plc (BS plc).

In the preliminary results of this review, we allocated to UES a portion of the subsidies previously bestowed on BSC under the following programs:

1. Equity Infusions
2. Regional Development Grant Program
3. National Loan Finds Loan Cancellation
4. European Coal and Steel Community (ECSC) Article 54 Loans/Interest Rebates

For a complete explanation of the methodology used to allocate subsidies from BSC to UES, *see Preliminary Results of Administrative Review: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom*, 60 FR 24833, 24834–35 (May 10, 1995). Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings in the preliminary results.

B. Inner Urban Areas Act

In the preliminary results of this review, we found the Inner Urban Areas Act to be countervailable. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change this finding.

II. Program Found Not to Confer Subsidies

In the preliminary results of this review, we found ECSC Article 55 Assistance to be non-countervailable. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change these findings.

III. Programs Found Not to be Used

In the preliminary results of this review, we found that respondents did not apply for or receive benefits under the following programs during the period of review:

A. New Community Instrument Loans
B. ECSC Article 54 Loan Guarantees
C. NLF Loans
D. ECSC Conversion Loans
E. European Regional Development Fund Aid
F. Article 56 Rebates
G. Regional Selective Assistance
H. ECSC Article 56(b)(2) Redeployment Aid
I. BRITE/EuRAM II

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings.

Analysis of Comments

Comment 1: Petitioners argue that the Department should calculate the rate of cash deposit of estimated countervailing duties based on UES' current status as a wholly owned subsidiary of BS plc. Because BS plc purchased all shares in UES previously owned by GKN on March 6, 1995, UES' cash deposit rate should be adjusted to reflect the purchase and should be applied to both UES and BS plc.

Petitioners claim that revising the cash deposit rate as suggested is within the Department's authority. They claim that the Department could accurately estimate the cash deposit rate either by (1) allocating all of the subsidies given to BSC over the combined production of UES and BS plc, and using the result as the cash deposit rate for the BS plc-UES pairing; or, (2) setting the cash deposit rate for the BS plc-UES pairing at the rate found in the *Final Affirmative Countervailing Duty Determination: Certain Steel Products From the United Kingdom*, 58 FR 37393 (July 9, 1993); or, (3) estimating the countervailing duty rate by calculating the 1992 subsidy benefit and adding back the adjustment for repayment of subsidies.

Petitioners argue that unlike antidumping duty reviews, the statute does not require use of the rate established in the review as the deposit rate. This suggests that the Department may adjust the deposit rate as necessary to estimate the countervailing duty most likely to be assessed in future periods. Petitioners further argue that the need for an accurate estimation of the 1995 deposit rate in this proceeding is not obviated by the fact that a subsequent administrative review will determine an exact assessment rate for 1995, taking into account the purchase in question.

UES argues that the countervailing duty deposit rate for UES may not be increased over the net subsidy found in this administrative review. They maintain that the Department's practice (as specified in the *Proposed Regulations*) calls for establishing a different cash deposit rate only when ''program-wide changes'' have occurred subsequent to the review period and before the preliminary results of review are published. Moreover, UES argues, the *Proposed Regulations* specify that program-wide changes may not be limited to an individual firm or firms, and must be ''effectuated by an official act, such as the enactment of a statute, regulation or decree.'' BS plc's acquisition of GKN's shares does not meet any of these requirements, according to UES.

UES also notes that in the investigation of lead and bismuth bar from Brazil, the Department specifically rejected arguments made by respondents that a change in the ownership of a company should be considered as a program-wide change that should affect the cash deposit rate. If the privatization of a company is not a program-wide change, then surely the purchase of shares also is not a program-wide change that requires the adjustment of the cash deposit rate. According to UES, petitioners fail to show that the mere acquisition of shares in UES by BS plc changes the liability for countervailing duties that would otherwise attach to the production of lead bar by UES. Finally, UES maintains that the Department cannot establish a cash deposit rate for BS plc because BS plc has not had the opportunity to participate in this proceeding or to submit comments on this issue as required by both U.S. international obligations and the Department's regulations.

Department's Position: Contrary to petitioners' arguments, the Department has no basis in this review to adjust UES' cash deposit rate to account for BS plc's acquisition. First, because this event occurred well after the review period, the Department did not seek to examine it during the review. Thus, there is no information in the record from which the Department could determine whether or how to adjust the cash deposit rate. Second, while a cash deposit rate may differ from the assessment rate, the regulations provide for establishing a different cash deposit rate only in particular circumstances. Specifically, section 355.50(a) of the Department's *Proposed Regulations* mandates consideration only when a change is program-wide and measurable. Section 355.50(b) of the *Proposed Regulations* defines ''program-wide change'' as a change ''[n]ot limited to an individual firm or firms'' and ''[e]ffectuated by an official act, such as the enactment of a statute, regulation, or decree, or contained in the schedule of an existing statute, regulation or decree.'' BS plc's acquisition of GKN's shares in UES is limited to an individual firm or firms, namely BS plc, UES and GKN.

In the *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil,* 58 FR 6213, 6220 (January 27, 1995), the Department stated: ''[w]e do not consider that privatization, in and of itself constitutes a program-wide change, or that a privatization program is the type of program contemplated for consideration under . . . the Proposed Regulations.'' BS plc's acquisition of GKN's shares in UES does not represent a privatization; it is only a sale of shares. Such a transaction does not constitute a program-wide change. Because the event in question does not constitute a program-wide change, the question of whether the change can be measured (the second criteria delineated in the *Proposed Regulations*) becomes a moot issue. Moreover, the position argued by petitioners that the new rate should apply to the UES and BS plc ''pairing'' becomes moot as well.

Comment 2: Petitioners argue that the Department should calculate the countervailing duty rate without adjusting for the repayment of subsidies. Petitioners take issue with the repayment methodology arguing that it leads to absurd results. Namely, because BSC (a subsidized company) and GKN (an unsubsidized company) contributed the same value of assets for each share of UES they received, it would be illogical to assert that the amount received by BSC includes repayment for past subsidies while the amount received by GKN for assets of the same value does not. Moreover, if the repayment is included, then BSC did overpay for its UES shares, and the overpayment constitutes a subsidy.

Petitioners note that the only available alternative, to consider the subsidies as part of the value of the Special Steels division, has already been rejected by the Department in the *Certain Steel* cases. At that time, the Department stated that treating the assets themselves as the subsidy violates the longstanding principle that the subsidy is measured upon the receipt of the benefit, not upon the use of the benefit.

UES argues that the Department has properly determined that a subsidy repayment occurred when UES acquired productive facilities from BSC. As the Department explained in its remand determination, ''the Department used the term 'repayment' in *Certain Steel* in a broader context to include situations where subsidies are 'allocated' between the seller and the entity being sold.'' *Remand Determination: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom* (October 12, 1993) (*Lead Bar Remand Determination*) at 4–6.

Department's Position: We disagree with petitioners' reasoning. Petitioners appear to imply that repayment of subsidies is in addition to the agreed-upon value of the assets. The Department has never stated or implied that. Instead, the Department's repayment methodology is intended to determine the portion of the sales price of the productive unit (in this case, the Specialty Steels Division) which represents repayment of prior subsidies bestowed on the seller of the productive unit (in this case, BSC), when that seller has been found to have received subsidies. *See General Issues Appendix* appended to the *Final Countervailing Duty Determination: Certain Steel Products from Austria,* 58 FR 37217, 37259 (July 9, 1993) (*General Issues Appendix*).

According to the Department's methodology, when the productive unit is sold, a portion of the sales price is deemed to repay a portion of the outstanding subsidies, which remain with the seller. This methodology is simply used to allocate the subsidies between the seller and the buyer. As the Department explained in its remand determination, ''[w]hen a productive unit is sold by a company which continues to operate (such as BSC), the potentially allocable subsidies which could have traveled with the productive unit, but did not because they were accounted for as part of the purchase price, simply stay with the selling company.'' *Lead Bar Remand Determination* at 5. To the extent that GKN received the same ''payment'' for the assets it contributed to UES, the Department has not applied its repayment methodology because there were no allegations during the investigation or in this review that GKN had received subsidies prior to the formation of UES.

Comment 3: Petitioners refer the Department to the arguments they made with respect to the underlying investigation of *Lead Bar* before the CIT in *Inland Steel Bar Co.* v. *United States* (*Inland Steel*) by submitting their December 6, 1993, Brief in Support of Plaintiffs' Rule 56.2 Motion for Judgment on the Agency Record and their March 15, 1994, Reply Brief. Petitioners allege in these court briefs that the Department improperly reallocated back to BSC a portion of the subsidies properly chargeable to UES. The briefs also allege that the statute requires the use of sales ratios rather than asset ratios in allocating subsidies, and the Department's use of asset ratios was an improper exercise of Departmental discretion.

Department's Position: The arguments presented in the briefs have already been considered and rejected by the Department in the *Lead Bar Remand Determination*. In this proceeding, petitioners have not submitted any new evidence or arguments which would warrant reconsideration of these issues.

Comment 4: UES argues that since the Department has published notice of the CIT's decision in *Inland Steel*, 858 F. Supp. 179 (Ct. Int'l Trade 1994), the Department is legally prohibited from taking action inconsistent with that decision. In *Inland Steel*, the CIT found that ''[w]ith no countervailable benefit surviving the arm's length transaction between BSC and UES, there is no benefit conferred to UES and, therefore, no countervailable subsidy within the meaning of 19 U.S.C. 1677(5).'' Therefore, UES argues that there is no basis for the Department's determination that UES, an independent company that paid fair market value for its assets, is subsidized as a result of funds provided to BSC. Moreover, the CIT found in *Aimcor et al.* v. *United States,* 871 F. Supp. 447, 451 (Ct. Intl. Trade 1994) (*Aimcor*) that in order for the Department to find a countervailable subsidy, it must be demonstrated that the bounty or grant ''went to the manufacture, production, or export of the merchandise in question.'' According to UES, this decision also makes it clear that the countervailing duty statute does not permit the Department simply to presume that one company's production benefits from funds received by another company, absent substantial evidence that the benefit was ''passed through'' to the company under investigation.

Petitioners argue that Federal Circuit and CIT holdings support the Department's practice of waiting for a conclusive court decision before changing the rate of cash deposit of estimated duties. They note that Federal Circuit cases (*e.g., Timken*) have authorized the Department to wait until issuance of a ''conclusive'' decision (one that ends all chance of appeal, *e.g.*, a final decision by the Federal Circuit or final decisions by the CIT that are not appealed) before liquidating entries or changing the rate of cash deposit of estimated countervailing duties.

Moreover, petitioners argue that rather than supporting the CIT's decision in *Inland Steel, Aimcor* supports the Department's conclusion that changes in ownership do not affect countervailability. Petitioners further maintain that in this case, unlike the situation in *Aimcor,* at the time the subsidies were bestowed on BSC, the Specialty Steels Division was part of BSC, rather than a partially owned subsidiary.

Department's Position: The Department is not required to follow a CIT opinion that is before the U.S. Court of Appeals for the Federal Circuit. According to the Federal Circuit's opinion in *Timken Co.* v *United States,* 893 F.2d 337, 339 (Fed. Cir. 1990) (*Timken*), an appealed CIT decision is not a ''final court decision'' within the meaning of 19 U.S.C. 1516a(e). Further, under *Melamine Chemicals, Inc.* v. *United States,* 732 F. 2d 924 (Fed. Cir. 1984) and *NTN Bearing Corp.* v. *United States,* 892 F.2d 1004 (Fed. Cir. 1989), the administrative handling of entries (including collection of estimated duties), should not be altered by court decisions, except for suspension of liquidation, until the issuance of such a final court decision. Because the appeal of the final countervailing duty determination on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom is still pending before the Federal Circuit, there is not yet a final court decision which the Department is required to follow.

With respect to respondents'' privatization argument that there is no basis for determining that UES is subsidized as a result of funds provided to BSC, they have presented no new evidence that would warrant reconsideration of the Department's determination that past subsidies bestowed upon BSC passed-through to UES. The arguments presented by UES have been previously and thoroughly addressed by the Department. *See e.g., Lead Bar* 58 FR at 6238; *General Issues Appendix* 58 FR at 37259 and *Lead Bar Remand Determination.* Thus, the Department's preliminary results remain unchanged with respect to this issue.

Comment 5: UES argues that the Department has improperly allocated the benefit of alleged subsidies over a period representing the average useful life (AUL) of assets in the steel industry; the Department's amortization of subsidies using the AUL method is contrary to law and unsupported by substantial evidence. UES further argues that the CIT has found that the AUL methodology is arbitrary and bears no necessary relationship to the benefit from the subsidy funds (*see British Steel plc* v. *United States,* 879 F. Supp. 1254, 1293–99 (Ct. Int'l Trade 1995) *British Steel*)). Thus, the Department should abandon this approach.

Petitioners note that *British Steel* is pending and that the Department should not decide the appropriate allocation period in this case until this issue has been resolved by the CIT. Moreover, petitioners note that UES suggests no alternative to the 15-year allocation period.

Department's Position: The Department has already considered and rejected respondent's arguments in prior determinations. *See e.g., Lead Bar* 58 FR at 6245 and *General Issues Appendix* 58 FR at 37225. UES has not submitted new arguments or evidence that would lead us to reconsider the AUL method. It is the Department's position that although the actual duration of the benefit is not identifiable, the Department must nevertheless choose a reasonable period over which to allocate grants and equity infusions. The competitive position of any company ultimately depends upon its productive activity; without production, there are no other commercial and competitive factors that are relevant for a manufacturing enterprise. Further, the statute focuses on benefits to production of the subject merchandise. A company's renewable physical assets are absolutely essential to production; and renewable physical assets have a determinable average useful life. The AUL has competitive significance because the renewal of physical assets is essential to production. The Department therefore concludes that the AUL of the renewable physical assets provides a reasonable approximation of the commercial and competitive benefits for all non-recurring subsidies, not just subsidies spent on acquiring renewable physical assets.

In addition, we agree with petitioners with respect to *British Steel.* There has not been a final and conclusive court ruling on the general issue of allocation. Therefore, absent new facts, the Department is applying the AUL methodology.

Comment 6: The UKG argues that the Department should reverse its preliminary finding concerning the grants under the Inner Urban Areas Act (IUAA). The UKG argues that the aid granted under the IUAA is assistance ''to be used for environmental improvement (*i.e.,* beautification of industrial areas).'' Thus, the UKG concludes, such assistance is not a subsidy ''provided with respect to the manufacture, production or exportation of merchandise,'' within the meaning of *Aimcor,* and therefore should not be treated as a countervailable subsidy. Moreover, according to the UKG, such assistance does not confer a benefit that gives rise to a competitive advantage as required by *Cabot Corp.* v. *United States,* 9 CIT 389, 494–495, 620 F. Supp. 722, 729 (1985) (*Cabot*) and *British Steel Corp.* v. *United States,* 9 CIT 85, 95, 605 F. Supp. 286, 194 (1985) (*1985 British Steel*).

Department's Position: The statute and the Department's regulations require the Department to countervail a subsidy that is limited in law to an enterprise or industry or group thereof located in a particular region. In the case of a program conferring a grant, such as the IUAA, a countervailable benefit exists in the amount of the grant. See section 771(5) of the Act and sections 355.43(b)(3) and 355.44(a) of the *Proposed Regulations.* In the preliminary results of review, we determined that aid under the IUAA was limited to enterprises located in selected regions of the United Kingdom. We also determined that the grant was bestowed upon UES Ltd., a manufacturer and exporter of the subject merchandise.

The UKG appears to be arguing that the assistance is tied specifically to beautification and not to the production or exportation of merchandise. We disagree with this analysis. The IUAA provides assistance for environmental improvement (*i.e.* beautification of industrial areas) and economic regeneration. In the grant approval notification documents to UES, the UKG specified that the 1988 funds were for recladding the Templeborough plant buildings and the 1992 funds were for repairing, cleaning, and painting a service gantry which is part of the plant facility. Thus, the stated purpose of these grants was for maintenance of production facilities. The grants benefit the entire operation of the company and are appropriately allocated to total sales of the company. Just because a benefit is not tied directly to production does not mean that it does not provide a benefit to the company's operations and thus to all merchandise produced by that company, including subject merchandise. Accordingly, we disagree with the UKG's contention that the grant in question does not confer a benefit that gives rise to a competitive advantage per the court's decision in *Cabot* and *1985 British Steel.*

In addition, the fact that the grant received by UES Ltd. under this program was ''to be used for environmental beautification'' is not dispositive for purposes of our analysis. ''[T]he statute requires the Department to countervail an allocated share of the subsidies received by producers, regardless of their effect.'' *General Issues Appendix* 58 FR at 37260. The statute does not direct the Department to consider the use to which subsidies are put or to measure their effect on the recipient's subsequent performance. *See*

General Issues Appendix 58 FR at 37260–61.

The UKG incorrectly relies on *Aimcor* in support of its proposition that the aid granted under the IUAA ''should not be treated as a countervailable subsidy.'' In *Aimcor*, the Department found, and the CIT affirmed, that the purchase of FESILVEN's stock by CVG, the parent company of FESILVEN, did not constitute a countervailable subsidy. FESILVEN was the sole producer and exporter of the subject merchandise, ferrosilicon. The Department found ''an insufficient identity of interests to warrant treating CVG and FESILVEN as a single entity,'' and thus determined that CVG's purchase of FESILVEN's stock ''did not result in a bounty or grant because no benefit inured to FESILVEN in the transaction.'' 871 F. Supp. at 450. Thus, the issue before the Court in *Aimcor* was not the purpose or use of the subsidy at hand, but whether any benefit was ''attributable'' (*i.e.*, assigned or allotted) to a related producer/exporter of the subject merchandise. If so, the Department must countervail such subsidies.

Comment 7: UES argues that the Department's preliminary determination is inconsistent with the Department's recent remand determination in *British Steel.* In the preliminary results, the Department determined that a portion of the countervailable subsidies previously bestowed on BSC traveled with its Specialty Steels Division when this division was spun-off to form UES. In the remand determination, the Department found that the Specialty Steels Division was not a corporate entity capable of receiving a subsidy and thus no subsidies could have followed it to UES. *See Privatization Remand Determination* at 41. Thus, UES argues, the Department is double-counting these subsidies and countervailing them both with respect to the merchandise covered by the countervailing duty order on Certain Carbon Steel Products from the United Kingdom and the merchandise covered by the instant countervailing duty order.

Petitioners argue that respondents misread the Department's remand determination, and note that the Department did not concede that UES received no subsidies, but rather the Department's findings were based on best information available. As explained in the *Privatization Remand Determination,* British Steel's failure to provide the information necessary to determine the portion of BSC's subsidies allocable to UES resulted in the Department's finding that all of BSC's subsidies remained with BSC. On the issue of double-counting of subsidies, petitioners argue that both British Steel and UES should properly deposit estimated countervailing duties until the courts decide which company is liable. Furthermore, petitioners note that the general issue of compliance with CIT decisions that are on appeal has been addressed and disposed of by the CIT in *Inland Steel,* and by the Federal Circuit, which has held that ''an appealed CIT decision is not a 'final court decision' within the plain meaning of 19 U.S.C. 1516a(e).'' *Timken.*

Department's Position: During the remand proceedings in *British Steel,* the Department noted that the Court's decision and its instructions for analyzing the spin-off of the Specialty Steels Division resulted in a remand determination which was inconsistent with other determinations in related cases, specifically, the instant case. The Department stated that ''[t]o the extent that the Department's implementation of the Court's opinion leads to ''inconsistent determinations,'' we note that we have registered our disagreement with the Court's opinion and that the general issue of privatization and pre-privatization spin-offs, including the UES spin-off, is on appeal to the United States Court of Appeal for the Federal Circuit.'' (*Privatization Remand Determination* at 41). The *Privatization Remand Determination* is currently pending before the CIT. Furthermore, the appeal of *Inland Steel Bar Co.* v. *the United States* is pending before the Court of Appeals for the Federal Circuit. In accordance with the Federal Circuit's reasoning in *Timken,* since there is no ''final'' court decision, we are not instituting any changes in the privatization and spin-off methodology.

Final Results of Review

In accordance with 19 CFR 355.22(b)(1), an administrative review ''normally will cover entries or exports of merchandise during the most recently completed reporting year of the government of the affected country.'' However, because this is the first administrative review of this countervailing duty order, in accordance with 19 CF 355.22(b)(2), it covers the period, and the corresponding entries, ''from the date of suspension of liquidation * * * to the end of the most recently completed reporting year of the government of the affected country.'' This period is September 17, 1992 through December 31, 1993. Because the reporting year of the UKG is the calendar year, we calculated a separate net subsidy for each year, 1992 and 1993.

Further, during the 1993 calendar year, certain entries were not subject to suspension of liquidation. The Department issued its preliminary affirmative countervailing duty determination on September 17, 1992 (57 FR 42974). Pursuant to section 705 of the Act and Article 5.3 of the GATT Subsidies Code, the Department cannot require suspension of liquidation for more than 120 days without the issuance of a countervailing duty order. Accordingly, the Department instructed Customs to terminate the suspension of liquidation of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 15, 1993. The Department reinstated suspension of liquidation and the cash deposit requirement for entries made on or after March 22, 1993, the date of publication of the countervailing duty order. Thus, merchandise entered on or after January 15, 1993, and before March 22, 1993, is to be liquidated without regard to countervailing duties.

For the period September 17, 1992, through December 31, 1992, we determine the net subsidy to be 20.33 percent *ad valorem* for ASW Limited and 7.03 percent *ad valorem* for all other companies. For the periods January 1, 1993, through January 14, 1993, and March 22, 1993, through December 31, 1993, we determine the net subsidy to be 20.33 percent *ad valorem* for ASW Limited, 2.68 percent *ad valorem* for UES, and 9.76 percent *ad valorem* for all other companies.

Thus, the Department will instruct the U.S. Customs Service to assess the following countervailing duties:

Period	Manufacturer/exporter	Rate (percent)
September 17, 1992–December 31, 1992	ASW Limited	20.33
	All other companies	7.03

Period	Manufacturer/exporter	Rate (percent)
January 1, 1993–January 14, 1993	ASW Limited	20.33
	UES	2.68
	All other companies	9.76
March 22, 1993–December 31, 1993	ASW Limited	20.33
	UES	2.68
	All other companies	9.76

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of 20.33 percent of the f.o.b. invoice price on all shipments of the subject merchandise from ASW Limited, 2.68 percent of the f.o.b. invoice price on all shipments of the subject merchandise from UES, and 9.76 percent of the f.o.b. invoice price on all shipments of the subject merchandise from all other companies, except Glynwed (which was excluded from the order during the original investigation), entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 19, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–26629 Filed 10–25–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–475–819, C–489–806]

Alignment of the Final Countervailing Duty Determinations With the Final Antidumping Duty Determinations: Certain Pasta (''Pasta'') From Italy and Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 26, 1995.

FOR FURTHER INFORMATION CONTACT: Vincent Kane (Italy) or Elizabeth Graham (Turkey), Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482–2815 and 482–4105, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act).

SUPPLEMENTARY INFORMATION: On October 17, 1995, we published preliminary affirmative countervailing duty determinations pertaining to Pasta from Italy and Turkey (60 FR 53739 and 53747).

On October 19, 1995, we received a request from petitioners to postpone the final determinations in these investigations until the date of the final antidumping determinations in the companion antidumping investigations of Pasta from Italy and Turkey, in accordance with 19 CFR 355.20(c)(1). Therefore, pursuant to petitioners' request and the Department's Regulations, we are postponing the final countervailing duty determinations in these investigations until February 21, 1996, the date of the final antidumping duty determinations in the companion antidumping investigations of Pasta from Italy and Turkey.

This notice is published in accordance with Section 705(a)(1) of the Act and 19 CFR 355.20(c)(3)(1994).

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations.

[FR Doc. 95–26628 Filed 10–25–95; 8:45 am]

BILLING CODE 3510–DS–M

THE COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts' next meeting is scheduled for 16 November 1995 at 10:00 AM in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001 to discuss various projects affecting the appearance of Washington, D.C., including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, D.C. October 19, 1995.

Charles H. Atherton,

Secretary.

[FR Doc. 95–26610 Filed 10–25–95; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

October 20, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 23, 1995.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, by recrediting unused carryforward and unused special carryforward and special shift. In a previous directive, the limit for Categories 645/646 was reduced for swing applied to Categories 351/651. The reduction to Categories 645/646 is being cancelled and replaced by a reduction to Category 641.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 5371, published on January 27, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 20, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on October 23, 1995, you are directed to amend further the January 24, 1995 directive to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
342/642	306,796 dozen.
638/639	1,117,518 dozen.
641	548,295 dozen.
645/646	256,897 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.95–26626 Filed 10–25–95; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Reauthorization of the National and Community Service Act of 1990, as Amended, and the Domestic Volunteer Service Act of 1973, as Amended

AGENCY: Corporation for National and Community Service.

ACTION: Request for public comment.

SUMMARY: The Corporation for National and Community Service invites written comments from the public regarding the reauthorization of the Corporation and of programs implemented under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993, 42 U.S.C. 12501 *et seq.*, and the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 *et seq.* The statutory authorization for the Corporation and its programs expires on September 30, 1996. In order to contribute in a timely manner to Congressional reauthorization discussions, the Corporation is reviewing its statutory provisions and programs. To ensure an opportunity for public participation, the Corporation invites public comments.

DATES: Only written comments will be considered. Comments must be submitted on or before December 15, 1995.

ADDRESSES: Comments should be addressed to Terry Russell, General Counsel, Corporation for National Service, 1201 New York Avenue NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Myung J. Lee, Associate General Counsel, Corporation for National Service, 1201 New York Avenue NW., Washington, DC 20525. Telephone: (202) 606–5000, ext. 548.

SUPPLEMENTARY INFORMATION: The Corporation is a government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, human, and environmental needs by achieving direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

Pursuant to the National and Community Service Act of 1990, as amended, the Corporation makes grants to States, subdivisions of States, Indian tribes, U.S. Territories, public or private nonprofit organizations, Federal agencies and institutions of higher education to carry out service programs as part of AmeriCorps* National, AmeriCorps* State, Learn and Serve America (School and Community Based and Higher Education), or AmeriCorps* NCCC (National Civilian Community Corps).

The Corporation also oversees programs implemented under the Domestic Volunteer Service Act of 1973, as amended, including AmeriCorps* VISTA (Volunteers in Service to America) and National Senior Service Corps (Retired Seniors Volunteer Program (RSVP), Senior Companions, and Foster Grandparents) programs.

In order to contribute in a timely manner to the discussions concerning the reauthorization of the Corporation and its programs, the Corporation invites public commentary on any aspect of the Corporation for National Service, its policies, and its programs. Specific statutory references are preferred, but are not necessary to the submission of comments. All comments will be considered but the Corporation will not be able to reply individually to each submitter.

Dated: October 23, 1995.

Terry Russell,

General Counsel, Corporation for National and Community Service.

[FR Doc. 95–26625 Filed 10–25–95; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); FY 96 Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment to notice.

SUMMARY: On October 3, 1995, 60 FR 51779, the Department of Defense published the ''Notice of DRG Revised Rates'' without Tables 1 and 2. These tables provide the rates and weights to be used under the CHAMPUS DRG-based payment system during FY 1996. This amendment is to display the updated rates and weights for Tables 1 and 2.

EFFECTIVE DATE: The rates and weights which affect the CHAMPUS DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Program Development Branch, OCHAMPUS, telephone 303–361–1227.

Dated: October 20, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

Table 1 - National Urban and Rural Adjusted Standardized Amounts, Labor/Non labor, and Cost Share Per Diem

The following summary provides the adjusted standardized amounts and the cost-share per diem for beneficiaries other than dependents of active-duty members.

The adjusted standardized amounts are effective for admissions occurring on or after October 1, 1995.

National Large Urban Adjusted	
Standardized Amount	$3,158.41
Labor portion	$2,255.10
Non labor portion	$903.31

National Other Areas	
Standardized Amount	$3,059.59
Labor portion	$2,184.55
Non labor portion	$875.04

The cost-share per diem is effective for inpatient days of care occurring on or after October 1, 1995.

Cost-share per diem for beneficiaries other than dependents of active duty members	$330.00

Table 2 - CHAMPUS WEIGHTS AND THRESHOLD SUMMARY

EFFECTIVE FOR ADMISSIONS OCCURRING ON OR AFTER OCTOBER 1, 1995.

THE FOLLOWING SUMMARY SHOWS THE FINAL CHAMPUS DRG WEIGHTS AS WELL AS THE ARITHMETIC AND GEOMETRIC AVERAGE LENGTHS OF STAY AND OUTLIER THRESHOLDS FOR ALL CHAMPUS DRGS. LONG STAY THRESHOLD (A) IS APPLICABLE TO ALL HOSPITALS EXCEPT CHILDREN'S HOSPITALS, AND LONG STAY THRESHOLD (B) IS APPLICABLE TO CHILDREN'S HOSPITALS.

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
1	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.6537	9.3	6.8	1	29	23
2	CRANIOTOMY FOR TRAUMA AGE >17	3.9503	10.0	7.4	1	30	24
3	CRANIOTOMY AGE 0-17	2.5894	7.6	5.2	1	28	22
4	SPINAL PROCEDURES	2.3071	7.0	4.9	1	27	21
5	EXTRACRANIAL VASCULAR PROCEDURES	1.7743	3.8	3.1	1	19	10
6	CARPAL TUNNEL RELEASE	0.8124*	4.0	2.4	1	25	25
7	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	2.4017	10.1	6.6	1	29	23
8	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	1.0963	3.0	2.3	1	20	9
9	SPINAL DISORDERS & INJURIES	1.9506	11.1	5.9	1	28	22
10	NERVOUS SYSTEM NEOPLASMS W CC	1.4683	7.4	4.7	1	27	21
11	NERVOUS SYSTEM NEOPLASMS W/O CC	0.8643	4.4	2.7	1	25	16
12	DEGENERATIVE NERVOUS SYSTEM DISORDERS	1.7772	13.3	7.8	1	30	24
13	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	0.8435	5.8	4.6	1	27	17
14	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.3891	6.6	4.7	1	27	21
15	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	0.7899	3.5	2.8	1	21	10
16	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.4173	6.3	3.7	1	26	20
17	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	0.7104	4.8	2.7	1	25	16
18	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	1.1014	6.1	4.3	1	27	19
19	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	0.6873	4.5	2.9	1	25	16
20	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	2.9769	11.2	7.8	1	30	24
21	VIRAL MENINGITIS	0.7278	3.9	3.3	1	20	10
22	HYPERTENSIVE ENCEPHALOPATHY	0.8973	3.3	2.9	1	14	8
23	NONTRAUMATIC STUPOR & COMA	1.0308	4.0	2.9	1	25	13
24	SEIZURE & HEADACHE AGE >17 W CC	0.8375	4.2	3.2	1	26	12
25	SEIZURE & HEADACHE AGE >17 W/O CC	0.5762	2.9	2.4	1	16	8
26	SEIZURE & HEADACHE AGE 0-17	0.5054	2.7	2.1	1	15	7
27	TRAUMATIC STUPOR & COMA, COMA >1 HR	2.1280	6.3	3.1	1	26	20
28	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W CC	1.2506	5.0	3.7	1	26	18
29	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	0.6427	3.6	2.6	1	25	11
30	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	0.4933	2.5	1.9	1	15	7
31	CONCUSSION AGE >17 W CC	0.7766	3.0	2.1	1	24	10
32	CONCUSSION AGE >17 W/O CC	0.4437	1.7	1.4	1	7	4
33	CONCUSSION AGE 0-17	0.3219	1.4	1.3	1	4	2
34	OTHER DISORDERS OF NERVOUS SYSTEM W CC	1.3370	6.7	4.1	1	27	21
35	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	0.7239	4.3	2.8	1	25	15
36	RETINAL PROCEDURES	0.8324	1.7	1.4	1	7	4
37	ORBITAL PROCEDURES	0.8662	2.5	1.9	1	15	7
38	PRIMARY IRIS PROCEDURES	0.4243*	2.7	2.0	1	17	17

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
39	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	0.5036*	1.9	1.5	1	9	9
40	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	0.8508	2.2	1.7	1	13	6
41	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	0.7172	2.2	1.8	1	12	6
42	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	0.7320	1.9	1.6	1	8	4
43	HYPHEMA	0.3665*	3.8	3.0	1	25	25
44	ACUTE MAJOR EYE INFECTIONS	0.4307	3.6	2.9	1	19	9
45	NEUROLOGICAL EYE DISORDERS	0.6855	4.0	3.1	1	25	12
46	OTHER DISORDERS OF THE EYE AGE >17 W CC	0.7979	4.1	3.2	1	26	12
47	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	0.4133	2.5	2.2	1	11	6
48	OTHER DISORDERS OF THE EYE AGE 0-17	0.5004	2.9	2.4	1	14	7
49	MAJOR HEAD & NECK PROCEDURES	2.7535	5.6	4.2	1	27	17
50	SIALOADENECTOMY	0.9322	1.6	1.4	1	5	3
51	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	0.7325*	3.0	2.0	1	23	23
52	CLEFT LIP & PALATE REPAIR	0.7842	1.8	1.5	1	7	4
53	SINUS & MASTOID PROCEDURES AGE >17	1.1404	3.3	1.9	1	24	10
54	SINUS & MASTOID PROCEDURES AGE 0-17	0.8280	2.3	1.6	1	15	7
55	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES	1.0312	2.8	1.8	1	21	9
56	RHINOPLASTY	0.9908	2.0	1.5	1	11	5
57	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.7088	2.2	1.8	1	10	5
58	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.9018	4.5	3.1	1	26	18
59	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.7408	2.5	1.7	1	17	7
60	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.4645	1.6	1.4	1	5	3
61	MYRINGOTOMY W TUBE INSERTION AGE >17	1.2221*	5.9	3.1	1	26	26
62	MYRINGOTOMY W TUBE INSERTION AGE 0-17	0.8189	2.6	2.0	1	16	7
63	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.3142	2.4	2.0	1	12	6
64	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.6632	8.1	5.7	1	28	22
65	DYSEQUILIBRIUM	0.4716	2.5	2.0	1	12	6
66	EPISTAXIS	0.6271	3.5	2.8	1	20	10
67	EPIGLOTTITIS	0.9481	3.3	2.8	1	16	8
68	OTITIS MEDIA & URI AGE >17 W CC	0.5797	3.3	2.9	1	14	8
69	OTITIS MEDIA & URI AGE >17 W/O CC	0.4836	2.8	2.4	1	13	7
70	OTITIS MEDIA & URI AGE 0-17	0.3825	2.6	2.2	1	11	6
71	LARYNGOTRACHEITIS	0.3405	2.0	1.7	1	8	4
72	NASAL TRAUMA & DEFORMITY	0.6419*	4.7	3.0	1	26	26
73	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	0.6098	3.4	2.6	1	20	9
74	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	0.5103	2.7	2.2	1	16	8
75	MAJOR CHEST PROCEDURES	3.2539	9.4	7.2	1	30	24
76	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.6285	8.8	6.2	1	29	23
77	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.0484	3.7	2.9	1	25	12
78	PULMONARY EMBOLISM	1.5778	7.1	6.2	1	29	17
79	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	1.9549	8.7	6.7	1	29	23
80	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	1.1504	5.5	4.6	1	25	13
81	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	1.3933	5.9	4.3	1	27	19
82	RESPIRATORY NEOPLASMS	1.5579	7.0	4.8	1	27	21
83	MAJOR CHEST TRAUMA W CC	1.0536	4.5	3.8	1	25	12
84	MAJOR CHEST TRAUMA W/O CC	0.7418	2.7	2.0	1	19	8
85	PLEURAL EFFUSION W CC	1.4129	6.8	5.2	1	28	21
86	PLEURAL EFFUSION W/O CC	0.9469	4.9	4.0	1	27	15

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
87	PULMONARY EDEMA & RESPIRATORY FAILURE	1.5941	6.6	4.9	1	27	21
88	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	1.0536	5.2	4.2	1	27	14
89	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	1.2163	5.7	4.8	1	27	15
90	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	0.7158	4.0	3.5	1	18	10
91	SIMPLE PNEUMONIA & PLEURISY AGE 0-17	0.6153	3.5	2.9	1	16	8
92	INTERSTITIAL LUNG DISEASE W CC	1.0805	5.1	4.2	1	27	14
93	INTERSTITIAL LUNG DISEASE W/O CC	0.6007	3.0	2.5	1	18	9
94	PNEUMOTHORAX W CC	1.0897	6.1	4.6	1	27	19
95	PNEUMOTHORAX W/O CC	0.5400	3.8	3.0	1	25	11
96	BRONCHITIS & ASTHMA AGE >17 W CC	0.8786	4.4	3.7	1	23	12
97	BRONCHITIS & ASTHMA AGE >17 W/O CC	0.6282	3.4	2.9	1	17	9
98	BRONCHITIS & ASTHMA AGE 0-17	0.5049	2.8	2.4	1	12	7
99	RESPIRATORY SIGNS & SYMPTOMS W CC	0.7425	3.1	2.4	1	19	9
100	RESPIRATORY SIGNS & SYMPTOMS W/O CC	0.5210	2.0	1.7	1	9	5
101	OTHER RESPIRATORY SYSTEM DIAGNOSES W CC	0.8843	4.2	3.3	1	26	13
102	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	0.5617	2.7	2.1	1	15	7
103	HEART TRANSPLANT	-	-	-	-	-	
104	CARDIAC VALVE PROCEDURES W CARDIAC CATH	8.2776	11.7	9.9	1	32	26
105	CARDIAC VALVE PROCEDURES W/O CARDIAC CATH	6.5680	9.5	7.7	1	30	24
106	CORONARY BYPASS W CARDIAC CATH	6.0644	9.4	8.6	2	29	19
107	CORONARY BYPASS W/O CARDIAC CATH	4.8580	7.3	6.7	2	20	14
108	OTHER CARDIOTHORACIC PROCEDURES	5.1703	8.9	7.1	1	30	24
109	NO LONGER VALID	-	-	-	-	-	
110	MAJOR CARDIOVASCULAR PROCEDURES W CC	4.6470	9.2	7.2	1	30	24
111	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	2.5346	5.9	5.0	1	27	17
112	PERCUTANEOUS CARDIOVASCULAR PROCEDURES	2.3053	3.8	3.0	1	25	11
113	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	3.9546	15.6	11.8	1	34	28
114	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	1.7974	8.8	6.5	1	29	23
115	PERM CARDIAC PACEMAKER IMPLANT W AMI, HEART FAILURE OR SHOCK	4.8519	11.7	9.2	1	32	26
116	OTH PERM CARDIAC PACEMAKER IMPLANT OR AICD LEAD OR GENERATOR PRO	2.9986	4.5	3.1	1	26	15
117	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	1.2361	3.0	2.3	1	21	9
118	CARDIAC PACEMAKER DEVICE REPLACEMENT	1.4107	1.5	1.4	1	5	3
119	VEIN LIGATION & STRIPPING	1.2220	3.6	2.2	1	25	11
120	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.2233	7.5	5.0	1	28	22
121	CIRCULATORY DISORDERS W AMI & C.V. COMP DISCH ALIVE	1.8387	5.7	4.6	1	27	17
122	CIRCULATORY DISORDERS W AMI W/O C.V. COMP DISCH ALIVE	1.4000	4.1	3.4	1	24	12
123	CIRCULATORY DISORDERS W AMI, EXPIRED	2.2455	3.9	2.5	1	25	14
124	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG	1.3620	3.8	3.0	1	23	11
125	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG	1.0401	2.5	2.1	1	13	6
126	ACUTE & SUBACUTE ENDOCARDITIS	3.8352	14.1	11.1	1	34	28
127	HEART FAILURE & SHOCK	1.1092	5.1	4.0	1	26	15
128	DEEP VEIN THROMBOPHLEBITIS	0.8795	6.5	5.5	1	28	16
129	CARDIAC ARREST, UNEXPLAINED	1.8331	3.6	2.1	1	25	12
130	PERIPHERAL VASCULAR DISORDERS W CC	1.0390	6.4	5.0	1	27	20
131	PERIPHERAL VASCULAR DISORDERS W/O CC	0.7144	4.9	3.9	1	26	15
132	ATHEROSCLEROSIS W CC	0.6418	2.5	2.1	1	12	6
133	ATHEROSCLEROSIS W/O CC	0.5713	2.3	1.8	1	11	6
134	HYPERTENSION	0.5775	3.0	2.4	1	16	8

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
135	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC	0.7249	4.3	2.8	1	25	14
136	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC	0.5599	2.2	1.7	1	11	5
137	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17	0.4466	2.1	1.5	1	12	6
138	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC	0.7233	3.2	2.5	1	19	9
139	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	0.4704	2.2	1.8	1	9	5
140	ANGINA PECTORIS	0.5890	2.4	2.0	1	11	6
141	SYNCOPE & COLLAPSE W CC	0.6430	2.9	2.4	1	15	8
142	SYNCOPE & COLLAPSE W/O CC	0.4831	2.2	1.8	1	10	5
143	CHEST PAIN	0.4826	1.9	1.6	1	7	4
144	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.2586	5.2	3.8	1	26	17
145	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	0.7620	2.7	2.1	1	16	7
146	RECTAL RESECTION W CC	2.8496	9.0	8.3	2	24	16
147	RECTAL RESECTION W/O CC	2.2186	7.7	7.3	2	20	14
148	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	3.2536	10.8	9.2	1	32	26
149	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.6134	6.3	5.6	1	27	15
150	PERITONEAL ADHESIOLYSIS W CC	2.8092	9.6	7.7	1	30	24
151	PERITONEAL ADHESIOLYSIS W/O CC	1.2731	4.9	4.0	1	26	14
152	MINOR SMALL & LARGE BOWEL PROCEDURES W CC	1.5015	6.5	6.0	1	20	13
153	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.1953	4.9	4.3	1	22	12
154	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC	4.1298	11.6	8.9	1	31	25
155	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC	1.5655	4.9	4.1	1	27	13
156	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17	1.1044	5.5	4.1	1	27	17
157	ANAL & STOMAL PROCEDURES W CC	1.2046	5.2	3.6	1	26	17
158	ANAL & STOMAL PROCEDURES W/O CC	0.6564	2.1	1.8	1	9	5
159	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC	1.3745	4.7	3.6	1	26	15
160	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC	0.8730	2.8	2.3	1	14	7
161	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC	1.0233	3.6	2.8	1	24	11
162	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	0.8054	1.8	1.5	1	7	4
163	HERNIA PROCEDURES AGE 0-17	0.5406	1.7	1.5	1	6	3
164	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	1.8073	6.7	6.0	1	26	15
165	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.2215	4.9	4.3	1	21	12
166	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC	1.0792	3.5	2.9	1	16	8
167	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	0.7488	2.3	2.0	1	8	5
168	MOUTH PROCEDURES W CC	1.7438	4.2	3.3	1	26	13
169	MOUTH PROCEDURES W/O CC	0.8826	2.5	2.0	1	14	7
170	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	2.5609	9.9	7.0	1	29	23
171	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.0150	3.6	2.8	1	23	11
172	DIGESTIVE MALIGNANCY W CC	1.6044	7.2	5.1	1	28	22
173	DIGESTIVE MALIGNANCY W/O CC	0.9185	5.4	3.3	1	26	20
174	G.I. HEMORRHAGE W CC	0.9782	4.1	3.3	1	21	11
175	G.I. HEMORRHAGE W/O CC	0.5756	2.7	2.3	1	11	6
176	COMPLICATED PEPTIC ULCER	0.9860	4.8	3.6	1	26	15
177	UNCOMPLICATED PEPTIC ULCER W CC	0.9070	4.1	3.2	1	25	12
178	UNCOMPLICATED PEPTIC ULCER W/O CC	0.6521	2.7	2.3	1	12	6
179	INFLAMMATORY BOWEL DISEASE	1.2286	6.6	4.9	1	27	20
180	G.I. OBSTRUCTION W CC	0.8371	4.6	3.7	1	26	13
181	G.I. OBSTRUCTION W/O CC	0.4793	3.1	2.5	1	17	8
182	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC	0.7222	3.7	2.8	1	22	10

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
183	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC	0.5473	2.7	2.2	1	14	7
184	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17	0.3207	2.4	2.0	1	11	6
185	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17	0.7537	3.9	2.9	1	25	12
186	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17	0.4516	2.7	2.3	1	13	7
187	DENTAL EXTRACTIONS & RESTORATIONS	0.6473*	3.8	2.8	1	26	26
188	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	1.0596	4.9	3.7	1	26	16
189	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	0.5934	3.8	2.3	1	24	10
190	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17	0.4515	3.0	1.9	1	22	9
191	PANCREAS, LIVER & SHUNT PROCEDURES W CC	5.0061	13.8	9.5	1	32	26
192	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.7636	6.9	6.1	1	29	19
193	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC	3.1008	11.4	9.8	1	32	26
194	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC	1.6937*	8.6	6.9	1	30	30
195	CHOLECYSTECTOMY W C.D.E. W CC	2.4377	6.9	5.7	1	28	20
196	CHOLECYSTECTOMY W C.D.E. W/O CC	1.2673	3.7	3.1	1	23	11
197	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W CC	1.9926	6.9	5.9	1	28	17
198	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W/O CC	1.2891	4.3	3.7	1	20	11
199	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	3.5448	10.2	7.4	1	30	24
200	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY	5.2075	11.7	6.8	1	29	23
201	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	5.3906	17.4	10.8	1	33	27
202	CIRRHOSIS & ALCOHOLIC HEPATITIS	1.8836	7.7	5.7	1	28	22
203	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.3403	6.2	4.3	1	27	21
204	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.2279	6.1	4.8	1	27	18
205	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC	1.1691	5.4	3.9	1	26	18
206	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	0.7014	3.8	2.9	1	25	12
207	DISORDERS OF THE BILIARY TRACT W CC	0.9795	4.0	3.1	1	26	12
208	DISORDERS OF THE BILIARY TRACT W/O CC	0.5885	2.5	2.0	1	13	6
209	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY	2.8313	5.8	5.4	1	17	11
210	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC	2.4447	8.4	7.3	1	30	19
211	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC	1.5179	4.8	4.3	1	19	11
212	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	1.4682	5.3	3.7	1	26	18
213	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS	1.9492	8.1	5.8	1	28	22
214	BACK & NECK PROCEDURES W CC	2.2378	5.1	3.9	1	26	15
215	BACK & NECK PROCEDURES W/O CC	1.2403	2.8	2.4	1	13	7
216	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	1.8858	7.1	4.8	1	27	21
217	WND DEBRID & SKN GRFT EXCEPT HAND,FOR MUSCSKELET & CONN TISS DIS	2.9101	9.4	5.8	1	28	22
218	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W CC	1.6606	4.9	3.9	1	26	14
219	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W/O CC	1.0947	3.1	2.5	1	16	8
220	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE 0-17	0.8583	2.4	1.8	1	12	6
221	KNEE PROCEDURES W CC	1.5816	5.3	3.7	1	26	17
222	KNEE PROCEDURES W/O CC	1.1148	2.1	1.8	1	9	5
223	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC	0.9506	2.1	1.8	1	9	5
224	SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC	0.8402	1.9	1.6	1	7	4
225	FOOT PROCEDURES	0.9223	2.6	2.0	1	15	7
226	SOFT TISSUE PROCEDURES W CC	1.2854	4.8	3.2	1	26	17
227	SOFT TISSUE PROCEDURES W/O CC	0.8634	2.4	1.9	1	12	6
228	MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC	1.2932	3.4	1.9	1	24	10
229	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	0.7828	2.1	1.6	1	9	5
230	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR	0.8679	2.4	1.7	1	15	7

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
231	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR	1.1349	2.8	2.2	1	16	7
232	ARTHROSCOPY	0.9105	2.2	1.7	1	14	6
233	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	2.5136	7.3	4.9	1	27	21
234	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC	1.3744	3.8	2.9	1	25	12
235	FRACTURES OF FEMUR	0.9383	8.2	4.6	1	27	21
236	FRACTURES OF HIP & PELVIS	0.9204	8.0	5.6	1	28	22
237	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	0.5657	3.2	2.3	1	21	9
238	OSTEOMYELITIS	1.4056	7.7	5.9	1	28	22
239	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY	1.6476	8.4	5.5	1	28	22
240	CONNECTIVE TISSUE DISORDERS W CC	1.4554	6.7	4.9	1	27	21
241	CONNECTIVE TISSUE DISORDERS W/O CC	0.6978	4.0	3.0	1	26	13
242	SEPTIC ARTHRITIS	0.8328	5.8	4.5	1	27	17
243	MEDICAL BACK PROBLEMS	0.6188	3.9	3.0	1	26	12
244	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC	0.7771	5.4	4.2	1	27	17
245	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	0.5743	3.9	3.4	1	16	9
246	NON-SPECIFIC ARTHROPATHIES	0.3998	2.9	2.3	1	19	9
247	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE	0.6545	3.8	2.6	1	25	13
248	TENDONITIS, MYOSITIS & BURSITIS	0.6601	3.9	2.8	1	25	12
249	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	0.8535	5.6	3.0	1	26	20
250	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC	0.5276	2.6	2.0	1	17	8
251	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC	0.5896	2.1	1.8	1	10	5
252	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17	0.3952	1.3	1.2	1	3	2
253	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W CC	1.2619	7.6	4.5	1	27	21
254	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC	0.4100	2.0	1.7	1	9	5
255	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17	0.4154	2.2	1.7	1	11	5
256	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES	0.5939	2.9	2.3	1	17	8
257	TOTAL MASTECTOMY FOR MALIGNANCY W CC	1.2233	3.0	2.5	1	14	7
258	TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.9917	2.5	2.2	1	11	6
259	SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC	0.9040	2.0	1.7	1	9	5
260	SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.7646	1.6	1.4	1	5	3
261	BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION	1.1646	1.8	1.5	1	7	4
262	BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	0.7115*	4.0	2.6	1	26	26
263	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC	2.4084	12.2	8.5	1	31	25
264	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC	1.2765	6.8	4.8	1	27	21
265	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC	1.8441	5.6	4.0	1	27	20
266	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O C	1.1838	3.2	2.4	1	23	10
267	PERIANAL & PILONIDAL PROCEDURES	0.8368	4.1	2.5	1	25	12
268	SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES	1.2299	3.0	2.2	1	16	8
269	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.6076	5.8	4.0	1	26	20
270	OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC	0.7568	2.8	2.0	1	19	8
271	SKIN ULCERS	1.1484	8.0	6.5	1	29	22
272	MAJOR SKIN DISORDERS W CC	0.8065	4.6	3.8	1	26	13
273	MAJOR SKIN DISORDERS W/O CC	0.6380	3.7	3.1	1	25	11
274	MALIGNANT BREAST DISORDERS W CC	1.2207	6.1	3.9	1	26	20
275	MALIGNANT BREAST DISORDERS W/O CC	0.4845*	3.5	2.4	1	25	25
276	NON-MALIGANT BREAST DISORDERS	0.5028	3.0	2.3	1	20	9
277	CELLULITIS AGE >17 W CC	0.9855	6.0	4.7	1	27	18
278	CELLULITIS AGE >17 W/O CC	0.5712	4.1	3.6	1	17	10

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
279	CELLULITIS AGE 0-17	0.4591	3.4	2.8	1	17	9
280	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	0.6777	3.4	2.5	1	25	11
281	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC	0.6147	2.1	1.6	1	10	5
282	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17	0.4592	1.6	1.3	1	6	3
283	MINOR SKIN DISORDERS W CC	0.6486	3.9	2.9	1	25	12
284	MINOR SKIN DISORDERS W/O CC	0.4042	3.0	2.3	1	17	8
285	AMPUTAT OF LOWER LIMB FOR ENDOCRINE,NUTRIT,& METABOL DISORDERS	2.1545	11.0	8.7	1	31	25
286	ADRENAL & PITUITARY PROCEDURES	2.2258	6.1	5.2	1	24	14
287	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS	2.0473	11.2	8.8	1	31	25
288	O.R. PROCEDURES FOR OBESITY	1.6005	4.2	3.9	1	11	7
289	PARATHYROID PROCEDURES	0.9554	2.6	2.1	1	12	6
290	THYROID PROCEDURES	0.9362	2.1	1.7	1	9	5
291	THYROGLOSSAL PROCEDURES	0.4657*	1.6	1.4	1	6	6
292	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	3.3947	10.6	6.9	1	29	23
293	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	0.9688	3.9	3.1	1	26	12
294	DIABETES AGE >35	0.7743	4.4	3.6	1	25	12
295	DIABETES AGE 0-35	0.5868	3.3	2.7	1	17	9
296	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	1.0005	5.2	3.7	1	26	17
297	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC	0.5349	3.0	2.3	1	18	8
298	NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17	0.3240	2.4	2.0	1	11	6
299	INBORN ERRORS OF METABOLISM	0.8316	4.8	3.2	1	26	18
300	ENDOCRINE DISORDERS W CC	0.9164	4.9	3.5	1	26	15
301	ENDOCRINE DISORDERS W/O CC	0.5963	3.1	2.3	1	18	8
302	KIDNEY TRANSPLANT	3.5006	9.6	8.7	2	31	20
303	KIDNEY,URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM	2.4751	7.8	7.1	1	26	16
304	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC	2.1836	6.7	5.3	1	28	19
305	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC	1.2366	4.0	3.3	1	23	11
306	PROSTATECTOMY W CC	1.2971	5.2	3.9	1	26	16
307	PROSTATECTOMY W/O CC	0.6639*	3.3	2.7	1	17	17
308	MINOR BLADDER PROCEDURES W CC	1.5132	5.6	4.1	1	27	20
309	MINOR BLADDER PROCEDURES W/O CC	1.1238	3.5	2.7	1	24	11
310	TRANSURETHRAL PROCEDURES W CC	0.9730	3.2	2.4	1	19	9
311	TRANSURETHRAL PROCEDURES W/O CC	0.7567	1.9	1.7	1	8	4
312	URETHRAL PROCEDURES, AGE >17 W CC	0.8891*	5.1	3.3	1	26	26
313	URETHRAL PROCEDURES, AGE >17 W/O CC	1.0748	3.0	2.5	1	19	9
314	URETHRAL PROCEDURES, AGE 0-17	0.4756*	2.3	2.3	1	25	25
315	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.0094	6.3	4.3	1	27	21
316	RENAL FAILURE	1.4625	7.3	5.1	1	28	22
317	ADMIT FOR RENAL DIALYSIS	0.6556*	4.1	2.7	1	26	26
318	KIDNEY & URINARY TRACT NEOPLASMS W CC	1.6720	6.7	5.0	1	28	21
319	KIDNEY & URINARY TRACT NEOPLASMS W/O CC	0.5432*	3.4	2.2	1	25	25
320	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC	0.8089	4.6	3.8	1	23	12
321	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	0.5903	3.4	2.9	1	16	8
322	KIDNEY & URINARY TRACT INFECTIONS AGE 0-17	0.4629	3.3	2.9	1	13	8
323	URINARY STONES W CC, &/OR ESW LITHOTRIPSY	0.6472	2.4	1.9	1	12	6
324	URINARY STONES W/O CC	0.3804	1.8	1.5	1	7	4
325	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC	0.5301	3.0	2.2	1	23	10
326	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC	0.2959	2.2	1.9	1	9	5

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
327	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17	0.4262	2.9	2.2	1	18	8
328	URETHRAL STRICTURE AGE >17 W CC	0.6672*	4.4	3.2	1	26	26
329	URETHRAL STRICTURE AGE >17 W/O CC	0.4233*	2.3	1.9	1	13	13
330	URETHRAL STRICTURE AGE 0-17	0.3063*	1.6	1.6	1	9	9
331	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	0.9491	4.8	3.3	1	26	16
332	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC	0.5808	2.3	1.8	1	11	6
333	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17	0.5635	3.2	2.5	1	20	9
334	MAJOR MALE PELVIC PROCEDURES W CC	1.9969	5.5	5.1	1	15	10
335	MAJOR MALE PELVIC PROCEDURES W/O CC	1.6444	4.7	4.4	1	13	9
336	TRANSURETHRAL PROSTATECTOMY W CC	0.9495	3.3	2.8	1	15	8
337	TRANSURETHRAL PROSTATECTOMY W/O CC	0.7558	2.4	2.2	1	7	4
338	TESTES PROCEDURES, FOR MALIGNANCY	1.3430	4.3	3.2	1	26	16
339	TESTES PROCEDURES, NON-MALIGNANCY AGE >17	0.8587	3.1	2.1	1	25	12
340	TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17	0.5786	1.6	1.2	1	5	3
341	PENIS PROCEDURES	1.3397	2.2	1.8	1	10	5
342	CIRCUMCISION AGE >17	0.7360*	4.2	2.8	1	26	26
343	CIRCUMCISION AGE 0-17	0.1479*	1.7	1.7	1	6	6
344	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY	1.3655	3.2	2.4	1	23	10
345	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY	0.8435*	4.6	3.0	1	26	26
346	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC	0.8843	4.2	3.2	1	26	16
347	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	0.4853*	3.6	2.5	1	25	25
348	BENIGN PROSTATIC HYPERTROPHY W CC	0.8256	3.1	2.9	1	9	6
349	BENIGN PROSTATIC HYPERTROPHY W/O CC	0.4241*	3.1	2.3	1	22	22
350	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	0.5787	3.5	2.7	1	21	10
351	STERILIZATION, MALE	0.2271*	1.3	1.3	1	5	5
352	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	0.5932*	4.2	3.1	1	26	26
353	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY	1.9904	6.0	5.1	1	28	15
354	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC	1.3797	4.3	3.8	1	15	9
355	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC	1.0071	3.0	2.8	1	10	6
356	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	0.8546	2.7	2.5	1	9	6
357	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY	2.2673	7.2	6.2	1	29	18
358	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.1543	3.5	3.1	1	12	7
359	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	0.9631	2.7	2.6	1	8	5
360	VAGINA, CERVIX & VULVA PROCEDURES	0.9621	3.0	2.5	1	13	7
361	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	0.9446	2.6	2.1	1	13	6
362	ENDOSCOPIC TUBAL INTERRUPTION	0.2902*	1.4	1.4	1	5	5
363	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	0.7189	2.4	2.1	1	8	5
364	D&C, CONIZATION EXCEPT FOR MALIGNANCY	0.6706	2.3	1.8	1	13	6
365	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.2739	3.8	3.0	1	23	11
366	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	1.3647	6.7	4.2	1	27	21
367	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	0.7548	3.0	2.0	1	22	9
368	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	0.6130	3.5	2.9	1	18	9
369	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	0.3834	2.1	1.7	1	10	5
370	CESAREAN SECTION W CC	0.9914	4.2	3.7	1	14	8
371	CESAREAN SECTION W/O CC	0.7950	3.2	3.0	1	7	5
372	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	0.5182	2.2	1.9	1	9	5
373	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	0.3871	1.6	1.5	1	5	3
374	VAGINAL DELIVERY W STERILIZATION &/OR D&C	0.6798	2.0	1.8	1	6	4

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
375	VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	0.6817	2.5	2.1	1	13	6
376	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE	0.4551	2.8	2.2	1	15	7
377	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE	0.7310	3.1	2.3	1	18	8
378	ECTOPIC PREGNANCY	0.8813	2.4	2.0	1	11	6
379	THREATENED ABORTION	0.4815	3.2	2.2	1	22	10
380	ABORTION W/O D&C	0.3987	1.5	1.3	1	5	3
381	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	0.5085	1.4	1.2	1	4	2
382	FALSE LABOR	0.2338	1.6	1.3	1	6	3
383	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS	0.3651	2.7	2.2	1	14	7
384	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	0.3835	2.6	1.9	1	16	7
385	NO LONGER VALID	-	-	-	-	-	
386	NO LONGER VALID	-	-	-	-	-	
387	NO LONGER VALID	-	-	-	-	-	
388	NO LONGER VALID	-	-	-	-	-	
389	NO LONGER VALID	-	-	-	-	-	
390	NO LONGER VALID	-	-	-	-	-	
391	NORMAL NEWBORN	0.1054	1.7	1.5	1	5	3
392	SPLENECTOMY AGE >17	2.3143	7.1	6.0	1	29	18
393	SPLENECTOMY AGE 0-17	1.5552	5.2	5.0	2	11	8
394	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS	1.2418	4.7	3.3	1	26	16
395	RED BLOOD CELL DISORDERS AGE >17	1.0005	4.8	3.5	1	26	16
396	RED BLOOD CELL DISORDERS AGE 0-17	0.5765	3.7	2.8	1	24	11
397	COAGULATION DISORDERS	1.2660	4.3	3.1	1	26	14
398	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	1.3734	5.9	4.7	1	27	17
399	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	0.6273	3.5	2.8	1	21	10
400	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	2.2492	7.7	5.1	1	28	22
401	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	3.7040	11.6	8.2	1	31	25
402	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC	1.1409	3.5	2.3	1	25	13
403	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	2.4655	10.0	6.9	1	29	23
404	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	1.0991	4.2	3.3	1	26	13
405	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17	2.3584	8.1	5.4	1	28	22
406	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC	3.1609	9.8	7.8	1	30	24
407	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC	1.3106	3.6	3.1	1	19	10
408	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC	2.4183	7.6	4.4	1	27	21
409	RADIOTHERAPY	0.8735	4.5	3.4	1	26	13
410	CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	0.9451	3.1	2.5	1	18	9
411	HISTORY OF MALIGNANCY W/O ENDOSCOPY	0.5015*	3.4	2.5	1	25	25
412	HISTORY OF MALIGNANCY W ENDOSCOPY	0.4530*	2.9	2.1	1	24	24
413	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC	1.6678	7.7	5.5	1	28	22
414	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	0.7283	3.9	2.5	1	25	14
415	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	3.4175	12.0	8.7	1	31	25
416	SEPTICEMIA AGE >17	1.8618	7.2	5.5	1	28	22
417	SEPTICEMIA AGE 0-17	1.0219	5.2	4.3	1	27	15
418	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	0.8216	5.0	4.2	1	26	13
419	FEVER OF UNKNOWN ORIGIN AGE >17 W CC	0.9866	4.9	3.9	1	26	14
420	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	0.6545	3.7	3.2	1	17	9
421	VIRAL ILLNESS AGE >17	0.5719	2.9	2.4	1	15	7
422	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17	0.4374	2.9	2.4	1	13	7

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
423	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.8956	7.7	4.9	1	27	21
424	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	2.4543*	20.0	12.1	1	35	35
425	ACUTE ADJUST REACT & DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION	0.5845	3.9	2.8	1	25	13
426	DEPRESSIVE NEUROSES	0.9796	8.6	5.7	1	28	22
427	NEUROSES EXCEPT DEPRESSIVE	0.6168	5.3	3.5	1	26	20
428	DISORDERS OF PERSONALITY & IMPULSE CONTROL	0.8630	8.4	6.4	1	29	23
429	ORGANIC DISTURBANCES & MENTAL RETARDATION	1.0731	21.7	8.5	1	31	25
430	PSYCHOSES	1.0187	9.3	6.9	1	29	23
431	CHILDHOOD MENTAL DISORDERS	1.1638	10.9	8.3	1	31	25
432	OTHER MENTAL DISORDER DIAGNOSES	0.7018*	6.6	4.2	1	27	27
433	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	0.4210	4.9	3.6	1	26	17
434	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W CC	0.8120	5.2	3.7	1	26	17
435	NO LONGER VALID	-	-	-	-	-	
436	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY	0.9889	16.2	13.4	1	36	30
437	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY	0.9818	13.0	10.4	1	33	27
438	NO LONGER VALID	-	-	-	-	-	
439	SKIN GRAFTS FOR INJURIES	0.9815	3.8	3.1	1	26	12
440	WOUND DEBRIDEMENTS FOR INJURIES	2.0790	8.1	5.3	1	28	22
441	HAND PROCEDURES FOR INJURIES	1.0864	3.3	2.7	1	18	9
442	OTHER O.R. PROCEDURES FOR INJURIES W CC	2.0796	6.9	4.7	1	27	21
443	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	0.9935	2.8	2.2	1	18	8
444	TRAUMATIC INJURY AGE >17 W CC	0.7614	3.8	3.0	1	24	11
445	TRAUMATIC INJURY AGE >17 W/O CC	0.5071	3.0	2.4	1	18	8
446	TRAUMATIC INJURY AGE 0-17	0.4947	2.3	1.9	1	11	6
447	ALLERGIC REACTIONS AGE >17	0.3972	2.0	1.6	1	10	5
448	ALLERGIC REACTIONS AGE 0-17	0.3667	2.1	1.9	1	8	4
449	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC	0.7193	2.8	2.0	1	17	8
450	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	0.4183	1.9	1.5	1	8	4
451	POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17	0.4039	2.0	1.6	1	9	5
452	COMPLICATIONS OF TREATMENT W CC	0.7421	3.7	2.7	1	24	11
453	COMPLICATIONS OF TREATMENT W/O CC	0.4229	2.5	1.9	1	13	6
454	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC	0.9468	4.0	2.5	1	25	14
455	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC	0.3355	1.3	1.2	1	3	2
456	BURNS, TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	1.9410*	8.2	4.2	1	27	27
457	EXTENSIVE BURNS W/O O.R. PROCEDURE	1.5849*	5.1	2.5	1	26	26
458	NON-EXTENSIVE BURNS W SKIN GRAFT	3.1496	14.3	9.9	1	32	26
459	NON-EXTENSIVE BURNS W WOUND DEBRIDEMENT OR OTHER O.R. PROC	2.5400	8.4	5.0	1	28	22
460	NON-EXTENSIVE BURNS W/O O.R. PROCEDURE	0.7765	5.2	3.3	1	26	20
461	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES	1.9366	10.5	4.2	1	27	21
462	REHABILITATION	2.1152	16.0	12.4	1	35	29
463	SIGNS & SYMPTOMS W CC	0.8808	5.0	3.2	1	26	18
464	SIGNS & SYMPTOMS W/O CC	0.4593	2.0	1.7	1	8	4
465	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.4362*	2.9	1.9	1	20	20
466	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	1.0492	8.5	3.5	1	26	20
467	OTHER FACTORS INFLUENCING HEALTH STATUS	0.7140	4.1	1.9	1	24	12
468	EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	3.1123	10.0	5.8	1	28	22
469	PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	-	-	-	-	-	
470	UNGROUPABLE	-	-	-	-	-	

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
471	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY	4.2489	8.7	8.0	2	26	17
472	EXTENSIVE BURNS W O.R. PROCEDURE	10.6993*	31.4	14.3	1	37	37
473	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	6.2881	17.5	10.0	1	33	27
474	NO LONGER VALID	-	-	-	-	-	
475	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	4.2082	10.6	7.1	1	30	24
476	PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	2.2703*	15.1	11.5	1	35	35
477	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.3771	4.8	3.1	1	26	18
478	OTHER VASCULAR PROCEDURES W CC	2.9926	7.2	5.0	1	28	22
479	OTHER VASCULAR PROCEDURES W/O CC	1.9393	3.5	2.8	1	20	10
480	LIVER TRANSPLANT	-	-	-	-	-	
481	BONE MARROW TRANSPLANT	15.9298	32.6	31.8	15	54	48
482	TRACHEOSTOMY FOR FACE,MOUTH & NECK DIAGNOSES	3.6798	10.2	8.3	1	31	25
483	TRACHEOSTOMY EXCEPT FOR FACE,MOUTH & NECK DIAGNOSES	18.5464	36.6	28.0	2	51	45
484	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	5.4488*	17.1	10.9	1	34	34
485	LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT T	5.6740	13.9	10.7	1	33	27
486	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA	4.5530	10.5	8.3	1	31	25
487	OTHER MULTIPLE SIGNIFICANT TRAUMA	2.5373	7.3	4.9	1	27	21
488	HIV W EXTENSIVE O.R. PROCEDURE	4.2177*	19.0	13.9	1	37	37
489	HIV W MAJOR RELATED CONDITION	2.3731	10.7	7.1	1	30	24
490	HIV W OR W/O OTHER RELATED CONDITION	1.1058	6.0	4.3	1	27	21
491	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY	1.8870	3.9	3.3	1	18	10
492	CHEMOTHERAPY W ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	2.3209	8.2	4.7	1	27	21
493	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W CC	1.6124	3.9	3.1	1	25	12
494	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W/O CC	1.1054	2.1	1.8	1	10	5
495	LUNG TRANSPLANT	9.5678*	23.2	18.2	1	41	41
600	NEONATE, DIED W/IN ONE DAY OF BIRTH	0.6596	1.0	1.0	1	1	1
601	NEONATE, TRANSFERRED <5 DAYS OLD	0.4898	1.4	1.3	1	2	2
602	NEONATE, BIRTHWT <750G, DISCHARGED ALIVE	19.6049	58.2	35.4	1	52	52
603	NEONATE, BIRTHWT <750G, DIED	6.9494	10.0	6.8	1	23	23
604	NEONATE, BIRTHWT 750-999G, DISCHARGED ALIVE	17.1978	60.1	44.6	1	61	61
605	NEONATE, BIRTHWT 750-999G, DIED	9.3827	24.0	9.6	1	26	26
606	NEONATE, BIRTHWT 1000-1499G, W SIGNIF OR PROC, DISCHARGED ALIVE	18.6009	59.2	46.7	5	63	63
607	NEONATE, BIRTHWT 1000-1499G, W/O SIGNIF OR PROC, DISCHARGED ALIV	7.4013	37.8	31.9	4	48	48
608	NEONATE, BIRTHWT 1000-1499G, DIED	4.9450	10.0	10.0	10	10	10
609	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W MULT MAJOR PROB	18.1722	43.5	41.4	10	58	58
610	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W/O MULT MAJOR PR	3.8729**	0.0	0.0	0	0	0
611	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MULT MAJOR PR	5.0390	22.2	18.8	2	35	35
612	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MAJOR PROB	4.5406	20.5	17.2	2	34	34
613	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MINOR PROB	3.1604	19.1	15.9	2	32	32
614	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W OTHER PROB	1.4794	11.9	9.8	1	26	26
615	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	8.0025	19.5	18.1	4	35	35
616	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W/O MULT MAJOR PR	8.7679	22.0	22.0	22	22	22
617	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MULT MAJOR PR	3.7964	12.1	9.1	1	26	26
618	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MAJOR PROB	2.2265	10.6	8.6	1	25	25
619	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MINOR PROB	1.9716	10.2	7.9	1	24	24
620	NO LONGER VALID	-	-	-	-	-	
621	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.4636	3.9	2.8	1	12	12
622	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	8.6113	27.5	20.4	1	37	37

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
623	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W/O MULT MAJOR PROB	2.8458	10.9	6.5	1	23	23
624	NEONATE, BIRTHWT >2499G, W MINOR ABDOM PROCEDURE	0.7588	2.8	2.6	1	6	6
625	NO LONGER VALID	-	-	-	-	-	
626	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MULT MAJOR PROB	2.4222	8.8	6.1	1	23	23
627	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MAJOR PROB	1.0876	4.9	3.7	1	15	15
628	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MINOR PROB	0.6469	4.2	3.3	1	12	12
629	NO LONGER VALID	-	-	-	-	-	
630	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.2015	2.2	1.9	1	5	5
631	BPD AND OTH CHRONIC RESPIRATORY DISEASES ARISING IN PERINATAL PE	2.1004	4.7	2.8	1	19	19
632	OTHER RESPIRATORY PROBLEMS AFTER BIRTH	0.4995	3.0	2.5	1	9	9
633	MULTIPLE, OTHER AND UNSPECIFIED CONGENITAL ANOMALIES, W CC	1.2079**	0.0	0.0	0	0	0
634	MULTIPLE, OTHER AND UNSPECIFIED CONGENITAL ANOMALIES, W/O CC	0.3572	2.0	2.0	1	2	2
635	NEONATAL AFTERCARE FOR WEIGHT GAIN	0.2304**	0.0	0.0	0	0	0
636	NEONATAL DIAGNOSIS, AGE > 28 DAYS	3.8777	22.3	12.5	1	29	29
900	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE <= 21 W/O	0.9865	11.0	7.1	1	30	24
901	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE > 21 W/O	0.6063	5.6	4.1	1	27	18

[FR Doc. 95–26535 Filed 10–25–95; 8:45 am]

BILLING CODE 5000–04–C

Office of the Secretary of the Army

Record of Decision on the Final Supplement to the 1989 Environmental Impact Statement for Proposed Actions at U.S. Army Kwajalein Atoll

AGENCY: Department of the Army.

ACTION: Notice of availability.

SUMMARY: This notice of availability is for the Record of Decision (ROD) on the Final Supplemental Environmental Impact Statement (FSEIS) for Proposed Actions at U.S. Army Kwajalein Atoll (USAKA) (U.S. Army Strategic Defense Command (USASSDC), December 1993). The FSEIS assessed the potential environmental impacts for two proposed actions: To increase the level of strategic defense test and evaluation activities to support the development for deployment of missile defense systems; and to implement new environmental standards for USAKA. The ROD makes a decision only on the increase in the level of strategic defense test and evaluation activities. A modified Low Level-of-Activity has been selected in lieu of the Intermediate Level-of-Activity alternative as proposed in the FSEIS.

Lead Agency: USASSDC.

Cooperating Agency: Ballistic Missile Defense Organization.

Selected Action: The ROD identifies a modified Low Level-of-Activity as the selected action instead of the Intermediate Level-of-Activity as proposed in the FSEIS. The ROD describes the specific actions to be included in the modified Low Level-of-Activity, and identifies the required mitigation measures to avoid, minimize, or reduce the impacts of the proposed actions to nonsignificant levels. The modified Low Level-of-Activity gives full consideration to recent budgetary and administrative guidance/direction in the development of testing of Theater Missile Defense (TMD) and National Missile Defense (NMD) program elements. The ROD clearly reflects a shift to TMD program testing at USAKA while maintaining some support for NMD programs.

ADDRESSES: Requests for the ROD may be forwarded to: Commander, U.S. Army Space and Strategic Defense Command, Attn: Kenneth R. Sims, CSSD–EN–V, P.O. Box 1500, Huntsville, AL 35807–3801.

FOR FURTHER INFORMATION CONTACT: Verbal comments and questions regarding the ROD may be directed to Mr. Ed Vaughn at (205) 955–3887.

Dated: October 5, 1995.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 95–26527 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Department of the Army

Corps of Engineers; Chief of Engineers Environmental Advisory Board

AGENCY: Corps of Engineers, Department of the Army, Defense.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), this announces the forthcoming Executive Session of the Chief of Engineers Environmental Advisory Board. The meeting will be held from 8:30 a.m. to 3:30 p.m., Tuesday, November 28, 1995. The meeting location is the Headquarters, U.S. Army Corps of Engineers, Room 8222D, 20 Massachusetts Avenue NW., Washington, DC 20314–1000. The meeting is open to the public and any interested person may attend.

FOR FURTHER INFORMATION CONTACT: Mr. Paul D. Rubenstein, Office of Environmental Policy, U.S. Army Corps of Engineers, Washington, D.C. 20314–1000, (202) 761–8731.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–26537 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–92–M

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: October 23, 1995.

Time of Meeting: 1300–1600.

Place: Killeen, TX.

Agenda: The Army Science Board's (ASB) Ad Hoc Study on ''The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems'' will meet for four hours to outline the final report and begin the report writing for the study. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26514 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: October 23, 1995.

Time of Meeting: 1300–1700.

Place: Ft. Hood, TX.

Agenda: The Army Science Board's Ad Hoc Study on ''Reengineering the Acquisition and Modernization Processes of the Institutional Army'' will meet for an internal strategic planning session. Program Objective Memorandum (POM) information will be discussed. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26515 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: November 16 & 17, 1995.

Time of Meeting: 0930–1700, 16 November 1995, 1000–1500, 17 November 1995.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's (ASB) Ad Hoc Study on ''The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems'' will meet for briefings relative to the subject under study. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26539 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: November 30, & December 1, 1995.

Time of Meeting: 0930–1700, 30 November 1995, 1000–1700, 1 December 1995.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board (ASB) C4I Issue Group will meet to hear selected briefings relative to the study on ''A Strategy for Leveraging Commercial Technologies for Future Army Radios.'' These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26540 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: December 7 & 8, 1995.

Time of Meeting: 0900–1700, 7 December 1995, 0900–1600, 8 December 1995.

Place: Fort Monmouth, NJ.

Agenda: The Army Science Board's (ASB) Ad Hoc Study on ''The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C41) Systems'' will meet for two days (8/9 November 1995) to hear briefings relative to the subject under study. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26541 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: December 14 & 15, 1995.

Time of Meeting: 0900–1700, December 14, 1995, 1000–1700, December 15, 1995.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's (ASB) Ad Hoc Study on ''The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems'' will meet to hear briefings relative to the subject under study. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26542 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Yakima Training Center Cultural and Natural Resources Committee (Technical Committee)

AGENCY: Headquarters, I Corps and Fort Lewis, Fort Lewis, Washington, Department of the Army, Defense.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Yakima Training Center Cultural and Natural Resources Committee—Technical Committee.

Date of Meeting: November 9, 1995.

Place: Yakima Training Center, Building 266, Yakima, Washington.

Time: 1 p.m.

Proposed Agenda: Cultural and Natural Resources Management Plan review, Cascade Sage. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Stephen Hart, Chief, Civil Law, (206) 967–0793.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–26608 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–M

Yakima Training Center Cultural and Natural Resources Committee (Policy Committee)

AGENCY: Headquarters, I Corps and Fort Lewis, Fort Lewis, Washington.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Yakima Training Center Cultural and Natural Resources Committee—Policy Committee.

Date of Meeting: November 16, 1995.

Place: Yakima Training Center, Building 266, Yakima, Washington.

Time: 1:30 p.m.

Proposed Agenda: Cultural and Natural Resources Management Plan review, Cascade Sage. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Stephen Hart, Chief, Civil Law, (206) 967–0793.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–26609 Filed 10–25–95; 8:45 am]

BILLING CODE 3710–08–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 electronic mailed to the internet address #FIRB@ed.gov, or should be faxed 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 Department 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 20, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: New.

Title: Repayment Plan Selection.

Frequency: On Occasion.

Affected Public: Individual or households.

Annual Reporting and Recordkeeping Hour Burden

Reporting Burden:

Responses: 525,000.

Burden Hours: 173,250.

Abstract: Borrowers in the William D. Ford Federal Direct Loan Program will use this form to choose a repayment plan for their loans(s).

[FR Doc. 95–26565 Filed 10–25–95; 8:45 am]

BILLING CODE 4000–01–M

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on January 25, 1995, an arbitration panel rendered a decision in the matter of *Robert Hill* v. *Michigan Commission for the Blind (Docket No. R–S/93–2).* This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d–2, upon receipt of a complaint filed by Robert Hill.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue SW., Room 3230, Switzer Building, Washington, D.C. 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

Background

The complainant, Robert Hill, was granted a license and was assigned to operate a vending facility at the U.S. Army Tank-Automotive Command (TACOM). Following his assignment, staff of the Michigan Commission for the Blind, the State licensing agency (SLA), made routine visits to complainant's vending facility.

On one of the routine visits, the staff person alleges that certain problems were found at the facility, which included outdated products being sold, lack of cleaning and upkeep of the area, and lack of timely filing of required reports. The SLA staff person also alleges that a number of complaints from officials at TACOM had been received and that these complaints were under investigation to confirm their validity.

The SLA staff person provided technical assistance to the vendor, making numerous suggestions and attempting to assist the vendor in increasing his profit percentage, which was below the norm established by the SLA. The SLA staff person encouraged Mr. Hill to contact other experienced vendors in the vending program for assistance. When no improvement was noted by the SLA staff person and Mr. Hill rejected offers of assistance, the business counselor recommended to the SLA that Mr. Hill's license be revoked as the result of the sanitation problems, the sale of outdated products, the failure to meet profit margin standards, and the late filing of reports.

On October 16, 1991 the SLA notified Mr. Hill that he was failing to comply with the vendor's operating license and agreement requirements and that license revocation proceedings were pending. Subsequently, Mr. Hill's license was revoked, and he requested and received a State fair hearing on April 27, 1992.

On July 30, 1992 the hearing officer rendered an opinion sustaining the SLA's decision to revoke Mr. Hill's vending license. The hearing officer considered Mr. Hill's argument that there was a personality conflict between himself and the SLA staff person. Mr. Hill alleged that the conflict was due to his racial ethnicity and that this was the reason for the revocation of his license. The hearing officer ruled that this argument was not credible. Testimony at the hearing indicated that numerous attempts had been made by the SLA to provide technical assistance and training to Mr. Hill and to assist him in reaching the 25 percent profit margin requirement. Mr. Hill further stated that he was not given sufficient opportunities to bid on other locations after his license revocation.

On March 12, 1993 Mr. Hill filed a complaint requesting that the Secretary of the U.S. Department of Education convene a Federal arbitration panel to review the hearing officer's decision, which was adopted as final agency action by the SLA. The complaint was heard by the arbitration panel on September 15 and 26, 1994.

Arbitration Panel Decision

The arbitration panel ruled on three issues as follows: (1) Whether the SLA discriminated against the complainant on the basis of his race. (2) Whether the complainant was given sufficient notice of his violation of the rules in an appropriate media for his use. (3) Whether a vendor after license revocation can be required to wait a period of time before reapplying or be placed on a waiting list behind other vendors bidding on vending locations.

Concerning the first issue, the panel ruled that, contrary to the complainant's claims, the charges of racial discrimination were not substantiated by testimony.

With respect to the second issue, the panel ruled that the SLA was in compliance with the Federal statute and regulations and State rules concerning communications to licensees. The panel found that complainant had resource persons who would provide assistance in reviewing any communication received by him. Furthermore, the panel noted that the SLA staff person routinely read to the complainant the evaluations and reports prepared during the onsite visits.

Finally, concerning the procedures used by the SLA for complainant's reapplication for a vending license, the panel ruled that it was appropriate to require him to be retrained and reoriented and that, if the complainant fulfilled these requirements, he should be placed on the bidding list for another vending location. If complainant did not complete retraining requirements, then his placement on the bidding list should be delayed until such time as he complied with that prerequisite. However, the panel ruled that, once complainant had completed retraining, his placement on the bidding list should be in accordance with his prior standing of seniority. The panel concluded that to deny complainant his former standing on the bidding list would be unreasonable and punitive.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: October 18, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–26552 Filed 10–25–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Disposition of Surplus Highly Enriched Uranium; Draft Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the *Draft Environmental Impact Statement for Disposition of Surplus Highly Enriched Uranium* (draft HEU EIS) for public review and comment. In accordance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), and the Department's NEPA Implementation Procedures (10 CFR Part 1021), the Department has prepared this draft HEU EIS to evaluate alternatives for the disposition of United States-origin weapons-usable highly enriched uranium (HEU) that has been, or may be, declared surplus to national defense needs by the President.

DATES: The public is invited to comment on the draft HEU EIS during a comment period that will continue until December 11, 1995. Comments postmarked after that date will be considered to the extent practicable. The Department will hold two public workshops to discuss and receive comments on the draft HEU EIS on November 14 and 16, 1995. The times and locations of the workshops are provided in the Supplementary Information.

ADDRESSES: Copies of the draft HEU EIS and requests for information should be directed to: Office of Fissile Materials Disposition (MD–4), Attention: HEU EIS, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 1–800–820–5134.

Written comments on the draft HEU EIS should be mailed to the following address: DOE—Office of Fissile Materials Disposition, P.O. Box 23786, Washington, DC 20026–3786. Comments may also be submitted orally (to a recording machine) or by fax to 1–800–820–5156.

FOR FURTHER INFORMATION CONTACT: For information on the DOE National Environmental Policy Act process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585, (202) 586–4600 or leave a message at 1–800–472–2756.

Availability of the draft HEU EIS: Copies of the draft HEU EIS have been distributed to Federal, State, Indian tribal, and local officials, agencies, and interested organizations and individuals. Copies of the draft HEU EIS and supporting technical reports are also available for public review at the locations listed at the end of this Notice.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 1994, the Department published a Notice of Intent (NOI) in the Federal Register (59 FR 31985) to prepare a programmatic EIS (PEIS) for weapons-usable fissile materials, including both surplus and non-surplus HEU. The purpose of the NOI was to inform the public of the proposed scope of the *Storage and Disposition of Weapons-Usable Fissile Materials PEIS* (Storage and Disposition PEIS), to solicit public input, and to announce that public scoping meetings would be conducted from August through October 1994.[1] During that period, 12 public meetings were held throughout the United States to obtain input regarding the scope, alternatives, and issues associated with weapons-usable fissile materials that should be addressed in the Storage and Disposition PEIS. The extensive scoping process for the Storage and Disposition PEIS included options for the disposition of surplus HEU.

In the course of the PEIS public scoping process, it appeared that it may be more appropriate to analyze the impacts of surplus HEU disposition in a separate EIS. The Department held a public meeting on November 10, 1994, to obtain comments on this potential course of action. While views were expressed both pro and con, the Department subsequently concluded that a separate EIS would be appropriate. Accordingly, the Department published a notice in the Federal Register (60 FR 17344) on April 5, 1995, to inform the public of the proposed plan to prepare a separate EIS for the disposition of surplus HEU.

Alternatives Considered

The draft HEU EIS assesses environmental impacts of five reasonable alternatives identified for the disposition of up to 200 metric tons of surplus HEU. This includes HEU that has already been declared surplus (165 metric tons) as well as additional weapons-usable HEU that may be declared surplus in the future. The material is currently located at facilities throughout the Department's nuclear weapons complex, but the majority is in, or destined for, interim storage at the Department's Y–12 Plant in Oak Ridge, Tennessee. Except for no action, all reasonable alternatives involve blending HEU with depleted, natural, or low-enriched uranium (LEU) to make LEU,

[1] In the NOI, the PEIS was referred to as the *Long-Term Storage and Disposition of Weapons-Usable Fissile Materials PEIS*.

which is not weapons-usable, and the majority of which would have potential commercial value as non-defense, nuclear power plant fuel feed. The alternatives, except for the no action alternative, represent different ratios of blending HEU to LEU for commercial use versus blending HEU to LEU for disposal as waste. The alternatives also represent different combinations of blending sites and blending processes.

Alternative 1 is No Action (continued storage of surplus HEU). Alternative 2 is No Commercial Use, and represents blending all 200 metric tons of surplus HEU to waste (fuel/waste ratio of 0/100) using four sites. Alternative 3 is Limited Commercial Use, and includes transferring 50 metric tons of HEU (and 7,000 metric tons of natural uranium) to the United States Enrichment Corporation (USEC) for commercial use, but blending the remaining 150 metric tons of HEU to waste (fuel/waste ratio of 25/75). Alternative 3 assumes the 50 metric tons of commercial material would be blended at two commercial blending sites, and the waste material would be blended at four sites. Alternative 4 is Substantial Commercial Use, and represents blending 130 metric tons of HEU for commercial use and 70 metric tons for disposal as waste (fuel/waste ratio of 65/35). Alternative 5 is Maximum Commercial Use, and represents blending 170 metric tons of HEU for commercial use and 30 metric tons for disposal as waste (fuel/waste ratio of 85/15). Both Alternatives 4 and 5 include the proposal to transfer 50 metric tons of HEU and 7,000 metric tons of natural uranium to USEC for commercial use. Alternatives 4 and 5 each have four site variations: a) two DOE sites only, b) two commercial sites only, c) all four sites, and d) each site alone.

This draft HEU EIS assesses potential environmental impacts at two DOE sites and two commercial sites where HEU conversion and blending could occur: DOE's Y–12 Plant at the Oak Ridge Reservation in Oak Ridge, Tennessee; DOE's Savannah River Site in Aiken, South Carolina; the Babcock & Wilcox Naval Nuclear Fuel Division in Lynchburg, Virginia; and the Nuclear Fuel Services Fuel Fabrication Plant in Erwin, Tennessee. The EIS also assesses the environmental impacts of necessary transportation of materials.

The alternatives as described are not intended to represent exclusive choices among which the Department must choose, but rather are analyzed to represent reasonable points in the matrix of possible choices. The draft HEU EIS explains how impacts would change if the exact fuel/waste ratio or division among sites or processes were different.

Preferred Alternative

The draft HEU EIS identifies DOE's preferred alternative as Alternative 5 (Maximum Commercial Use) and site variation c (all four sites). Under this alternative, the commercial use of surplus HEU would be maximized and the blending would most likely be done at some combination of commercial and DOE sites. The Department prefers this alternative because commercial use of LEU derived from surplus HEU would serve the objective of rendering these materials non-weapons-usable in the most timely fashion. It would allow for peaceful, beneficial reuse of the material, recover investment for the Federal Treasury, and reduce Government waste disposal costs that would be incurred if all (or a greater portion of) the material were blended to waste.

Invitation to Comment

The public is invited to submit written and oral comments on any or all portions of the draft HEU EIS. DOE's responses to comments received during the public comment period will be presented in the final HEU EIS.

DOE will hold two public workshops to provide information and receive comments on the draft HEU EIS (with identical afternoon and evening sessions in each location), as detailed in the following schedule. The workshop format will provide for collection of written and oral comments and will enable the public to discuss issues and concerns with DOE managers. Participants are asked to register for the workshops in advance by calling 1–800–820–5134.

Schedule of Public Workshops

November 14, 1995—Knoxville, TN
1:00–5:00 pm and 6:00–10:00 pm, eastern time, Knoxville Hilton, 501 Church Avenue, SW, Knoxville, TN 37902; phone (423) 523–2300, fax (423) 546–1716.

November 16, 1995—Augusta, GA
1:00–5:00 pm and 6:00–10:00 pm, eastern time, Ramada Plaza Hotel and Convention Center, 640 Broad Street, Augusta, GA 30901; phone (706) 722–5541, fax (706) 724–0053.

DOE Public Reading Rooms

Copies of the draft HEU EIS as well as technical data reports and other supporting documents are available for public review at the following locations:

Department of Energy Headquarters, Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Attn: Carolyn Lawson, 202–586–6020

Albuquerque Operations Office, National Atomic Museum, 20358 Wyoming Blvd., SE., Kirtland AFB, NM 87117, Attn: Diane Zepeda, 505–845–4378

Nevada Operations Office, Nevada Operations Office, U.S. Department of Energy, Public Reading Room, 2753 South Highland Dr., P.O. Box 98518, Las Vegas, NV 89193–8518, Attn: Charlotte Cox, 702–295–1459

Oak Ridge Operations Office, U.S. Department of Energy, Public Reading Room, 200 Administration Road, P.O. Box 2001, Oak Ridge, TN 37831–8501, Attn: Jane Greenwalt, 615–576–1216

Richland Operations Office, Washington State University, Tri-Cities Branch Campus, 300 Sprout Road, Room 130 West, Richland, WA 99352, Attn: Terri Traub, 509–376–8583

Rocky Flats Office, Front Range Community College Library, 3645 West 112th Avenue, Westminister, CO 80030, Attn: Dennis Connor, 303–469–4435

Savannah River Operations Office, Gregg-Graniteville Library, University of South Carolina-Aiken, 171 University Parkway, Aiken, SC 29801, Attn: Paul Lewis, 803–641–3320, DOE Contact: James M. Gaver, 803–725–2889

Los Alamos National Laboratory, U.S. Department of Energy, c/o Los Alamos Community Reading Room, 1450 Central, Suite 101, Los Alamos, NM 87544, Attn: Tom Ribe, 505–665–2127

Chicago Operations Office, Office of Planning, Communications & EEO, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, IL 60439, Attn: Gary L. Pitchford, 708–252–2013

Amarillo Area Office, U.S. Department of Energy, Amarillo College, Lynn Library/Learning Center, P.O. Box 447, Amarillo, TX 79178, PH: 806–371–5400, FX: 806–371–5470

U.S. DOE Reading Room, Carson County Library, P.O. Box 339, Panhandle, TX 79068, PH: 806–537–3742, FX: 806–537–3780, DOE Contact: Tom Walton, PH: 806–477–3120, FX: 806–477–3185, Contractor Contact: Kerry Cambell, PH: 806–477–4381, FX: 806–477–5743

Sandia National Laboratory/CA, Livermore Public Library, 1000 S. Livermore Avenue, Livermore, CA 94550, Attn: Julie Casamajor, PH: 510–373–5500, FX: 510–373–5503.

Issued in Washington, DC, October 20, 1995.

Gregory P. Rudy,

Acting Director, Office of Fissile Materials Disposition.

[FR Doc. 95–26601 Filed 10–25–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG96–4–000, et al.]

Jamaica Energy Partners, et al.; Electric Rate and Corporate Regulation Filings

October 19, 1995.

Take notice that the following filings have been made with the Commission:

1. Jamaica Energy Partners

[Docket No. EG96–4–000]

Take notice that on October 11, 1995, Jamaica Energy Partners, c/o Wartsila Power Development, Inc., 116 Defense Highway, Suite 301, Annapolis, Maryland 21401, filed with Federal Energy Regulatory Commission an application for redetermination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant will own an approximately 76 MW floating diesel-engine-powered electric generating facility located at Old Harbour Bay Jamaica. The Facility's electricity will be sold exclusively at wholesale, with the possible exception of some retail sales in Jamaica. None of the electric energy generated by the Facility will be sold to consumers in the United States.

Comment date: November 9, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Jamaica Energy Operators

[Docket No. EG96–5–000]

Take notice that on October 12, 1995, Jamaica Energy Operators (''Applicant''), c/o Wartsila Power Development, Inc., 116 Defense Highway, Suite 301, Annapolis, Maryland 21401, filed with Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is a Jamaican limited partnership formed to operate an electric generating facility located in Old Harbour Bay Jamaica.

Comment date: November 9, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Excel Energy Services, Inc.

[Docket No. ER94–1488–004]

Take notice that on October 16, 1995, Excel Energy Services, Inc. filed certain information as required by the Commission's September 29, 1994, order in Docket No. ER94–1488–000. Copies of Excel Energy Services, Inc.'s informational filing are on file with the Commission and are available for public inspection.

4. Koch Power Services, Inc.

[Docket No. ER95–218–002]

Take notice that on July 31, 1995, Koch Power Services, Inc. tendered for filing certain information as required by the Commission's letter order dated January 4, 1995. Copies of the informational filing are on file with the Commission and are available for public inspection.

5. Florida Power Corporation

[Docket No. ER96–6–000]

Take notice that on October 2, 1995, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and Louis Dreyfus Electric Power, Inc. (Dreyfus). The contract provides for service under Schedule J, Negotiated Interchange Service and OS, Opportunity Sales. Cost support for both schedules has been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on October 3, 1995. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp

[Docket No. ER96–8–000]

Take notice that on October 2, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, proposed rate revisions to PacifiCorp's FERC Electric Tariff, Volume Nos. 4, 5, 6, 9 and 10 and Rate Schedule FERC Nos. 262, 279, 280, 288, 290, 292 and 297.

PacifiCorp requests that an effective date of January 1, 1996 be assigned.

Copies of this filing were served on all affected parties and to the Wyoming Public Service Commission, the Public Service Commission of Utah, the Public Utility Commission of Oregon, the Idaho Public Utilities Commission, the Montana Public Service Commission, the Public Utilities Commission of California the Washington Utilities and Transportation Commission and the Arizona Corporation Commission.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER96–9–000]

Take notice that on October 2, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Companies), filed a Service Agreement between GPU and Hartford Power Sales, L.L.C. (Hartford), dated October 1, 1995. This Service Agreement specifies that Hartford has agreed to the rates, terms and conditions of the GPU Companies' Energy Transmission Service Tariff accepted by the Commission on September 28, 1995 in Docket No. ER95–791–000 and designated as FERC Electric Tariff, Original Volume No. 3.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of October 1, 1995 for the Service Agreement. GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and on Hartford.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Norstar Energy Limited Partnership

[Docket No. ER96–10–000]

Take notice that on October 2, 1995, NorStar Energy Limited Partnership (NORSTAR), tendered for filing with the Federal Energy Regulatory Commission, pursuant to Rule 205, 18 CFR 385.205, and 18 CFR 35.12 of the Commission's regulations an Application for Blanket Approval of Rate Schedule For Future Power Sales at Market-Based Rates and Waivers and Preapprovals of Certain Commission Regulations for NORSTAR's Initial Rate Schedule FERC No. 1.

NORSTAR intends to sell up to engage in electric power and energy transactions as a marketer. In these transactions, NORSTAR proposes to charge market-based rates, mutually agreed upon by the parties. All sales and purchases will be at arms-length.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Indiana Michigan Power Company

[Docket No. ER96–11–000]

Take notice that on October 2, 1995, American Electric Power Service Corporation (AEPSC), on behalf of Indiana Michigan Power Company (I&M), tendered for filing an adjustment to the monthly demand charge rates for Firm Power supplied by I&M to Wabash Valley Power Association, Inc. (Wabash Valley) under the August 31, 1988 Settlement Agreement (Agreement) between I&M and Wabash Valley. The Commission has previously designated this Agreement as I&M's Rate Schedule FERC No. 76. The demand charge adjustment is based on a historical average of the Producer Price Index as provided for in the Agreement.

A copy of the filing was served upon the Indiana Utility Regulatory Commission, the Michigan Public Service Commission, and Wabash Valley.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Montaup Electric Company

[Docket No. ER96–12–000]

Take notice that on October 2, 1995, Montaup Electric Company (Montaup) filed a revised Exhibit A to a service agreement between itself and the Pascoag, Rhode Island, Fire District (Pascoag) for transmission of Pascoag's entitlement to power from the New York Power Authority (NYPA) pursuant to Montaup's FERC Electric Tariff, Original Volume No. 2. The Exhibit A revises an existing Exhibit A filed on September 1, 1987 in Docket No. ER87–615 covering NYPA service through June 30, 1995. The existing Exhibit A has been revised to reflect an extension in the term of NYPA service from July 1, 1995 through the earlier of (i) the termination of the customer's purchase of NYPA Power or (ii) June 30, 2001. Since the change in Exhibit A affects only the term of the service and has no effect on rates, and is being filed with customer's consent, Montaup requests a waiver of the sixty-day notice requirement to permit the revised Exhibit A to become effective as of July 1, 1995.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Company

[Docket No. ER96–13–000]

Take notice that on October 2, 1995, New England Power Company tendered for filing Amendments to the Support Agreements for Improvement to the M–139 Line; N–140 Line and Tewksbury Substations Agreement between New England Power Company and Boston Edison Company. The purpose of these amendments is to adjust the return on equity provisions of these Support Agreements.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Power, Inc.

[Docket No. ER96–14–000]

Take notice that on October 2, 1995, Entergy Power, Inc. (Entergy Power), tendered for filing a unit power sale agreement between Entergy Power and Associated Electric Cooperative, Inc. Entergy Power requests waiver of the Commission's cost support requirements under § 35.12 or 35.13 of the Commission's Regulations, to the extent they are otherwise applicable to this filing.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Portland General Electric Company

[Docket No. ER96–15–000]

Take notice that on October 2, 1995, Portland General Electric Company (PGE) tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, executed Service Agreements between PGE and Illinova Power Marketing, Inc., Phibro and the Western Area Power Administration, Sacramento Area. PGE also includes an un-executed service agreement for the Morgan Stanley Capital Group, Inc. for filing under FERC Electric Tariff, 1st Revised Volume No. 2.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL95–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreements to become effective on the dates contained in the filing letter.

Copies of this filing were served upon the list of entities appearing on the Certificate of Service attachment to the filing letter.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Union Electric Company

[Docket No. ER96–16–000]

Take notice that on October 3, 1995, Union Electric Company (UE), tendered for filing a Transmission Service Agreement dated October 4, 1995 between AES Power Incorporated (AES) and UE. UE asserts that the purpose of the Agreement is to set out specific rates, terms, and conditions for transmission service transactions from UE to AES.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Consumers Power Company

[Docket No. ER96–17–000]

Take notice that on October 3, 1995, Consumers Power Company (Consumers), tendered for filing two amendments which relate to agreements under which Consumers provides service to the City of Portland (Portland). One amendment increases the maximum amount of service available under an interruptible wholesale agreement; the other establishes Consumers as Portland's sole supplier of wholesale for resale electric service.

Copies of the filing were served upon the Michigan Public Service Commission and Portland.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Electric and Gas Company

[Docket No. ER96–18–000]

Take notice that on October 3, 1995, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of energy and capacity to Engelhard Power Marketing, Inc. (Engelhard).

PSE&G requests the Commission to waiver its notice requirements under § 35.3 of its Rules and to permit the Energy Sales Agreement to become effective as of October 5, 1995. Copies of the filing have been served upon Engelhard.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Electric Power Company

[Docket No. ER96–19–000]

Take notice that on October 3, 1995, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Western Joint Use of Transmission Agreement between itself and Upper Peninsula Power Company (UPPCO). The Agreement provides for the exchange of transmission services in the western portion of Michigan's Upper Peninsula.

Wisconsin Electric has requested waiver of the Commission's notice requirements to permit an effective date of November 1, 1995.

Copies of the filing have been served on UPPCO, the Copper Range Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Company

[Docket No. ER96–20–000]

Take notice that on October 3, 1995, New England Power Company (NEP), tendered for filing Notices of Termination for its FERC Rates Schedule No. 324 and Supplement No. 1 thereto, and Supplement No. 1 to Service Agreement No. 30, under NEP's FERC Electric Tariff, Original Volume No. 3, which provides transmission service for the Rate Schedule No. 324 power sale. According to the NEP, the customer taking service under Rate Schedule No. 324 elected not to renew or extend its contract.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Public Service Company of Colorado

[Docket No. ER96–21–000]

Take notice that on October 3, 1995, Public Service Company of Colorado tendered for filing amendments to its FERC Electric Service Rate Schedule, FERC No. 147. Under the proposed amendments Public Service is submitting its annual revisions to Exhibits B and D, which set forth points and delivery levels of power and energy transmitted by the Western Area Power Administration and Public Service Company of Colorado, respectively. These amendments will have no impact on the rates for service under this agreement.

Public Service requests an effective date of October 1, 1995 for the proposed amendments.

Copies of the filing were served upon the Western Area Power Administration Loveland Area Office, and the state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado Office of Consumer Counsel.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Northeast Utilities Service Company

[Docket No. ER96–22–000]

Take notice that on October 3, 1995 Northeast Utilities Service Company (NUSCO) tendered for filing, on behalf of The Connecticut Light and Power Company (CL&P) and Western Massachusetts Electric Company (WMECO), a Bulk Power Supply Service Agreement (Agreement) to provide requirements service to Vermont Electric Generation and Transmission Cooperative, Inc. (VEG&T), a Service Agreement between NUSCO and the NU System Companies for service under NUSCO's Long-Term Firm Transmission Service No. 1 and an amendment to said Agreement (Amendment).

NUSCO requests that the rate schedule become effective on the later of December 1, 1995 or such date that the Vermont Public Service Board issues a favorable order regarding Vermont Electric Cooperative's (VEC) request for an increase in electric rates. NUSCO states that copies of the rate schedule have been mailed or delivered to the parties to the Agreement and the Amendment and the affected state utility commissions.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Florida Power & Light Company

[Docket No. ER96–23–000]

Take notice that on October 3, 1995 Florida Power & Light Company filed a letter notice dated September 26, 1995, from Florida Keys Electric Cooperative Association, Inc. to FPL. This letter contained information provided pursuant to Section 11.1 of the Long-Term Agreement to Provide Capacity and Energy by Florida Power & Light Company to Florida Keys Electric Cooperative Association, Inc., dated August 15, 1991. FPL requests that the proposed notice be made effective January 1, 1996.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. CINergy Services, Inc.

[Docket No. ER96–24–000]

Take notice that on October 3, 1995, CINergy Services, Inc. (CINergy) tendered for filing service agreements under CINergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into between CINergy and MidCon Power Services Corporation.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

23. Coral Power, Inc.

[Docket No. ER96–25–000]

Take notice that on October 3, 1995, Coral Power, Inc. petitioned the Commission for acceptance of Coral's Rate Schedule FERC No. 1, providing for the sale of electricity at market-based rates; the granting of certain blanket approvals; and the waiver of certain Commission regulations. Coral is a wholly-owned indirect subsidiary of a limited partnership comprised of wholly-owned subsidiaries of Shell Oil Company and Tejas Gas Corp.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

24. Southern California Edison Company

[Docket No. ER96–26–000]

Take notice that on October 4, 1995, Southern California Edison Company (Edison) tendered for filing a Letter Agreement (Letter Agreement) with the City of Colton (Colton). The Letter Agreement modifies the Rated Capability and Minimum Take Obligation referenced in the Supplemental Agreement to the 1990 Integrated Operations Agreement for the integration of Colton's entitlement in the Idaho Power Sale Agreement, Commission Rate Schedule No. 249.13.

Edison requests waiver of the Commission's 60 day notice requirements and an effective date of November 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

25. Southern California Edison Company

[Docket No. ER96–27–000]

Take notice that on October 4, 1995, Southern California Edison Company (Edison) tendered for filing a Letter Agreement (Letter Agreement) with the City of Banning (Banning). The Letter Agreement modifies the Rated Capability and Minimum Take Obligation referenced in the Supplemental Agreement to the 1990 Integrated Operations Agreement for the integration of Banning's entitlement in the Idaho Power Sale Agreement, Commission Rate Schedule No. 248.14.

Edison requests waiver of the Commission's 60 day notice requirements and an effective date of November 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of California and all interested parties.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

26. Southern California Edison Company

[Docket No. ER96–28–000]

Take notice that on October 4, 1995, Southern California Edison Company (Edison) tendered for filing a Letter Agreement (Letter Agreement) with the City of Azusa (Azusa). The Letter Agreement modifies the Rated Capability and Minimum Take Obligation referenced in the Supplemental Agreement to the 1990 Integrated Operations Agreement for the integration of Azusa's entitlement in the Idaho Power Sale Agreement, Commission Rate Schedule No. 247.13.

Edison requests waiver of the Commission's 60 day notice requirements and an effective date of November 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of California and all interested parties.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

27. Puget Sound Power & Light Company

[Docket No. ER96–29–000]

Take notice that on October 4, 1995, Puget Sound Power & Light Company (Puget) tendered for filing as a change in the rate schedule, an Exchange Agreement by and between Puget and British Columbia Power Exchange Corporation (Powerex). A copy of the filing was served upon Powerex.

Puget states that the Exchange Agreement involves the nonfirm exchange of energy and power between specified points of delivery of Puget and Powerex.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

28. Arizona Public Service Company

[Docket No. ER96–30–000]

Take notice that on October 4, 1995, Arizona Public Service Company (APS) tendered for filing a Service Agreement under APS-Electric Tariff Original Volume No. 1 (APS Tariff) with the following entity:

The City of Needles.

A copy of this filing has been served on the above listed entity and the Arizona Corporation Commission.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

29. New England Power Company

[Docket No. ER96–31–000]

Take notice that on October 4, 1995, New England Power Company (NEP) filed an Interconnection System Study Agreement (Agreement) between Reading Municipal Light Department (Reading) and NEP, under which NEP has agreed to conduct an interconnection study relative to the interconnection of Reading's proposed North Reading Substation with NEP's transmission system. NEP requests an effective date of December 3, 1995.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

30. Kansas City Power & Light Company

[Docket No. ER96–32–000]

Take notice that on October 5, 1995, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated September 20, 1995, between KCPL and Heartland Energy Services, Inc. (Heartland). KCPL proposes an effective date of September 20, 1995, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and Heartland.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges which are conditionally accepted for filing by the Commission in Docket No. ER94–1045–000.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

31. Kansas City Power & Light Company

[Docket No. ER96–33–000]

Take notice that on October 5, 1995, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated September 20, 1995, between KCPL and MidCon Power Service Corp. (MidCon). KCPL proposes an effective date of September 20, 1995, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and Heartland.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges which are conditionally accepted for filing by the Commission in Docket No. ER94–1045–000.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

32. PacifiCorp

[Docket No. ER96–35–000]

Take notice that on October 6, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Service Agreements with Hinson Power Company, Inc. (Hinson), Associated Power Services, Inc. (APSI) and Illinova Power Marketing Inc. (Illinova) under, PacifiCorp's FERC Electric Tariff, Second Revised Volume No. 3, Service Schedule PPL–3.

Copies of this filing were supplied to Hinson, APSI, Illinova, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

33. Wisconsin Public Service

[Docket No. ER96–36–000]

Take notice that on October 6, 1995, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Wisconsin Power and Light. The Agreement provide for transmission service under the T–1 Transmission Tariff, FERC Original Volume No. 4.

WPSC asks that the agreement become effective retroactively to the date of execution by WPSC.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

34. The Washington Water Power Company

[Docket No. ER96–37–000]

Take notice that on October 6, 1995, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, a signed service agreement under FERC Electric Tariff Volume No 4 with Calpine Power Marketing, Inc. along with a Certificate of Concurrence with respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of November 1, 1995.

A signed Certificate of Concurrence with respect to exchanges for Associated Power Services, Inc. is also submitted with this filing. The executed service agreement was approved in Docket No. ER95–806–000.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

35. Commonwealth Electric Company, Cambridge Electric Light Company

[Docket No. ER96–38–000]

Take notice that on October 6, 1995, Commonwealth Electric Company (Commonwealth) on behalf of itself and Cambridge Electric Light Company (Cambridge), collectively referred to as the ‘‘Companies’’, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Customers:

Central Vermont Public Service Corporation
Chicopee Municipal Lighting Plant
South Hadley Electric Light Department

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Power Sales and Exchanges Tariff's designated as Commonwealth's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 3) and Cambridge's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 5). These Tariffs, approved by FERC on April 13, 1995, and which have an effective date of March 20, 1995, will allow the Companies and the Customers to enter into separately scheduled transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies request an effective date as specified on each Service Agreement.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

36. Cinergy Services, Inc.

[Docket No. ER96–39–000]

Take notice that on October 6, 1995, Cinergy Services, Inc. (CINERGY), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated September 1, 1995, between CINERGY, CG&E, PSI and Koch Power Services, Inc. (KOCH).

The Interchange Agreement provides for the following service between CINERGY and KOCH.

1. Exhibit A—Power Sales by KOCH
2. Exhibit B—Power Sales by CINERGY

CINERGY and KOCH have requested an effective date of November 1, 1995.

Copies of the filing were served on Koch Power Services, Inc., the Texas Public Utility Commission, the Kentucky Public Service Commission, Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

37. Cinergy Services, Inc.

[Docket No. ER96–40–000]

Take notice that on October 6, 1995, Cinergy Services, Inc. (Cinergy), tendered for filing service agreements under Cinergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into between Cinergy and Kentucky Utilities Company.

Cinergy is requesting an effective date of October 1, 1995.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

38. Enova Energy Management, Inc.

[Docket No. ER96–41–000]

Take notice that on October 6, 1995, Enova Energy Management, Inc. (Enova), tendered for filing an application for waivers and blanket approvals under regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1. Enova is a wholly-owned subsidiary of San Diego and Electric Company.

Enova intends to engage in electric capacity and energy transactions as a marketer. In these transactions Enova intends to charge market rates as mutually agreed to by Enova and the purchaser. All other terms of the transaction would also be determined by negotiation between the parties. All sales and purchasers will be arms-length transactions.

Comment date: November 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

39. El Paso Electric Company

[Docket No. ES96–4–000]

Take notice that on October 11, 1995, El Paso Electric Company (El Paso) filed application under § 204 of the Federal Power Act seeking authorization to issue securities and assume obligations and liabilities under a primary plan and an alternative plan associated with El Paso's reorganization and emergence from bankruptcy. Under the primary plan El Paso would issue several series of first mortgage bonds, preferred stock and common stock. Under the alternate plan, El Paso would issue first mortgage bonds, second mortgage bonds, subordinated debentures, preferred stock, and common stock.

Comment date: November 9, 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, 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 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. 95–26596 Filed 10–25–95; 8:45 am]

BILLING CODE 6717–01–P

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board

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 meeting of the State Energy Advisory Board.

DATE AND TIME: November 30–December 1, 1995 from 9:00 am to 5:00 pm.

PLACE: The Madison Hotel, 15th and M Streets, Washington, DC, 20005.

FOR FURTHER INFORMATION CONTACT: William J. Raup, Office of Technical and Financial Assistance (EE–50), Energy Efficiency and Renewable Energy, U.S. Department of Energy, Washington, DC 20585, Telephone 202/586–2214.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives and programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (P.L. 101–440).

Tentative Agenda

Briefings on, and discussions of:

- The FY 1996 Federal budget for Energy Efficiency and Renewable Energy programs, as passed by Congress.

• Greater involvement of the Board in the FY1997 Federal budget process.

• Review and approval of any committee activity.

Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William J. Raup at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes

The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 23, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–26600 Filed 10–25–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

Coal Policy Committee; National Coal Council

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting of the Coal Policy Committee of the National Coal Council (NCC).

DATE AND TIME: Wednesday, November 15, 1995 at 2 pm.

PLACE: The Washington Court Hotel on Capitol Hill, 525 New Jersey Avenue NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–5), Washington, D.C. 20585, Telephone: 202/586–3867.

SUPPLEMENTARY INFORMATION:

Purpose of the Parent Council

To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the Meeting

To report on the status of the consumption issues study and to receive comments and recommendations.

Tentative Agenda:

—Opening remarks by Clifford Miercort, Chairman of the Coal Policy Committee.
—Approval of the final agenda.
—Remarks by Department of Energy representative (The Honorable Patricia Fry Godley, Assistant Secretary for Fossil Energy invited).
—Report of the Coal Technology Subcommittee on the consumption issues study.
—Report of the Coal Production and Utilization Subcommittee.
—Discussion of any other business to be properly brought before the Committee.
—Public comment—10-minute rule.
—Adjournment.

Public Participation

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9 AM and 4 PM, Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 23, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–26598 Filed 10–25–95; 8:45 am]

BILLING CODE 6450–01–P

National Coal Council

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 92–463, 86 Stat. 770), notice is hereby given of the following meeting of the National Coal Council.

DATE AND TIME: Thursday, November 16, 1995, 9:30 am.

PLACE: The Washington Court Hotel on Capitol Hill, 525 New Jersey Avenue NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–5), Washington, D.C. 20585, Telephone: 202/586–3867.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

—Call to order and opening remarks by Joseph Craft III, Chairman of the National Coal Council.
—Approval of final agenda.
—Remarks by The Honorable Hazel R. O'Leary, Secretary of Energy (Invited).
—Report of the Coal Policy Committee.
—Membership to approve consumption issues study.
—Discussion of any other business properly brought before the Council.
—Public comment—10-minute rule.
—Adjournment.

Public Participation

The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9 am and 4 pm, Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 23, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–26599 Filed 10–25–95; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Safety Wireless Advisory Committee; Notice of Meeting

AGENCIES: The National Telecommunications and Information Administration (NTIA), Larry Irving, Assistant Secretary for Communications and Information, and the Federal Communications Commission (FCC), Reed E. Hundt, Chairman.

ACTION: Notice of the next meeting of the Operational Requirements Subcommittee of the Public Safety Wireless Advisory Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the next meeting of the Operational Subcommittee of the Public Safety Wireless Advisory Committee. The NTIA and the FCC established a Public Safety Wireless Advisory Committee and Subcommittees to prepare a final report to advise the NTIA and the FCC on operational, technical and spectrum requirements of Federal, state and local Public Safety entities through the year 2010. All interested parties are invited to attend and to participate in the next round of meetings of the Subcommittee.

DATES: Friday, November 17, 1995; 9 a.m.–12 p.m.

ADDRESS: County of San Bernardino, County Government Center, Board Chambers, 385 North Arrowhead Drive, San Bernardino, California 92415.

SUPPLEMENTARY: The agenda for the meeting is as follows:

1. Welcoming Remarks
2. Review of Agenda
3. Administrative Matters
4. Overview of Subcommittee Mission
5. Overview of Subcommittee Goals
6. Overview of Subcommittee Work Organization
7. Solicitation of Public Comment
8. Other Business
9. Closing Remarks

The Co-Designated Federal Officers of the Public Safety Wireless Advisory Committee are William Donald Speights, NTIA, and John J. Borkowski, FCC. For public inspection, a file designated WTB–1 is maintained in the Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, Room 8010, 2025 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: For information regarding the Operational Requirements Subcommittee, contact: Paul H. Wieck at 515–281–5261 (telephone), 515–242–6136 (fax), or wieck@safe.ia.gov (Internet). For information regarding accommodations, transportation, and the Advisory Committee, contact: Deborah Behlin at 202–418–6050 (telephone), 202 418–2643 (fax), or dbehlin@fcc.gov (Internet). Information is also available from the Internet at the Public Safety Wireless Advisory Committee homepage (http://pswac.ntia.doc.gov).

Federal Communications Commission.

Robert H. McNamara,

Chief, Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 95–26561 Filed 10–25–95; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 2108]

Petition for Reconsideration of Actions in Rulemaking Proceedings

October 23, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed November 13, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Fair Bluff, NC) (MM Docket No. 95–44, RM–8602)

Number of Petition Filed: 1

Subject: Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Area in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool (PR Docket No. 89–553)

Implementation of Section 309(j) of the Communications Act—Competitive Bidding (PP Docket No. 93–253)

Implementatino of Sections 3(n) and 332 of the Communications Act (GN Docket No. 93–252)

Numbe of Petition Filed: 1

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Farmington, Grass Valley, Jackson, Linden, Placerville and Fair Oaks, California and Carson City and Sun Valley, Nevada) (MM Docket No. 90–189)

Number of Petition Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–26525 Filed 10–25–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 95–16]

Orient Overseas Container Line (USA), Inc. and Orient Overseas Container Line v. Independent Cargo Express, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Orient Overseas Container Line (USA), Inc. and Orient Overseas Container Line (''Complainants'') against Independent Cargo Express, Inc. (''Respondent'') was served October 19, 1995. Complainants allege that Respondent has violated section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709(a)(1), by fraudulently failing to pay to complainant ocean freight due on numerous shipments of cargo.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by October 20, 1996, and the final decision of the Commission shall be issued by February 20, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 95–26521 Filed 10–25–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applicants for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

ITO El Paso International Transport Organization, Inc., 9601 Carnegie Avenue, El Paso, TX 79925, Officers: Georg Koenigsmann, President; Dieter Schmekel, Vice President

Worldwide Logistics, 8900 Bellanca Avenue, Unit G, Los Angeles, CA 90045, Clara Gay, Sole Proprietor

Manfred J. Koberg, 4505 N.W. 72nd Ave., Miami FL 33166, Sole Proprietor.

Dated: October 20, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–26520 Filed 10–25–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants; Correction

In the Federal Register notice published September 26, 1995 (60 FR 49605) the reference to ''NACH 1 Air Services Incorporated'' is corrected to read:

''MACH I Air Services Incorporated''

Dated: October 23, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–26597 Filed 10–25–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

BANKFIRST Corporation, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than November 20, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. BANKFIRST Corporation, Inc., Sioux Falls, South Dakota; to acquire 100 percent of the voting shares of BANKFIRST, National Association, Sioux Falls, South Dakota, a *de novo* bank.

Board of Governors of the Federal Reserve System, October 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26595 Filed 10–25–95; 8:45 am]

BILLING CODE 6210–01–F

DFC Acquisition Corporation Two; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-25004) published on page 52680 of the issue for Tuesday, October 10, 1995.

Under the Federal Reserve Bank of Kansas City heading, the entry for DFC Acquisition Corporation Two, is revised to read as follows:

1. DFC Acquisition Corporation Two, Kansas City, Missouri, and Dickinson Financial Corporation, Kansas City, Missouri; to acquire 7.64 percent of the voting shares of UMB Financial Corporation, Kansas City, Missouri; and thereby indirectly acquire UMB Bank, N.A., Kansas City, Missouri; UMB Bank, Boonville, Missouri; UMB Bank North Central, Brookfield, Missouri; UMB Bank, Jefferson City, Missouri; UMB Bank Northeast, Monroe City, Missouri; UMB Bank Cass County, Peculiar, Missouri; UMB Bank Northwest, St. Joseph, Missouri; UMB Bank of St. Louis, N.A., St. Louis, Missouri; UMB Bank Southwest, Carthage, Missouri; UMB Bank Warrensburg, Warrensburg, Missouri; UMB Bank Warsaw, Warsaw, Missouri; UMB Bank Colorado, Security, Colorado; UMB Bank USA, New Castle, Delaware; UMB First State Bank of Morrisonville, Illinois; UMB Bank Kansas, Overland Park, Kansas; and UMB National Bank of America, Salina, Kansas.

In connection with this application, DFC Acquisition Corporation Two, also has applied to indirectly acquire shares of the following nonbanking activities which are conducted by UMB's nonbank subsidiaries: Scout Brokerage Services, Inc., Kansas City, Missouri, providing securities brokerage services pursuant to § 225.25(b)(15)(i), acting as a dealer in bank-eligible securities pursuant to § 225.25(b)(16), and providing investment advisory services pursuant to §§ 225.25(b)(4)(iii), (iv), and (b)(15)(ii). United Missouri Insurance Company, Phoenix, Arizona, to engage in reinsuring credit life insurance, pursuant to § 225.25(b)(8)(i). UMBCDC, Inc., Kansas City, Missouri, to engage in community development, pursuant to § 225.25(b)(6). UMB Consulting Services, Inc., Kansas City, Missouri, to engage in management consulting to depository institutions pursuant to § 225.25(b)(11). UMB U.S.A., N.A., Falls City, Nebraska to engage in making and servicing loans through a credit card bank, pursuant to § 225.25(b)(1).

Comments on this application must be received by November 3, 1995.

Board of Governors of the Federal Reserve System, October 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26594 Filed 10–25–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

System of Records Subject to the Privacy Act of 1974

ACTION: Notice of a system of records subject to the Privacy Act of 1974.

SUMMARY: The following notice is reissued to show that the record system GSA/HRO–4, Labor-management relations files, is still in effect.

SUPPLEMENTARY INFORMATION: The record system Labor-management relations files, GSA/HRO–4, contains information regarding GSA employees who are union officials, who are in an exclusively recognized union, or who have filed a grievance under the negotiated grievance procedure.

FOR FURTHER INFORMATION CONTACT: Mary L. Cunningham, Records Officer, (202) 501–1534.

Dated: October 4, 1995.

Kenneth S. Stacey,

Acting Director, Information Management Division.

GSA/HRO–4 23–00–0007

SYSTEM NAME:

Labor-management relations files.

SYSTEM LOCATION:

The system is in use in the personnel offices of GSA at the addresses listed in the appendix following this notice, and in service and staff offices throughout GSA.

PERSONS COVERED BY THE SYSTEM:

GSA employees who are union officials or who are in an exclusively recognized union. It includes any GSA employee who has filed a grievance under the negotiated grievance procedure.

TYPES OF RECORDS IN THE SYSTEM:

The records are union dues withholding requests or revocations, lists of employees elected or appointed union officials, grievances settled by an arbitrator, and forms showing the amount of time union officials spent representing bargaining unit members.

AUTHORITY FOR MAINTAINING THE SYSTEM:

5 U.S.C. 7101 et seq.

PURPOSE:

To record employees who are in a union, are under dues withholding, are elected or appointed union officers, use official time for representing bargaining unit members, or have had a grievance settled by an arbitrator.

ROUTINE USES OF THE RECORD SYSTEM, INCLUDING THE TYPES OF USERS AND THEIR PURPOSES IN THE USING IT:

a. To the Department of Labor for carrying out its functions regarding labor-management relations in the Federal service.

b. To officials of labor unions recognized under Pub. L. 95–454 when needed in their duties of representing employees concerning personnel policies, practices, and working conditions.

c. To disclose information to a Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To provide information to a congressional office when requested by the person who is the subject of the records.

e. To disclose information to another Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

f. To disclose data to the Office of Personnel Management for producing summary statistics to support the function for which the records are collected, or for related work force studies. While published statistics and studies do not identify persons, the data elements in a study may occasionally be structured so as to allow someone to infer the identity of a person.

g. To disclose information to the Office of Management and Budget for reviewing private relief legislation at any stage of the clearance process.

h. To disclose information to the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission, when requested in performing their official duties.

i. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other authorized official investigating or settling a grievance, complaint, or appeal filed by the employee who is the subject of the record.

j. To the Office of Personnel Management under the agency's responsibility for evaluating Federal personnel management.

k. To an expert, consultant, or contractor of GSA as needed to perform a Federal duty.

l. To the extent that official personnel records in the custody of GSA are covered within a record system published by the Office of Personnel Management as a Governmentwide system, they are considered part of that system. Other official personnel records covered by a notice published by GSA and considered to be a separate record system may be transferred to the Office of Personnel Management under official personnel programs as a routine use.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Paper records and machine listings are kept in file cabinets.

RETRIEVABILITY:

The records are filed alphabetically by name.

SAFEGUARDS:

When not is use by an authorized person, the records are stored in a locked metal file cabinet or in a secured room.

RETENTION AND DISPOSAL:

The Office of Personnel disposes of the records as scheduled in the handbook GSA Records Maintenance and Disposition System (OAD P 1820.2A).

SYSTEM MANAGER AND ADDRESS:

The Director of Personnel, 18th & F Streets, NW., Washington, DC 20405. Mailing address: General Services Administration (CP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

A current employee may address a request as to whether he or she is identified in the record system to the immediate supervisor or their personnel officer at the address given in the appendix following this notice, or to the director of personnel at the above address. Former employees may send their request to the director of personnel where they were last employed.

RECORD ACCESS PROCEDURE:

A request from a current employee to review a record related to him- or herself should be directed to either's supervisor or to a personnel officer at the address listed in the appendix, or to the director of personnel (system manager) at the address above. Former employees should direct their request to a personnel officer where they were last employed. See 41 CFR part 105–64 for the identification required.

PROCEDURE FOR CONTESTING A RECORD:

GSA rules for reviewing a record, contesting the content, and appealing an initial decision are in 41 CFR part 105–64 published in the Federal Register.

RECORD SOURCES:

Officials preparing files, and records submitted by employees, including the one who is the subject of the record.

Appendix of Record System Locations

Central Office, Personnel Operations Division (CPS), General Services Administration, 18th & F Streets NW., Washington, DC 20405. Tel. (202) 501–0040

National Capital Region, Regional Personnel Office (WCP), General Services, Administration, 7th & D Streets SW., Washington, DC 20407, Tel. (202) 708–5335

Northeast and Caribbean Region, Regional Personnel Office (2CP), General Services Administration, 26 Federal Plaza, New York, NY 10278 Tel. (212) 264–8138

Mid-Atlantic Region, Regional Personnel Office (3CP), General Services Administration, The Wanamaker Building, 100 Penn Square East—room 836, Philadelphia, PA 19107–3396, Tel. (215) 656–5625

Southeast Region, Regional Personnel Office (4CP), General Services Administration,

Summit Building, 401 West Peachtree Street, Atlanta, GA 30365–2550 Tel. (404) 331–3181
Great Lakes Region, Regional Personnel Office (5CP), General Services Administration, 230 South Dearborn Street, Chicago, IL 60604 Tel.(312) 353–5550
The Heartland Region, Regional Personnel Office (6CP), General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131 Tel. (816) 926–7206
Greater Southwest Region, Regional Personnel Office (7CP), General Services Administration, 819 Taylor Street, Fort Worth, TX 76102, Tel. (817) 334–2366
Pacific Rim Region, Regional Personnel Office (9CP), General Services Administration, 525 Market Street, San Francisco, CA 95105 Tel. (415) 744–5185.

[FR Doc. 95–26606 Filed 10–25–95; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Nicholas Y. Lorenzo, M.D., Mayo Foundation: On October 16, 1995, ORI found that Nicholas Y. Lorenzo, M.D., formerly of the Mayo Foundation, committed scientific misconduct by falsifying and fabricating data incorporated in an abstract submitted for presentation at a professional meeting; the research was supported by a Public Health Service (PHS) grant.

Dr. Lorenzo has entered into a Voluntary Exclusion Agreement with ORI in which he has accepted ORI's finding and has agreed to exclude himself voluntarily, for the three (3) year period beginning October 16, 1995, from:

(1) Any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government, as defined in 45 CFR Part 76 and 48 CFR Subparts 9.4 and 309.4 (Debarment Regulations); and

(2) serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

The above voluntary exclusion, however, shall not apply to Dr. Lorenzo's future training or practice of clinical medicine whether as a medical student, resident, fellow, or licensed practitioner unless that practice involves research or research training.

The abstract was withdrawn prior to publication, and thus, no correction of the literature is required.

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–26566 Filed 10–25–95; 8:45 am]

BILLING CODE 4160–17–P

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Clearance

The Administration on Aging (AoA), Department of Health and Human Services, will be submitting to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511): Title VI Program Performance Reports;

Type of Request: Extension and Revision;

Use: To revise an existing information collection from Title VI grantees to use in reporting on certain information on programs funded by Title VI as required under Section 202(a)(19) of the Older Americans Act, as amended;

Frequency: Semi-Annually;

Respondent: Tribal Organizations and Non-Profit Organizations representing Native Hawaiians;

Estimated number of responses: 228;

Estimated Burden Hours: 456.

Additional Information or Comments: The Administration on Aging will be submitting to the Office of Management and Budget for approval a revised reporting system for the Title VI Program Performance reports, pursuant to requirements in Section 202(a)(19), Sec. 614(a)(2), and Sec. 614(a)(3) of the Older Americans Act. The revised reporting system would become effective in fiscal year 1996. The revised form would include the following elements:

- Total number services provided;
- Unduplicated number of persons needing services;
- Staffing—Volunteers;
- Others, not paid by Title VI funds;
- Numbers of meal sites operated during budget period;
- Total number of resources used to support the Title VI programs;
- Participant Age categories.

Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice directly to the following address: Administration on Aging, Wilbur J. Cohen Federal Bldg., 330 Independence Ave., SW., Washington, DC 20201, ATT: Reginald A. Newsome.

William F. Benson,

Deputy Assistant Secretary for Aging.

[FR Doc. 95–26568 Filed 10–25–95; 8:45 am]

BILLING CODE 4150–04–M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Allergy and Infectious Diseases Special Emphasis Panel-Training Grant (T32) Application.

Date: November 9, 1995.

Time: 8 a.m.

Place: Solar Bldg., Room 1A03, 6003 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Dr. Madelon C. Halula, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C16, Bethesda, MD 20892, (301) 496–2550.

Purpose/Agenda: To review grant applications.

Name of SEP: Safety Evaluation for Anti-Infective Therapies.

Date: November 15, 1995.

Time: 9 a.m.

Place: NIH, Natcher Bldg. 45, Conference Room H, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Dr. Peter Jackson, Scientific Review Adm., Solar Bldg., Room 4C10, 6003 Executive Boulevard, Bethesda, MD 20892, (301) 496–8426.

Purpose/Agenda: To evaluate contract proposals.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: October 20, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26528 Filed 10–25–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Chemistry and Related Sciences.
Date: November 9, 1995.
Time: 12 p.m.
Place: NIH, Rockledge II, Room 4176, Telephone Conference.
Contact Person: Dr. Mike Radtke, Scientific Review Administrator, 6701 Rockledge Drive, Room 4176, Bethesda, Maryland 20892, (301) 435–1728.

Name of SEP: Clinical Sciences.
Date: November 20, 1995.
Time: 8:30 a.m.
Place: Ramada Hotel, Olde Towne Alexandria, Virginia.
Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 6701 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Behavioral and Neurosciences.
Date: November 28, 1995.
Time: 2 p.m.
Place: NIH, Rockledge II, Room 5179, Telephone Conference.
Contact Person: Dr. Luigi Giacometti, Scientific Review Administrator, 6701 Rockledge Drive, Room 5179, Bethesda, Maryland 20892, (301) 435–1246.

Name of SEP: Behavioral and Neurosciences.
Date: November 29, 1995.
Time: 2 p.m.
Place: NIH, Rockledge II, Room 5179, Telephone Conference.
Contact Person: Dr. Luigi Giacometti, Scientific Review Administrator, 6701 Rockledge Drive, Room 5179, Bethesda, Maryland 20892, (301) 435–1246.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Behavioral and Neurosciences.
Date: November 1, 1995.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, Maryland.
Contact Person: Dr. Keith Murray, Scientific Review Administrator, 6701 Rockledge Drive, Room 5149, Bethesda, Maryland 20892, (301) 435–1716.

Name of SEP: Multidisciplinary Sciences.
Date: November 14, 1995.
Time: 8:30 a.m.
Place: Bethesda Marriott Hotel, Bethesda, Maryland.
Contact Person: Dr. Nancy Shinowara, Scientific Review Administrator, 6701 Rockledge Drive, Room 5216, Bethesda, Maryland 20892, (301) 435–1173.

Name of SEP: Biological and Physiological Sciences.
Date: November 28, 1995.
Time: 3 p.m.
Place: Double Tree Hotel, Rockville, Maryland.
Contact Person: Dr. Peggy McCardle, Scientific Review Administrator, 6701 Rockledge Drive, Room 5198, Bethesda, Maryland 20892, (301) 435–1258.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Date: October 20, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26529 Filed 10–25–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Multidisciplinary Sciences.
Date: November 16–18, 1995.
Time: 8 p.m.
Place: Galatin Gateway Inn, Bozeman, Montana.
Contact Person: Dr. Nancy Shinowara, Scientific Review Administrator, 6701 Rockledge Drive, Room 5216, Bethesda, Maryland 20892, (301) 435–1173.

Name of SEP: Clinical Sciences.
Date: November 17, 1995.
Time: 2 p.m.
Place: NIH, Rockledge II, Room 4218, Telephone Conference.
Contact Person: Dr. Shirley Hilden, Scientific Review Administrator, 6701 Rockledge Drive, Room 4218, Bethesda, Maryland 20892, (301) 435–1198.

Name of SEP: Microbiological and Immunological Sciences.
Date: November 21, 1995.
Time: 1 p.m.
Place: NIH, Rockledge II, Room 4198, Telephone Conference.
Contact Person: Dr. Mohindar Poonian, Scientific Review Administrator, 6701 Rockledge Drive, Room 4198, Bethesda, Maryland 20892, (301) 435–1218.

Name of SEP: Biological and Physiological Sciences.
Date: December 1, 1995.
Time: 10 a.m.
Place: NIH, Rockledge II, Room 5196, Telephone Conference.
Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1257.

Name of SEP: Microbiological and Immunological Sciences.
Date: December 5, 1995.
Time: 1 p.m.
Place: NIH, Rockledge II, Room 4184, Telephone Conference.
Contact Person: Dr. Martin Slater, Scientific Review Administrator, 6701 Rockledge Drive, Room 4184, Bethesda, Maryland 20892, (301) 435–1149.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Biological and Physiological Sciences.
Date: November 8–9, 1995.
Time: 9 a.m.
Place: Doubletree Hotel, Rockville, Maryland.
Contact Person: Dr. Anita Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435–1260.

Name of SEP: Multidisciplinary Sciences.
Date: November 9, 1995.
Time: 3 p.m.
Place: NIH, Rockledge II, Room 5118, Telephone conference.
Contact Person: Dr. Paul Parakkal, Scientific Review Administrator, 6701 Rockledge Drive, Room 5118, Bethesda, Maryland 20892, (301) 435–1172.

Name of SEP: Multidisciplinary Sciences.
Date: December 3–5, 1995.
Time: 7 p.m.
Place: Stanford Terrace Inn, Palo Alto, CA.
Contact Person: Dr. Anthony Carter, Scientific Review Administrator, 6701 Rockledge Drive, Room 5108, Bethesda, Maryland 20892, (301) 435–1167.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(2)(4) and 522b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93, 893, National Institutes of Health, HHS)

Date: October 20, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26530 Filed 10–25–95; 8:45 am]

BILLING CODE 4140–01–M

Office of Inspector General

Program Exclusions: September 1995

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of September 1995, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject—city, State	Effective date
PROGRAM-RELATED CONVICTIONS	
DOMINELLI, FRANK C, HUNTINGTON, NY	10/10/95
ERICKSON, BRUCE L, GREAT FALLS, MT	09/10/95
GREAT FALLS EYE SURGERY CTR, GREAT FALLS, MT	09/10/95
GREENSTEIN, GERALD N, JAMESTOWN, NY	10/10/95
JACK, JANE B, BOWDOINHAM, ME	10/10/95
KANG, NAMIL IL, ANCHORAGE, AK	10/10/95
KANG, YEUNG K, ANCHORAGE, AK	10/10/95
KUSKOKWIM INN, BETHEL, AK	10/10/95
TEEKAH, LYNDA, NEW YORK, NY	10/10/95
WESTERN NY HEARING AID SERVICE, JAMESTOWN, NY	10/10/95
PATIENT ABUSE/NEGLECT CONVICTIONS	
ARANGO, LUCERO, OSSINING, NY	10/10/95
HOWSON, SCOTT E, GREENFIELD, MA	10/10/95
LEWIS, DORIS, COLLEGE STATION, AR	10/10/95
CONTROLLED SUBSTANCE CONVICTIONS	
STRAWDER, RICHARD HORACE, AGOURA HILLS, CA	10/10/95
LICENSE REVOCATION/SUSPENSION/SURRENDER	
BRIGHAM, STEVEN, VOORHEES, NJ	10/10/95
CLAUSING, VERNON D, SEATTLE, WA	10/10/95
CORMACK, MAUREEN, MILFORD, CT	10/10/95
GAJEWAY, CHARLES, TROY, NY	10/10/95
HILL, JAMES W, WATERTOWN, MA	10/10/95
KOBA, JACQUELINE, MIDDLEFIELD, CT	10/10/95
MENHART, KARL ALBERT, POMONA, CA	10/10/95
MOHAN, BRIJ, STATEN ISLAND, NY	10/10/95
MORELEWICZ, HENRY, BUFFALO, NY	10/10/95
MOUSTAFA, WAYEL A, BEVERLY, MA	10/10/95
PEL, SATWANT KAUR, GLEN ROCK, NJ	10/10/95
PINDER, DENISE, ROCKY HILL, CT	10/10/95
RIST-RISUCCI, GAIL, GLASTONBURY, CT	10/10/95
SCOTT, JANET, NORTH HAVEN, CT	10/10/95
STEWART, JUDI A, EL CENTRO, CA	10/10/95
FEDERAL/STATE EXCLUSION/SUSPENSION	
IBRAHIM, HASSAN, KEW GARDENS, NY	10/10/95
RABINER, HERBERT H, OAKLAND GARDENS, NY	10/10/95
DEFAULT ON HEAL LOAN	
DEMETRY, DONALD J, FOREST PARK, IL	10/10/95
DIETER, LAWRENCE ALBERT, LOS OSOS, CA	10/10/95
EASLEY, WAYLAND A, SHAKER HEIGHTS, OH	10/10/95
HARRIGAN, DAVID C, ABSECON, NJ	10/10/95
HUGHES, ALLAN D, WORCESTER, MA	10/10/95
KLINE, KURT W, PLATTSBURGH, NY	10/10/95
LATAILLE, EDWARD P, SAN DIEGO, CA	10/10/95
NELSON, ROGER W, WATERFORD, MI	10/10/95
VAN OLPHEN, ANNEKA M, EL CERRITO, CA	10/10/95
WELLS, KENNETH, CHULA VISTA, CA	10/10/95

Dated: October 4, 1995.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Civil Fraud and Administrative Adjudication.

[FR Doc. 95–26602 Filed 10–25–95; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–3917–N–27]

Notice of Proposed Information Collection for Public Comment

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 26, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—

7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) 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; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) 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.

This Notice also lists the following information:

Title of Proposal: Lease and Sale of HUD-Acquired Single Family Properties for the Homeless.

OMB Control Number: 2502–0412.

Description of the need for the information and proposed use: The information allows HUD to determine whether an applicant qualifies as a homeless provider for the purposes of lease or purchase of a HUD-acquired property. Without the information, the Department would be unable to establish eligibility. Eligible applicants, including state and local governments, may apply to HUD to become approved as homeless providers. Such approval permits the applicant to lease a HUD-owned single family home with an option to purchase, for use in housing the homeless.

Agency form numbers: Not applicable.

Members of affected public: Homeless.

An estimation of the total numbers of hours needed to prepare the information collection is 600, the number of respondents is 300, frequency of response is 1, and the hours of response is 2.

Status of the proposed information collection; Extension of a currently approved collection

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 4 U.S.C. Chapter 35, as amended.

Dated: October 10, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 95–26551 Filed 10–25–95; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1210–00:G6–006]

Prineville District; Closure of Public Lands; Oregon

October 19, 1995.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given that Pictograph Cave, Deschutes County, Oregon, is seasonally closed to all visitor use.

Pictograph Cave in Deschutes County, Oregon, and the sinkhole areas adjacent to both entrances, are closed to all visitor use from October 15 to May 1. These dates are subject to change as a result of annual weather conditions or as more specific data pertaining to use of the site by sensitive bat species is acquired. Closure dates will be posted at the cave site and at the Prineville District Office. The purpose of this closure is to protect the Townsend's big-eared bat (*Plecotus townsendii*) from human disturbance during hibernation. This species is extremely sensitive to human disturbance in the winter months; any disturbance that awakens the bats during this period may result in their death. Pictograph Cave is a known hibernacula site for the Townsend's big-eared bat. Exemptions to this closure will apply to administrative personnel (Bureau of Land Management, Forest Service, and Oregon Department of Fish & Wildlife) for monitoring purposes; other exemptions to this restriction may be made on a case-by-case basis by the authorized officer. Exemptions could include approved research, essential search and rescue, other emergency actions or administrative operations for cave resources protection. The authority for this closure is 43 CFR 8364.1: Closure and restriction orders.

A more specific location of public lands under this closure order is not provided in order to protect sensitive cave resources. Cave locations are exempt from the Freedom of Information Act under the Federal Cave Resources Protection Act of 1988.

FOR FURTHER INFORMATION CONTACT: Sarah Nichols, Wildlife Biologist, BLM Prineville District, P.O. Box 550, Prineville Oregon 97754, telephone (503) 447–8725.

SUPPLEMENTARY INFORMATION: Violation of this closure order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

Dated: October 19, 1995.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 95–26604 Filed 10–25–95; 8:45 am]

BILLING CODE 4310–33–M

[CO–050–1020–00]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next two meetings of the Front Range Resource Advisory Council (Colorado) will be held on Wednesday, November 8, 1995 and Tuesday, November 21, 1995 in Canon City, Colorado. Both meetings are scheduled to begin at 9 a.m. at BLM's Canon City District Office, 3170 East Main Street, Canon City, Colorado. The agenda for the meeting November 8 will focus on the development of standards for rangeland health and guidelines for livestock grazing. The agenda for the meeting November 21 will include a tour of public land in the Canon City area from 9 a.m. to 2 p.m. followed by a work session which will focus on the further development of standards for rangeland health and guidelines for livestock grazing.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. November 8 and 2:30 p.m. on November 21 or written statements may be submitted for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meetings are scheduled for Wednesday, November 8, 1995 from 9 a.m. to 5 p.m. and Tuesday, November 21, 1995 from 9 a.m. to 5 p.m..

ADDRESSES: Bureau of Land Management (BLM), Canon City District

Office, 3170 East Main Street, Canon City Colorado 81212; Telephone (719) 275–0631; TDD (719) 275–4346.

FOR FURTHER INFORMATION CONTACT: Ken Smith, at (719) 275–0631.

SUPPLEMENTAL INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 95–26648 Filed 10–25–95; 8:45 am]

BILLING CODE 4310–JB–M

[ID–030–1050–00]

Intent To Prepare a Planning Amendment to the Pocatello Resource Management Plan

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Intent to Prepare a Planning Amendment to the Pocatello Resource Management Plan.

SUMMARY: Pursuant to 43 CFR part 1600, the Pocatello Resource Area proposes to amend its Resource Management Plan to include the following described lands, found in Bannock and Caribou Counties, Idaho, as two new Areas of Critical Environmental Concern (ACEC).

Boise Meridian, Idaho

Indian Rocks

T. 7 S., R. 36 E.,
Section 34: E½SE¼.
T. 8 S., R. 36 E.,
Section 2: SW¼NW¼, W½SW¼.
Section 3: S½NE¼, E½SE¼SW¼, SE¼.
Section 10: NE¼, E½E½NW¼, N½SE¼, E½SW¼SE¼, SE¼SE¼.
Section 11: W½W½.
Section 14: W½.
Section 15: NE¼NE¼, E½SE¼NE¼, E½E½SE¼.
Section 22: E½NE¼NE¼, SE¼NE¼, E½SE¼, E½NW¼SE¼.
Section 23: NW¼, W½SW¼.
Section 26: NW¼NW¼, S½NW¼, SW¼.
Section 27: E½NE¼
Section 34: SE¼NE¼, NE¼SE¼, N½SE¼SE¼, SE¼SE¼SE¼.
Section 35: W½, SW¼NE¼, W½SE¼.
T. 9 S., R. 36 E.,
Section 2: S½N½, SE¼SW¼, N½SW¼.

Petticoat Peak

T. 8 S., R. 38 E.,
Section 1: S½SW¼NW¼, E½SW¼, SE¼SW¼, S½SW¼, SE¼.
Section 2: S½SE¼, S½NE¼SE¼, NE¼NE¼SE¼, SE¼NW¼SE¼, E½SE¼SW¼, SW¼SE¼SW¼.
Section 11: N½NW¼NE¼, N½NE¼NE¼, SE¼NE¼NE¼.
Section 12: N½NW¼, N½N½SE¼NW¼, E½NW¼NE¼.

Potential issues include, but may not be limited to, grazing management, off-road vehicle use, riparian/wetland management, and mineral extraction. Should these areas be found suitable for designation, the Pocatello Resource Management Plan will be amended to include the new Areas of Critical Environmental Concern and specific management plans will be prepared for each.

The following resources will be considered in preparing the amendments: wildlife, soils, land status, range, threatened and endangered plant and animal species, cultural resources, and recreation. The dates of the public meetings will be released in the local news media. Relevant documents will be available for public review at the BLM, Pocatello Resource Area Office, Pocatello, Idaho.

For a period of 30 days from the date of publication of this Notice, interested parties may submit comments to Jeff S. Steele, Pocatello Area Manager, Bureau of Land Management, 1111 N. 8th Ave., Pocatello, Idaho 83201.

Dated: October 18, 1995.

Mary Gaylord,

District Manager.

[FR Doc. 95–26605 Filed 10–25–95; 8:45 am]

BILLING CODE 4310–GG–P

[ID–957–1030–00]

Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., October 17, 1995.

The plat representing the dependent resurvey of portions of the subdivisional lines and the boundaries of Mineral Survey Nos. 1293 and 1294, the subdivision of section 14, and a metes-and-bounds survey in section 14, T. 7 N., R. 4 E., Boise Meridian, Idaho, Group No. 879, was accepted, October 17, 1995.

The survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706

Dated: October 17, 1995.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–26536 Filed 10–25–95; 8:45 am]

BILLING CODE 4310–GG–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–723 (Final)]

Certain Drawer Slides From China

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On October 19, 1995, the Commission received a letter from petitioner in the subject investigation (Hardware Designers, Inc.) withdrawing its petition. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping investigation concerning Certain Drawer Slides from China (Investigation No. 731–TA–723 (Final)) is terminated.

EFFECTIVE DATE: October 19, 1995.

FOR FURTHER INFORMATION CONTACT: Olympia Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR § 207.40).

Issued: October 20, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–26559 Filed 10–25–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203.

Comments on the following assessment are due 15 days after the date of availability:

AB–457X, RLTD Railway Corporation—Notice of Exemption—Abandonment from Reenie's Point to Northport, In Leelanau County, MI. EA available 10/23/95.

AB–167 (Sub-No. 1152X), Consolidated Rail Corporation—Abandonment Exemption—in Cook County, IL. EA available 10/20/95.

Comments on the following assessment are due 30 days after the date of availability:

AB–6 (Sub-No. 370X), Burlington Northern Railroad Company—Abandonment of a Line of Railroad Between M.P. O0.00 near Mesa, WA and M.P. 11.20 near Basin City, WA in Franklin County, Washington. EA available 10/20/95.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26850 Filed 10–25–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32762]

Florida Progress Corporation, Progress Capital Holdings, Inc., Electric Fuels Corporation and Progress Rail Services Corporation: Acquisition and Operation Exemption; Sidney & Lowe Railroad, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, pursuant to 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 11343–45 the acquisition and operation of Sidney & Lowe Railroad, Inc. (S&LR), by Florida Progress Corporation, Progress Capital Holdings, Inc., Electric Fuels Corporation and Progress Rail Services Corporation, subject to standard labor protective conditions. S&LR is a class III short line rail carrier that operates over approximately 11 miles of mainline track from Brownson, NE, to Huntsman, NE.

DATES: This exemption will be effective on November 25, 1995. Petitions for stay must be filed by November 10, 1995. Petitions to reopen must be filed by November 20, 1995.

ADDRESSES: Send pleadings referring to Finance Docket No. 32762 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioners' representative: Betty Jo Christian, Steptoe & Johnson, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: October 17, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owens, and Commissioners Simmons and McDonald. Commissioner McDonald did not participate in the disposition of this proceeding.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26582 Filed 10–25–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–290 (Sub-No. 176X)]

Norfolk and Western Railway Company—Abandonment Exemption—Des Moines, IA

Norfolk and Western Railway Company (NW) has filed a verified notice under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon a 2.3-mile rail line between mileposts SD–334.6 and SD–336.8 and between mileposts SD–339.6 and 339.7 in Des Moines, IA.

NW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in complainant's favor within the last 2 years; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 and 1152.50(d)(1) (notice to government agencies), and 49 CFR 1105.12 (newspaper publication) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether employees are adequately protected, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective November 25, 1995, unless stayed or a statement of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] statements of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by November 6, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 15, 1995. An original and 10 copies of any such filing must be sent to the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, one copy must be served on James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Commission's Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 31, 1995. A copy of the EA may be obtained by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

[1] The Commission will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Commission in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Commission may take appropriate action before the exemption's effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

Decided: October 20, 1995.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26579 Filed 10–25–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–290 (Sub-No. 175X)]

Norfolk Southern Railway Company; Abandonment Exemption; at Virginia Beach, VA

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR part 1152 Subpart F—Exempt Abandonments to abandon approximately 1.7 miles of rail line extending between milepost VB–15.4 milepost VB–17.1 at Virginia Beach, VA.

NS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 25, 1995 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by November 6, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 15, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 31, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 20, 1995.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26581 Filed 10–25–95; 8:45 am]

BILLING CODE 7035–01–P

[1] A stay will be issued routinely where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] *See Exempt. of Rail Abandonment Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use statements so long as it retains jurisdiction.

NATIONAL BANKRUPTCY REVIEW COMMISSION

Emergency Commission Meeting

AGENCY: National Bankruptcy Review Commission.

ACTION: Notice of emergency meeting.

DATES: November 1, 1995, Wednesday, 9 a.m. to 12 noon.

ADDRESSES: J.W. Marriott Hotel, Bonaparte Room, 4th Floor, 555 Canal Street, New Orleans, Louisiana 70140.

FOR FURTHER INFORMATION CONTACT: Contact Jarilyn Dupont or Carmelita Pratt at the National Bankruptcy Review Commission, (202) 273–1813, c/o Administrative Office of the U.S. Courts, One Columbus Circle NE., Suite 4–170, Washington, D.C. 20544 (mailing address) (or 20002, street address).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Since certain information was not available at the time of the first organizational meeting on October 20, 1995, the Commission continued the meeting in order to obtain the necessary information and called an emergency meeting to finish the agenda items originally scheduled for October 20, 1995.

Jarilyn Dupont,

Executive Director/General Counsel.

[FR Doc. 95–26671 Filed 10–25–95; 8:45 am]

BILLING CODE 6820–36–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 126th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 3–4, 1995 in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. The meeting will be held on November 3rd from 9 am–5:30 pm and on November 4th from 9 am–1 pm.

This meeting will be open to the public. Topics for discussion will include a Legislative Update, discussion of the agency's new structure, new budgets, panel and Council procedures, guidelines for organizations, application review, and committee reports.

If, in the course of application discussion review, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682/5532, TTY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, D.C. 20506, at 202/682/5570.

Dated: October 23, 1995.

Yvonne M. Sabine,

Director, Council and Panel Operations.

[FR Doc. 95–26560 Filed 10–25–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: Data Report on Spouse.
2. Current OMB approval number: 3150–0026.
3. How often the collection is required: On Occasion.
4. Who is required or asked to report: NRC employees, NRC contractors, and NRC licensee access authorization applicants who marry after completing NRC's Personnel Security Forms; or marry after having been granted an NRC access authorization or employment clearance.
5. The number of annual respondents: 60.
6. The number of hours needed annually to complete the requirement or request: 15 (.25 hours per response).
7. Abstract: Completion of the NRC Form 354 is a mandatory requirement for NRC employees, contractors, licensee applicants, and employee applicants who marry after submission of the Personnel Security Forms, or after receiving an access authorization or employment clearance to permit the NRC to assure there is no increased risk to the common defense and security.

Submit, by December 26, 1995, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge from the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem within the first 30 days on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem on FedWorld at 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 19th day of October, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–26562 Filed 10–25–95; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review and continued approval of information collection requirements currently approved by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 75—Safeguards on Nuclear Material—Implementation of US/IAEA Agreement.
2. Current OMB approval number: 3150–0055.
3. How often the collection is required: Installation information is submitted upon written notification from the Commission. Changes are submitted as occurring. Nuclear Material accounting and control information is submitted in accordance with specified instructions.
4. Who is required or asked to report: All persons licensed or certified by the Commission or Agreement States to possess source or special nuclear material at an installation specified on the U. S. eligible list as determined by the Secretary of State or his designee and filed with the Commission, as well as holders of construction permits and persons who intend to receive source material.
5. The number of annual respondents: 5 recordkeepers. There are no reporting respondents because the IAEA is currently not selecting NRC-licensed facilities for inspection.
6. The number of hours needed annually to complete the requirement or request: 4,000 (800 hours each for 5 recordkeepers).
7. Abstract: 10 CFR Part 75 establishes a system of nuclear material accounting and control to implement the agreement between the United States and the International Atomic Energy Agency (IAEA). Under that agreement, NRC is required to collect the information and make it available to the IAEA. This submittal will reflect a reduction in burden because the IAEA is currently not selecting NRC-licensed facilities for inspection.

Submit comments that address the following by December 26, 1995:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the collection of information be minimized, including the use of automated collection techniques?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem within 30 days of the signature date of this notice on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem on FedWorld at 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at bjs1@nrc.gov.

Dated at Rockville, Maryland, this 19th day of October, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–26563 Filed 10–25–95; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 52, ''Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants.''

2. Current OMB approval number: 3150–0151.

3. How often the collection is required: On occasion and every 10 to 20 years for applications for renewal.

4. Who is required or asked to report: Designers of commercial nuclear power plants, electric power utilities, and any person eligible under the Atomic Energy Act to apply for a construction permit for a nuclear power plant.

5. The number of annual respondents: Two applications for design certification will be under review during the next three years.

6. The number of hours needed annually to complete the requirement or request: Approximately 65,333 hours per year for both applications in addition to the burden associated with 10 CFR Parts 20, 50, 73 and 100 (approved by OMB under Clearance Nos. 3150–0014, 3150–0011, 3150–0002, and 3150–0093, respectively).

7. Abstract: 10 CFR Part 52 establishes requirements for the granting of early site permits, certifications of standard nuclear power plant designs, and licenses which combine in a single license a construction permit and an operating license with conditions (combined licenses). Part 52 also establishes requirements for renewal of these permits, certifications, and licenses; amendments to them; exemptions from certifications; and variances from early site permits.

NRC uses the information collected to assess the adequacy and suitability of an applicant's site, plant design, construction, training and experience, and plans and procedures for the protection of the public health and safety. The NRC review of such information and the findings derived from that information form the basis of NRC decisions and actions concerning the issuance, modification, or revocation of site permits, design certifications, and combined licenses for nuclear power plants.

Submit by December 26, 1995 comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the collection of information be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 19th day of October, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–26564 Filed 10–25–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36400; File No. SR–Amex–95–14]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Permanent Approval of Its Pilot Program That Permits Specialists to Grant Stops in a Minimum Fractional Change Market

October 20, 1995.

I. Introduction

On March 23, 1995, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change to approve permanently amendments to Exchange Rule 109 that would permit specialists to stop stock in a minimum fractional change market.

The proposed rule change was published for comment in Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

Exchange Act Release No. 35909 (June 28, 1995), 60 FR 34562 (July 3, 1995). No comments were received on the proposal.[3] For the reasons discussed below, the Commission has decided to approve the Amex's proposal.

II. Description of Proposal

The practice of stopping stock by specialists refers to a guarantee by a specialist that an order the specialist receives will be executed at no worse a price than the contra side price in the market when the order was received, with the understanding that the order may obtain a better price. Prior to the proposed rule change, Exchange Rule 109(c) permitted a specialist to stop stock only when the quotation spread was at least twice the permitted minimum fractional change in the stock (*i.e.*, for most stocks ¼ point), with the specialist then being required to narrow the quotation spread by making a bid or offer, as appropriate, on behalf of the order that is stopped.

In April 1992, the Commission approved on a pilot basis[4] amendments to Exchange Rule 109 that permitted a specialist to stop stock in a minimum fractional change market.[5] The Commission has subsequently extended the Exchange's pilot program several times without any modifications.[6] The most recent extension of the pilot program is scheduled to expire on October 21, 1995.

The pilot program amends Rule 109 to permit a specialist, upon request, to stop individual orders of 2,000 shares or less, up to an aggregate total of 5,000 shares for all stopped orders (*i.e.*, multiple orders) in minimum fractional change markets. A specialist may stop an order of a specified larger order size threshold, or a larger aggregate number of shares after obtaining Floor Official approval. For a specialist to stop an order in a minimum fractional change market, there must be a significant disparity between the bid and ask size (on the opposite side of the market from the order being stopped) that suggests the likelihood of price improvement.[7] In the 1992 Approval Order, first approving the pilot, the Commission noted that a large imbalance on the opposite side of the market would help ensure that stops in a minimum fractional change market occur only when the likelihood of the benefits to the customer's order being stopped far exceeds the possibility of harm to customers' orders on the limit order book.[8]

Under these limited circumstances, the pilot permitted a specialist to stop a buy (sell) order at the market upon request and guarantee that the order will receive no worse than the best then-prevailing offer (bid) price. The specialist would then increase the bid (offer) size to reflect the stopped order.[9] If the pre-existing volume at the bid (offer) is exhausted and a seller (buyer) hits the bid (offer) made on behalf of the stopped order, the buyer's (seller's) stopped order would obtain price improvement. If, however, before that event occurs another buyer's (seller's) order is executed at the offer (bid), then the specialist will execute the stopped order at the stopped price.

In the orders approving the pilot procedures, the Commission requested that the Exchange study the effects of stopping stock in minimum fractional change markets and collect certain data to allow the Commission to evaluate fairly and comprehensively the pilot program.[10] The Exchange has submitted to the Commission several monitoring reports regarding the amendments to Rule 109, with the latest report submitted on January 1995. The Commission then approved an extension of the pilot until October 21, 1995, so that the Commission would have additional time to evaluate the information provided in the monitoring reports, especially in the latest report, and to ensure that Rule 109, as amended, provides a benefit to investors through the possibility of price improvement to customers whose orders are granted stops in minimum fractional change markets while not unduly harming public customer limit orders on the specialist book.

III. Discussion

After careful consideration, the Commission has determined to approve permanently the proposed rule change. For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5)[11] and Section 11(b)[12] of the Act.

Historically, the Commission has had mixed reactions about the practice of stopping stock. The 1963 Report of the Special Study of the Securities Markets found that unexecuted customer limit orders on the specialist's book might be by passed by the stopped orders.[13] The Commission, nevertheless, has allowed the practice of stopping stock in markets where the spread is at least twice the permitted minimum fractional change in the stock because the possible harm to orders on the book is offset by the

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[3] The Commission has received three comment letters opposing the New York Stock Exchange's proposal for permanent approval of the NYSE's procedures for stopping stock in minimum variation markets, two of which were from the same commenter (Junius Peake). See letter from Junius W. Peake, Monfort Professor of Finance, University of Northern Colorado, to Secretary, SEC, dated March 1, 1995; letter from Junius W. Peake, Monfort Professor of Finance, University of Northern Colorado, to Secretary, SEC, dated July 21, 1995; letter from Morris Mendelson, Professor Emeritus of Finance, The Wharton School of the University of Pennsylvania, to Jonathan Katz, Secretary, SEC, dated August 2, 1995. Because the NYSE's procedures are identical to those of the Amex, issues raised in the comment letters apply equally to both rule proposals. The comment letters and the NYSE's response to Junius Peake's first comment letter are summarized in the Commission's order. In addition, the Commission's discussion in the NYSE order is applicable to this order. *See* Securities Exchange Act Release No. 36399 (Oct. 20, 1995) (permanently approving NYSE's pilot program for stopping stock in minimum variation markets); *see also* letter from James Buck, Senior Vice President and Secretary, NYSE, to Jonathan Katz, Secretary, SEC, dated July 17, 1995.

[4] *See* Securities Exchange Act Release No. 30603 (Apr. 17, 1992), 57 FR 15340 (Apr. 27, 1992) (File No. SR–Amex–91–05) (''1992 Approval Order'').

[5] Amex Rule 127 sets forth the minimum fractional changes for securities traded on the Exchange. This Rule provides that the minimum fractional change for dealings in securities shall be as follows: securities selling under $5.00 and above ¼ of $1.00, 1⁄16 of $1.00 per share; under ¼ of $1.00, 1⁄32 of $1.00 per share; and at $5.00 and over, ⅛ of $1.00 per share. This Rule also provides that the Exchange may fix different minimum fractional changes for dealings in securities.

[6] *See* Securities Exchange Act Release Nos. 32185 (Apr. 21, 1993), 58 FR 25681 (Apr. 27, 1993) (File No. SR–Amex–93–10) (''April 1993 Approval Order''); 32664 (July 21, 1993) 58 FR 40171 (July 27, 1993) (File No. SR–Amex–93–22) (''July 1993 Approval Order''); 33791 (Mar. 21, 1994), 59 FR 14432 (Mar. 28, 1994) (File No. SR–Amex–93–47) (''1994 Approval Order''); 35310 (Jan. 31, 1995), 60 FR 7236 (Feb. 7, 1995) (File No. SR–Amex–95–01) (''January 1995 Approval Order''); 36010 (July 21, 1995), 60 FR 38869 (July 28, 1995) (''July 1995 Approval Order).

[7] *See* letter from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated January 6, 1992; 1992 Approval Order, *supra* note 4; Amex Information Circular Nos. 92–74 (Apr. 24, 1992) and 93–333 (Apr. 7, 1993).

[8] The 1992 Approval Order also noted Amex's representation and the Commission's understanding that specialists would not routinely use such procedures.

[9] The stopped order would be placed behind the existing limit orders at the bid (offer) for priority purposes.

[10] *See supra* notes 4 and 6.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78k.

[13] *See* SEC, Report of the Special Study of Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess., Pt. 2 (1963) (''Special Study'').

When stock is stopped, limit book orders on the opposite side of the market do not receive an immediate execution. Consequently, if the stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

reduced spread that results and the possibility of price improvement.

Although the procedures for stopping stock in minimum fractional change markets do not reduce the spread between the quotes, the Commission has allowed, on a pilot basis, the practice in limited circumstances where there is a substantial imbalance on the opposite side of the market from the order being stopped. This limitation is intended to assure that specialists would stop stock in minimum fractional change markets only in situations where the likelihood of price improvement outweighs the possibility that contra-side limit orders would be bypassed.[14] Moreover, the order size restrictions would act to ensure that most stops are granted to public customers with small orders, whose orders could most benefit from the professional handling by specialists. In addition, limiting the total stops to 5,000 shares is intended to ensure that the amount of stopped stock does not become so large that there would, in effect, cease, to be an imbalance on the opposite side of the market from the order being stopped. (*i.e*, less likelihood of price improvement for the stopped orders). Finally, although the spread cannot be reduced by stopping stock in minimum fractional change markets, specialists must change the quoted bid or offer size to reflect the size of the order being stopped. This should ensure that the stopped stock will be shown in the quote.

To examine whether specialist have been using the pilot program as intended, the Commission had asked the Exchange to provide data on the stopping stock program in a minimum fractional change market.[15] The Exchange has submitted to the Commission several monitoring reports regarding the amendments to Rule 109. The Commission believes that the monitoring reports, especially the latest monitoring report, provide useful information regarding the effectiveness of the program during the pilot period.

Specifically, according to the Amex's latest report, approximately half of eligible orders (*i.e.*, orders for 2,000 shares or less) stopped in minimum fractional change markets received price improvement. Moreover, according to the Amex report, stops in minimum fractional change markets generally have been granted when there was a significant disparity (in both absolute and relative terms) between the number of shares bid for and the number offered. In particular, the report notes that the ratio between the quotes (*i.e.*, disparity between the bid and ask size on the opposite side of the market from the order being stopped) when orders were stopped was approximately 3 to 1. The Exchange also reports between 37% and 65% of the limit orders on the opposite side of the market from all market orders stopped in a minimum fractional change market were executed by the end of the day.[16] Moreover, based on the one-day review of the ten stocks receiving the greatest number of stops, the Amex found that 92% of the shares on the opposite side of the market at the time the stop was granted was executed by the close of the day's trading. Finally, with respect to Floor Official approval of waivers to the numerical limitations, the Exchange reports that a very high percentage of orders requiring Floor Official approval received such an approval.

The Commission, therefore, believes that the data on stopping stock in minimum fractional change markets show that the pilot has operated as intended and should be approved permanently.[17]

In addition to a determination that the Amex proposal is consistent with Section 6 of the Act, the Commission also believes that the proposal is consistent with the prohibition in Section 11(b) against providing discretion to a specialist in the handling of an order.[18] Section 11(b) was designed, in part, to address potential conflicts of interest that may arise as a result of the specialist's dual role as agent and principal in executing stock transactions. In particular, Congress intended to prevent specialists from unduly influencing market trends through their knowledge of market interest from the specialist's book and their handling of discretionary agency orders.[19] The Commission has stated that, pursuant to Section 11(b), all orders other than market or limit orders are discretionary and therefore cannot be accepted by specialists.[20]

As previously noted in the 1992 Approval Order, the Commission believes that it is appropriate to treat stopped orders, even those under the pilot procedures, as equivalent to limit orders. The Amex's rules define a limit order as an order to buy or sell a stated amount of a security at a specified price, or at a better price if obtainable.[21] The Commission believes that stopped orders are equivalent to limit orders, in this instance, because the orders would be automatically elected at the best bid or offer, or better if obtainable. Although the proposed amendments permit the specialist to employ his judgment to some extent, the Commission believes that the requirements imposed on the specialist for granting stops in minimum fractional change markets provide sufficient stringent guidelines to ensure that the specialist will only implement these provisions in a manner consistent with his market making duties and Section 11(b).[22]

In permanently approving the stopping stock procedures for minimum fractional change markets, the Commission is relying on three aspects of the program and expects the Amex to reiterate these requirements in an Information Circular to members. First the Commission continues to believe that the requirement of a sufficient market imbalance is important to the proper application of the program. This requirement should help the Amex ensure that stops are only granted in a minimum fractional change market when the benefit (*i.e.,* price improvement) to orders being stopped far exceeds the potential for harm to orders on the specialist's book. Second, the Commission expects the Amex to take appropriate action in response to any instance of specialist non-compliance with the stopping stock procedures in minimum fractional change markets. Third, the Commission emphasized that Floor Official approval of an increase in the size of the stopped order or stopping more than 5000 shares must not be routine. The Commission

[14] As for limit book orders on the same side of the market as the stopped stock, the Commission believes that Rule 109's requirements make it unlikely that these limit orders would not be executed. Under the Amex pilot program, an order can be stopped only if a substantial imbalance exists on the opposite side of the market. In those circumstances, the stock would probably trade away from the large imbalance, resulting in execution of orders on the limit order book.

[15] *See supra* notes 4 and 6.

[16] The percentages depended upon whether the stocks have been phased into the Exchange's electronic display book. For stocks in which the electronic display book had been implemented, the Exchange was able to monitor the limit orders on the opposite side of the market from the market orders stopped in minimum fractional change market. For other stocks, the Amex determined how often an equivalent volume (*i.e.*, the same number of shares as the stopped order) was executed on the opposite side's limit price by the close of the day's trading.

[17] *Cf.* Securities Exchange Act Release No. 36399 n.24 (Oct. 20, 1995) (permanently approving NYSE's pilot procedures for stopping stock in minimum variation markets).

[18] Section 11(b) permits a specialist to accept only market or limit orders.

[19] *See* H. Rep. No. 1383, 73d Cong. 2d Sess. 22, S. Rep. 792, 73d Cong. 2d Sess. 18 (1934).

[20] *See* Special Study, *supra* note 13.

[21] *See* Amex Rule 131(b).

[22] Moreover, stopped orders as ''limit orders'' would not bypass pre-existing limit orders on the same side of the market. Under the Amex's procedures, specialists may not execute a stopped order before the limit order interest on the Exchange (at the same price as the stopped order) is exhausted.

expects the Amex to monitor compliance with these aspects of the stopping stock program through its special surveillance procedures.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–Amex–95–14) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26573 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36390; International Series Release No. 872; File No. SR–CBOE–95–39]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to a Proposed Rule Change Relating to the Listing and Trading of Options and Long-Term Options on the CBOE Germany 25 Index and Long-Term Options on a Reduced-Value CBOE Germany 25 Index

October 18, 1995.

I. Introduction

On August 4, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to list and trade on the Exchange cash-settled, European-style [3] stock index options on the Germany 25 Index. The Index is a capitalization-weighted index of 25 German blue-chip equities listed on the Frankfurt Stock Exchange (''FSE''). The proposed rule change was published for comment and appeared in the Federal Register on August 28, 1995.[4] The CBOE filed Amendment No. 1 to its proposal on October 13, 1995.[5] No comments were received regarding the CBOE's proposal.

II. Description of the Proposal

A. General

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style stock index options on the Germany 25 Index. The Index is a capitalization-weighted index of 25 German blue-chip equities listed on the Frankfurt Stock Exchange (''FSE''). The Exchange represents that options on the Index will provide investors with a low-cost means of participating in the German economy and hedging against the risk of investing in that economy.

B. Index Design

The 25 stocks that comprise the Germany 25 Index were selected by the CBOE for their high market capitalization and high degree of liquidity. According to the Exchange, the Index stocks are drawn from a broad base of industries and are representative of the industrial composition of the German equity market. Specifically, the Index components are the top 25 German stocks by market capitalization excluding: (1) Stocks with an average daily volume of less than 50,000 shares per day over the past six months; and (2) preferred stock of an issuer if that issuer also has publicly-traded common stock. The Index will be reviewed annually by that CBOE at the end of May each year and any composition changes resulting from that review will be implemented after the June expiration in that year.

The Germany 25 Index is weighted by the capitalization (market value) of the component stocks. The capitalization of a particular stock in the Index is calculated by multiplying the listed shares (including common, preferred, and treasury shares) by the price of the stock.[6]

On June 30, 1995, the 25 stocks in the Index ranged in capitalization from DM 3.656 billion (US$2.648 billion) [7] to DM 51.642 billion (US$37.408 billion). The total capitalization of the stocks in the index on that date was DM 399.101 billion (US$289.099 billion); the mean capitalization was DM 15.964 billion (US$11.564 billion) and the median capitalization was DM 11.144 billion (US$8.072 billion). The largest stock by capitalization (Allianz AG Holdings) accounted for 12.94% of the total weighting of the Index, while the smallest (Kaufhof) accounted for 0.92%. The top five stocks accounted for 44.56% of the total weighting on that date.

For the period from January 1, 1995 through June 30, 1995, average daily volume in individual Germany 25 Index component stocks ranged from a low of approximately 87,629 shares to a high of 2.532 million shares traded per day, with a mean daily trading volume for all the stocks in the Index during that period of 523,501 shares traded per day.

The Exchange represents that the Index is composed of ten (10) broad industry groupings, including chemicals, automobile and insurance companies, among others, which reflect the industry composition of the German equity market.

C. Calculation

The CBOE states that the Germany 25 Index will reflect changes in the capitalization of the component stocks relative to the capitalization on a base date. The base date for the Index is June 30, 1995, at which time the Index was given a value of 200 by the CBOE. The Index value of 200 was reached by multiplying the price of each stock by the number of listed shares (including common, preferred, and treasury),[8] obtaining the sum of these values of all component stocks, and then dividing by a divisor determined to give the Index a value of 200. The CBOE states that it will calculate and disseminate the Germany 25 Idex, based on the most recent closing prices of the component stocks as reported by the FSE, each day prior to the opening of trading in the United States.[9] It is anticipated that at least several information vendors will make this information available throughout the CBOE trading day.

D. Maintenance

The Index will be maintained and calculated by to Exchange. To maintain continuity of the Index, the Exchange

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[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] European-style options may only be exercised during a specified period before the options expire.

[4] *See* Securities Exchange Act Release No. 36125 (August 18, 1995), 60 FR 44526.

[5] Letter from Eileen Smith, Director, Product Development, Research Department, CBOE, to Michael Walinskas, Branch Chief, Office of Market Supervision, Division of Market Regulation, Commission, dated October 13, 1995 (''Amendment No. 1''). In Amendment No. 1, the CBOE provides information regarding the industries represented in the Index, IBIS average daily trading volume, and dissemination. Amendment No. 1 also states that if the weight of any one industry group exceeds 50% of the total weight of the Index, the Exchange will immediately notify Commission staff; and that the CBOE will not remove a component of the Index between annual reviews unless it becomes necessary (generally due to bankruptcy, delisting, takeover, or merger. *Id*.

[6] The Commission notes that this varies from the method used to calculate the values of domestic capitalization-weighted indexes, such as the S&P 100 Index. For such domestic indexes, values are determined based solely on the outstanding shares of common stock of each component in the indexes.

[7] The CBOE represents that the dollar values used herein are based on a German mark/U.S. dollar exchange rate of 1.3805 marks per U.S. dollar prevailing on June 30, 1995.

[8] *See supra* note 6 and accompanying text.

[9] Amendment No. 1, *supra* note 5.

will adjust the Index to reflect certain events relating to the component stocks. For example, the Exchange will adjust the Index divisor to reflect cash dividends paid on the component securities.The Exchange will make this adjustment because German companies usually pay their dividends only once a year (generally in May or June). In not adjusted, the annual dividend payment would result in a significant drop in the Index value at the time when the dividends are paid. The divisor will be adjusted immediately prior to each ex-dividend date so that the Index level will not be affected by the dividend payment. A similar adjustment will be made when a company issues new shares for which the shareholders have preemptive rights, or when other intra-year events such as mergers and spinoffs, occur.

Between annual reviews, CBOE will not remove a component of the Index unless it becomes necessary as a result of significant and fundamental changes to such Index component. Generally, such a change would include bankruptcy, delisting from the FSE, takeover, or merger.[10] In that case, the next eligible component will be added, *i.e.*, the German security with the highest market capitalization not then included in the Index that satisfies the criteria set forth above.

E. Index Option Trading

In addition to regular Index options, the Exchange may provide for the listing of long-term index option series (''LEAPS'') and reduced-value LEAPS on the Index (''Index LEAPS''). For reduced-value Index LEAPS, the underlying value will be computed at one-tenth of the Index level. The current and closing index value of reduced-value Index LEAPS will, after such initial computation, be rounded to the nearest one-hundredth.

The trading hours for options on the Index will be from 8:00 a.m. to 3:15 p.m., Chicago time. Currently, the trading hours of the Exchange and the FSE do not overlap.[11] The Exchange, therefore, will calculate and disseminate the value of the Index based on the most recent closing prices of the component stocks as reported by the FSE. After the close of the FSE, however, trading continues in the 25 stocks comprising the Index on the FSE's Integrated Stock Exchange Trading and Information System (''IBIS'').[12] The trading hours of IBIS and the Exchange currently overlap for the two hour period between 8 a.m. and 10 a.m., Chicago time. During this two hour period, the Exchange will continuously calculate and disseminate every 15 seconds an ''indicative'' Germany 25 Index level based on the most recent prices of the component stocks as reported by IBIS.[13] When Trading on IBIS has concluded (10 a.m. Chicago time), the Exchange will disseminate the last ''indicative'' Index level. To avoid any confusion, the ''indicative'' Index level will have a different ticker symbol from the actual Index level.

The option premium values will be quoted in U.S. dollars and trading accounts will be denominated in U.S. dollars. For strike prices under $200, the Exchange reserves the right to list series in 2½ point intervals.

F. Surveillance

The Exchange expects to apply its existing index options surveillance procedures to Index options. In addition, the CBOE states that the German legislature recently adopted new laws regarding insider trading that also provide for the creation of an independent regulatory authority.[14] The Exchange understands that these developments will facilitate the effective coordination between the Commission and the appropriate German regulatory authority of option trading on the Germany 25 Index because they will enhance the surveillance of trading in the stocks comprising the Index. In addition, the Exchange will continue to pursue its own independent agreement with the Deutsche Börse AG (the holding company that owns the FSE) and/or the FSE.[15]

G. Exercise and Settlement

The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. The Exchange intends to list up to three near-term calendar months and three additional months at three month intervals.[16] Trading in the expiring contract month will normally cease at 3:15 p.m. (Chicago time) on the immediately preceding Thursday, unless a holiday occurs. The exercise settlement value of the Index at option expiration will be calculated by the Exchange on the day following the last day of trading in the expiring contracts. The exercise settlement value of Index options at expiration will be determined at the close of the regular Friday trading sessions at the FSE in Germany, ordinarily at 1:30 p.m., Frankfurt time (6:30 a.m., Chicago time), *i.e.*, values of component stocks disseminated through IBIS will not be used in calculating the settlement values for Index options or Index LEAPS.[17] If an Index stock does not open for trading at the FSE, the last available price on the FSE of the stock will be used in the calculation of the value of the Index. When expirations are moved in accordance with Exchange holidays, such as when the CBOE is closed on the Friday before expiration, the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the close of the regular Thursday trading sessions at the FSE in Germany even if the FSE is open on Friday. If the FSE will be closed on the Friday before expiration but the CBOE will not, the last trading day for expiring Index options and Index LEAPS will be Wednesday.[18]

H. Position Limits

The Exchange proposes to establish position limits for options on the Index of 50,000 contracts on either side of the market, with no more than 30,000 contracts in the series with the nearest expiration month. The Exchange represents that these limits are roughly equivalent, in dollar terms, to the limits applicable to options on other approved broad-based indexes. For purposes of determining whether given position in full-value and reduced-value Index LEAPS comply with applicable position and exercise limits, positions in full-value and reduced-value Index LEAPS

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[10] Amendment No. 1, *supra* note 5.

[11] The FSE's trading hours are from 10:30 a.m. to 1:30 p.m., Frankfurt time (3:30 a.m. to 6:30 a.m., Chicago time).

[12] According to the Exchange, the Deutsche Börse AG, the holding company for the FSE, states that IBIS is a screen-based trading and information system that is available for trading from 8:30 a.m. to 5:00 p.m., Frankfurt time (1:30 a.m. to 10:00 a.m., Chicago time). The CBOE represents that IBIS, as part of the FSE, is subject to the same rules and regulations as floor trading on the FSE. According to the Exchange, IBIS began operating in April, 1991.

[13] Amendment No. 1, *supra* note 5. The Exchange intends to calculate the ''indicative'' Index with the same method of calculation as described above for the actual Index.

[14] The Commission notes that this new regulatory body, the Bundesaufsichtsamt fur den Wertpapierhandel, was established in January 1995.

[15] Telephone conversation between Eileen Smith, Director, Product Development, Research Department, CBOE, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division, Commission, on August 8, 1995.

[16] Telephone Conversation between Scott Lyden, Senior Research Analyst, CBOE, and Francois Mazur, Attorney, Office of market Supervision, Division of Market Regulation, Commission, on October 17, 1995 (''October 17 Telephone Conversation'').

[17] *Id.*

[18] In this circumstance, the CBOE will issue a notice to members informing them that the last trading day for Index options and Index LEAPS will be on Wednesday even though the CBOE will be open on expiration Friday. *Id.*

will be aggregated with positions in the regular Index options. For these purposes, ten reduced-value contracts will equal one full-value contract.

I. Exchange Rules Applicable

Except as modified herein, the rules in Chapter XXIV of the CBOE's rules applicable to other broad-based index options will be applicable to Germany 25 Index options, including Index LEAPS for purposes of trading rotations, halts and suspensions, and margin treatment.

The Exchange states that it has the necessary systems capacity to support new series that would result from the introduction of Germany 25 Index options. The CBOE also states that it has been informed that the Options Price Reporting Authority (''OPRA'') has the capacity to support such new series.[19]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[20] The Commission finds that the trading of options on the Index will permit investors to participate in the price movements of the 25 German equity securities on which the Index is based. The Commission also believes that the trading of options on the Index will allow investors holding positions in some or all of the securities underlying the Index to hedge the risks associated with their portfolios. Accordingly, the Commission believes that Germany 25 Index options will provide investors with an important trading and hedging mechanism that should reflect accurately the overall movement of German equity securities. By broadening the hedging and investment opportunities of investors, the Commission believes that the trading of Index options will serve to protect investors, promote the public interest, and contribute to the maintenance of fair and orderly markets.[21]

The trading of Germany 25 Index options, however, raises several issues, including issues related to index design, customer protection, surveillance, and market impact. For the reasons discussed below, the Commission believes that the CBOE has adequately addressed these issues.

A. Index Design and Structure

The Commission finds that it is appropriate and consistent with the Act to classify the Index as broad-based, and therefore to permit Exchange rules applicable to the trading of broad-based index options to apply to Index options.[22] First, the Index consists of 25 actively traded German securities. Second, the total capitalization of the Index, as of June 30, 1995, was US$399.101 billion, with the market values of the individual stocks in the Index ranging from a high of US$37.408 billion to a low of US$2.648 billion, with a median value of US$8.072 billion. Third, the Index reflects the various sectors of the German equities market, and includes stocks of companies from a broad range of industries, and no industry segment comprises more than 20% of the Index's total value.[23] Fourth, as of June 30, 1995, no single stock comprised more than 12.94% of the Index's total value, and the percentage weighting of the five largest issues in the Index accounted for only 44.56% of the Index. Fifth, the Index selection and maintenance criteria will serve to ensure that the Index continues to reflect the 25 most highly capitalized German stocks. Accordingly, the Commission believes it is appropriate to classify the Index as broad-based.

The Commission believes that the general broad diversification of the Index component stocks, as well as their high capitalizations and liquid markets, significantly minimize the potential for manipulation of the Index. First, as discussed above, the Index represents a broad cross-section of highly capitalized German stocks, with no single industry group or stock dominating the Index. Second, the stocks that comprise the Index are actively traded.[24] Third, the Commission believes that the Index selection and maintenance criteria will serve to ensure that the Index continues to represent stocks with high capitalizations and trading volumes. Fourth, the Exchange has proposed position and exercise limits for the Index options that are consistent with other broad-based index options. Accordingly, the Commission believes it is unlikely that attempted manipulations of the prices of the Index components would affect significantly the Index's value.

In addition, because only one of the Index component stocks is traded in the United States as a National Market System security,[25] and the primary market for component stocks is closed throughout the CBOE's trading day, the Commission believes it is reasonable and appropriate for the Exchange to begin trading Index options at 8 a.m. (Chicago Time).

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Index options (including full-value and reduced value Index LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risk of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Index options and Index LEAPS.

C. Surveillance

As a general matter, the Commission believes that comprehensive surveillance sharing agreements between the relevant foreign and

[19] *See* Letter from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, Director, Product Development, Research Department, CBOE, dated November 21, 1994 (''OPRA Letter'').

[20] 15 U.S.C. 78f(b)(5) (1988).

[21] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option or warrant proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options or warrants on the Index will provide investors with a hedging vehicle that should reflect the overall movement of the German equity market. The Commission also believes that these options will provide investors with a means by which to make investment decisions in the German equity market, allowing them to establish positions or increase existing positions in German stocks in a cost effective manner.

[22] In addition, the basic character of the reduced-value Germany 25 Index, which is comprised of the same component securities as the Germany 25 Index, and calculated by dividing the Germany 25 Index by ten, is essentially identical to the Germany 25 Index.

[23] *See supra* Section II.B. The Exchange has stated that if at any time the weight of any one industry group exceeds 50% of the total weight of the Index, it will notify Commission staff immediately. Amendment No. 1, *supra* note 5.

[24] *See supra* Section II.B.

[25] Currently, Daimler-Benz AG is traded in the United States as an American Depositary Receipt. October 17 Telephone Conversation, *supra* note 16.

domestic exchanges are important where an index derivative product comprised of foreign securities is to be traded in the United States.[26] In most cases, in the absence of such a comprehensive surveillance sharing agreement, the Commission believes that it would not be possible to conclude that a derivative product, such as a Germany 25 Index option, was not readily susceptible to manipulation.

With regard to the CBOE proposal, the Commission understands that the CBOE has been attempting to secure such a surveillance sharing agreement with the relevant German market.[27] The Commission would prefer that a comprehensive surveillance agreement be in place, and believes that such agreements play a particularly important role in ensuring the integrity of global securities markets. Even in the absence of an agreement, however, the Commission does not believe that the Exchange's proposal should continue to be detained pending the conclusion of negotiations when an alternative with respect to obtaining surveillance information exists for the Germany 25 Index products. Specifically, the U.S. Department of State and the German Foreign Office have exchanged Diplomatic Notes that provide a framework for mutual assistance in investigatory and regulatory matters (''Diplomatic Notes'').[28] The Diplomatic Notes confirm that the Commission is qualified to obtain assistance through the German Ministry of Justice under German law. Based on the existence of the Diplomatic Notes, the Commission believes that the German governmental authorities are committed to assistance in addressing cross-border fraud. In addition, the Commission could obtain from the German Ministry of Justice (and vice versa) information similar to that which would be available in the event that a comprehensive surveillance sharing agreement were executed between the FSE and the CBOE with respect to transactions in FSE-traded stocks related to Germany 25 Index options transactions on the CBOE.[29] While this arrangement would certainly be enhanced by the existence of comprehensive surveillance sharing agreements, it is nonetheless consistent with other instances where the Commission has explored alternatives to direct exchange-to-exchange surveillance sharing agreements where the relevant foreign exchange was unwilling or unable to enter into a comprehensive surveillance sharing agreement.[30]

In addition, the Commission notes that there are factors relating to the computation of the Germany 25 Index that further support reliance on arrangements other than direct exchange-to-exchange surveillance agreements. Specifically, the size of the market for the securities underlying the Germany 25 Index makes it less likely that the proposed Index warrants are readily susceptible to manipulation.[31] For example, as of June 30, 1995, the market capitalization of the securities in the Index ranged from a low of approximately U.S. $2.648 billion to a high of approximately U.S. $37.408 billion, and the average trading volume for individual Index component securities during the period from January 1995 to June 1995 ranged from a low of 87,629 shares per day to a high of over 2.5 million shares per day.

The Commission continues to believe strongly that the existence of comprehensive surveillance sharing agreements between the appropriate German entity(ies) and the Exchange would be important measures to deter and detect potential manipulations or other improper or illegal trading involving Index options. Accordingly, the Commission urges the Exchange and the appropriate German entity(ies) to seek formal comprehensive surveillance sharing agreements as soon as practicable.

D. Market Impact

The Commission believes that the listing and trading of Germany 25 Index options on the CBOE will not adversely affect the underlying securities markets.[32] First, as described above, the Index is broad-based and comprised of 25 stocks with no one stock or industry group dominating the Index. Second, as noted above, the stocks contained in the Index all have large capitalizations and are actively traded. Third, existing CBOE stock index options rules and surveillance procedures will apply to Germany 25 Index options. Fourth, the position limits of 50,000 contracts on either side of the market, with no more than 30,000 of such contracts in a series in the nearest month expiration month, will serve to minimize potential manipulation and market impact concerns. Fifth, the risk to investors of contra-party non-performance will be minimized because the Index options will be issued and guaranteed by The Options Clearing Corporation just like any other standardized option traded in the United States.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, Amendment No. 1 states that the CBOE will notify Commission staff if the weight of one industry group exceeds 50% of the total weight of the Index. Amendment No. 1 also provides additional information regarding the composition, calculation, and dissemination of the Index. Finally, Amendment No. 1 clarifies when an Index component may be removed between annual reviews. The Commission believes that Amendment No. 1 serves to strengthen and clarify the Exchange's original proposal, but does not represent a material change that raises regulatory concerns not already addressed by the original proposal. Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[26] A comprehensive surveillance sharing agreement would allow the parties to the agreement to obtain relevant surveillance information, including, among other things, the identity of the purchasers and sellers of securities underlying the derivative product.

[27] *See* Securities Exchange Act Release No. 36070 (August 9, 1995), 60 FR 42205.

[28] *See* International Series Release No. 691, 1994 SEC LEXIS 2324 (July 22, 1994).

[29] It is the Commission's expectation that this information would include transaction, clearing, and customer information necessary to conduct an investigation relating to trading of Index options or components of the Index.

[30] *See, e.g.,* Letter to David R. Merrill, Deputy General Counsel, CFTC, from Brandon Becker, Director, Division, Commission, dated April 20, 1994 (Commission comment letter to the CFTC regarding the offer by the Osaka Securities Exchange of futures contracts based on the Nikkei 300 Index to U.S. persons), and letter to Joanne T. Medero, General Counsel, CFTC, from William H. Heyman, Director, Division, Commission, dated January 16, 1992 (Commission comment letter to the CFTC regarding the offers by the Osaka Stock Exchange and the Tokyo Stock Exchange of futures contracts based on the Nikkei 225 and TOPIX Indexes to U.S. persons).

[31] In evaluating the manipulative potential of a proposed index derivative product, as it relates to the securities that comprise the index and the index product itself, the Commission has considered several factors, including, among others, (1) the number of securities contained in the index or group, (2) the capitalizations of those securities, (3) the depth and liquidity of the group or index, (4) the diversification of the group or index, (5) the manner in which the index or group is weighted, and (6) the ability to conduct surveillance on the product. *See* Securities Exchange Act Release No. 31016 (August 11, 1992), 57 FR 37012 (August 17, 1992).

[32] The CBOE has stated that it has the necessary systems capacity to support new series that would result from the introduction of Germany 25 Index options. In addition, OPRA has represented that additional traffic generated by options and LEAPS on the Index is within OPRA's capacity. OPRA Letter, *supra note 19.*

arguments concerning Amendment No. 1. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–39 and should be submitted by November 16, 1995.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act, and, in particular, Section 6 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[33] that the proposed rule change (File No. SR–CBOE–95–39), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

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[33] 15 U.S.C. 78s(b)(2) (1988).

[34] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36401; File No. SR–CHX–95–10]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Relating to Permanent Approval of the Pilot Program for Stopped Orders in Minimum Variation Markets

October 20, 1995.

I. Introduction

On March 23, 1995, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to approve permanently its stopping stock program in minimum variation markets.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35910 (June 28, 1995), 60 FR 34563 (July 3, 1995). No comments were received on the proposal.[3] For the reasons discussed below, the Commission has decided to approve the CHX's proposal.

II. Description of Proposal

Prior to 1992, CHX Rule 37, Article XX, required specialists, upon request, to grant a stop for Dual Trading System issues[4] if an out of range[5] execution would result, regardless of the spread. Under this stopping stock policy, the specialists were required to execute stopped stock based on the next primary market sale. The Exchange's purpose for stopping stock generally was to prevent orders from being executed outside the primary market range for the day (*i.e.*, from establishing a new high or new low).[6]

This general stopping stock policy, however, produced an anomalous result in minimum variation markets.[7] In a minimum variation market because the stopped market order did not have time or price priority, its execution triggered the requirement for the Exchange specialist to execute all pre-existing orders based on the Exchange's rules of priority and precedence.[8] Therefore, the specialists were required to execute the preexisting orders even if such orders were not otherwise entitled to be filled.[9]

In January 1992, the Commission approved on a pilot basis the Exchange's revised procedures for stopping orders in minimum variation markets that would prevent the anomalous consequence of requiring the execution of pre-existing orders that are not yet due a fill.[10] The Commission subsequently extended the Exchange's pilot program without modification.[11] The most recent extension of the pilot program is scheduled to expire on October 21, 1995.

The pilot program adds interpretation and policy .03 to Rule 37, Article XX, to permit a specialist to delay execution of stopped stock in minimum variation markets until a volume equal to the pre-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission has received three comment letters opposing the New York Stock Exchange's proposal for permanent approval of the NYSE's procedures for stopping stock in minimum variation markets, two of which were from the same commenter (Junius Peake). *See* letter from Junius W. Peake, Monfort Professor of Finance, University of Northern Colorado, to Secretary, SEC, dated March 1, 1995; letter from Junius W. Peake, Monfort Professor of Finance, University of Northern Colorado, to Secretary, SEC, dated July 21, 1995; letter from Morris Mendelson, Professor Emeritus of Finance, the Wharton School of the University of Pennsylvania to Jonathan Katz, Secretary, SEC, dated August 2, 1995. Although the NYSE's procedures differ from those of CHX, certain issues raised in the comment letters apply equally to the CHX proposal. The comment letters and the NYSE's response thereto are summarized in the Commission's order. In addition, the Commission's discussion in the NYSE order is applicable to this order. *See* Securities Exchange Act Release No. 36399 (Oct. 20, 1995) (permanently approving NYSE's pilot program for stopping stock in minimum variation markets); *see also* letter from James Buck, Senior Vice President and Secretary, NYSE, to Jonathan Katz, Secretary, SEC, dated July 17, 1995.

[4] The Dual Trading System of the Exchange allows the execution of both round-lot and odd-lot orders in certain issues assigned to specialists on the Exchange and listed on either the New York Stock Exchange or the American Stock Exchange.

[5] "Out of range" means either higher or lower than the range in which the security traded on the primary market during a particular trading day.

[6] For example, assume the market in ABC stock is 20–20⅛; 50×50 and that a buy order at ⅛ would be higher than the range in which the security traded on the primary market during the trading day. A customer places an order with the Exchange specialist to buy 100 shares of ABC at the market and a stop is effected. The order is stopped at 20⅛ and the Exchange specialist includes the order in his quote by bidding the 100 shares at 20. If the next sale on the primary market is for 100 shares at 20, the Exchange's existing general policy regarding stopping stock would require the specialist to execute the stopped market order at 10.

[7] CHX Rule 22, Article XX sets forth the minimum variations for stocks traded on the Exchange. The rule provides that bids or offers in stocks above $1.00 per share shall not be made at a less variation than ⅛ of $1.00 per share; in stocks below $1.00 but above $.50 per share, at a less fraction than /1/16 of $1.00 per share; in stocks below $.50 per share, at a less variation than 1/32 of $1.00 per share; provided that the Committee on Floor Procedure may fix variations of less than the above for bids and offers in specific securities or classes of securities.

[8] *See* CHX Rule 16, Article XX (Precedence of Bids at Same Price).

[9] Under CHX Rule 37(a)(3), Article XX, the Exchange specialists are required to fill orders at the limit price only if: (1) The bid or offering at the limit price has been exhausted in the primary market; (2) there has been a price penetration of the limit in the primary market; or (3) the issue is trading at the limit price on the primary market unless it can be demonstrated that such order would not have been executed if it had been transmitted to the primary market or the broker and specialist agree to a specific volume related or other criteria for requiring a fill.

[10] *See* Securities Exchange Act Release No. 30189 (Jan. 14, 1992), 57 FR 2621 (Jan. 22, 1992) (File No. SR–MSE–91–10) (order approving MSE pilot program for stopped orders in minimum variation markets) ("1992 Approval Order").

[11] *See* Securities Exchange Act Release Nos. 31975, (Mar. 10, 1993), 58 FR 14230 (Mar. 16, 1993) (File No. SR–MSE–93–04) ("March 1993 Approval Order"); 32457 (June 11, 1993), 58 FR 33681 (June 18, 1993) (File No. SR–MSE–93–14) ("June 1993 Approval Order"); 33790 (Mar. 21, 1994), 59 FR 14434 (Mar. 28, 1994) (File No. SR–MSE–93–30) ("1994 Approval Order"); 35431 (Mar. 1, 1995), 60 FR 12796 (Mar. 8, 1995) (File No. SR–CHX–95–04) ("March 1995 Approval Order"); 36011 (July 21, 1995), 60 FR 38874 (July 28, 1995) ("July 1995 Approval Order").

existing volume ahead of the stopped order prints in the primary market.[12] Specifically, the specialist would be required to execute stopped market orders in minimum variation markets after (1) a transaction takes place on the primary market at the bid price (offering price) or lower (higher) for a stopped sell order (a stopped buy order) or (2) the displayed CHX share volume at the offering (or bid) has been exhausted. In no event would a stopped order be executed at a price inferior to the stopped price.[13] All stopped orders must be executed by the end of the trading day.

In the orders approving the pilot procedures, the Commission requested that the Exchange study the effects of stopping stock in minimum variation markets and collect certain data to allow the Commission to evaluate fairly and comprehensively the pilot program.[14] In the Commission's 1994 Approval Order extending the pilot program until March 21, 1995, the Commission requested that the Exchange submit an additional monitoring report on the stopping stock pilot.[15] CHX subsequently submitted the monitoring report and the Commission then approved an extension of the pilot until October 21, 1995, so that the Commission would have additional time to evaluate the information provided by the Exchange and the CHX's use of its pilot procedures.

III. Discussion

After careful consideration, the Commission has determined to approve permanently the proposed rule change. For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) [16] and Section 11(b) [17] of the Act.

Historically, the Commission has had mixed reactions about the practice of stopping stock. The 1963 Report of the Special Study of the Securities Markets found that unexecuted customer limit orders on the specialist's book might be bypassed by the stopped orders.[18] The Commission, nevertheless, has allowed the practice of stopping stock in markets where the spread is at least twice the minimum variation because the possible harm to orders on the book is offset by the reduced spread that results and the possibility of price improvement.

Although the procedures for stopping stock in minimum variation markets do not reduce the spread between the quotes, the Commission has allowed, on a pilot basis, the practice on the Exchange in limited circumstances. The Exchange's procedures for stopping stock in minimum variation markets were intended to assist specialists in providing an opportunity for primary market price protection to the customer whose order is stopped, without requiring that specialists execute all pre-existing bids or offers when such executions otherwise would not be required under Exchange rules. The CHX pilot procedures allow specialists to delay execution of the stopped stock until a volume equal to the pre-existing volume ahead of the stopped order prints in the primary market. Specifically, the specialist would be required to execute stopped market orders in minimum variation markets either (1) at the stopped price after a transaction takes place on the primary market at the bid price or lower (or the offering price of higher) on the primary market or (2) at an improved price after the displayed CHX share volume has been exhausted.

To examine whether specialists have been using the pilot program as intended, the Commission had asked the Exchange to provide data on the stopping stock program in minimum variation markets. The Exchange has submitted to the Commission several monitoring reports regarding the stopping stock pilot program. The Commission believes that the monitoring reports, especially, the latest monitoring report, provide useful information regarding the effectiveness of the program during the pilot period.

Specifically, the Exchange reports that only approximately 2%–6% of the stopped orders received an out-of-range execution despite having been stopped and, thus, did not benefit from the CHX proposal.[19] With respect to the limit orders on the opposite side of the market from all market orders stopped in minimum variation markets, the Exchange reports that approximately 52% were executed before the close.[20] Moreover, almost all of the stopped orders were orders for 2000 shares or less.[21] Finally, CHX reports that there has been no compliance problems with respect to the pilot program.

The Commission believes that the data on the stopping stock in minimum variation markets show that the pilot program has continued to help reduce the potential that an order may receive an out-of-range execution. Moreover, the procedures enable specialists to offer the opportunity for price improvement to small size orders. The Commission believes that the reduction in out-of-range executions, coupled with price improvement opportunities, sufficiently offset the possible harm to the opposite side limit orders on the book. The Commission recognizes the unintended consequence that can arise from the interplay between a regional exchange's price protection rules and its procedures for stopping stock. In the Commission's opinion, the CHX data suggests that stopped stock generally has been executed in accordance with traditional auction market principles.[22] The Commission, therefore, believes that the data on stopping stock in minimum

[12] A stopped buy (sell) order would be placed behind the existing limit orders at the bid (offer) for priority purposes.

[13] Exchange Rule 28 (Article XX) states:

An agreement by a member or member organization to ''stop'' securities at a specified price shall constitute a guarantee of the purchase or sale by him or it of the securities at the price or its equivalent in the amount specified.

If an order is executed at a less favorable price than that agreed upon, the member or member organization which agreed to stop the securities shall be liable for an adjustment of the difference between the two prices.

[14] *See supra* notes 10–11.

[15] *See* 1994 approval Order, *supra* note 11.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78k.

[18] *See* SEC, Report of the Special Study of Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Congress., lst Sess., Pt. 2 (1963).

When stock is stopped, limit book orders on the opposite side of the market do not receive an immediate execution. Consequently, if the stopped order then receives an improved price, limit orders at the top price are bypassed and, if the market turns away from that limit, may never be executed.

[19] The Commission notes that this pilot program is intended to prevent orders from being executed outside the primary market range for the day (*i.e.*, from establishing a new high or new low). Consistent with that policy, the CHX requires the specialist to execute stopped stock based on the next primary market sale. Specifically, if the next sale is at a better price, the stopped stock may, depending on the depth of the specialist's limit order book at that price, receive price improvement. However, if the next primary market sale is at the stop price (or worse), the order would receive the stop price.

Conversely, an order may not benefit from the CHX proposal if, despite having been stopped, it ultimately receives an out-of-range execution. In a minimum variation market, this can occur if, by the close, (1) the primary market has not traded at the stop price and (2) *all* pre-existing limit orders on the CHX specialist's book at the better price have not been executed.

[20] The Exchange reports that approximately 48% of the limit orders on the opposite side of the market from all market orders stopped in minimum variation markets were not executed by the end of the day. This percentage, however, overstates the number of limit orders that were not executed as a result of the stopped orders because it includes all limit orders on the opposite side of the market at the time of the stop rather than being limited to the size of the stopped order. Therefore, some of these limit orders that were not executed by the end of the trading day would not have been executed regardless of the stopped orders.

[21] This data indicates the pilot program is benefiting small public customer orders.

[22] *See infra* note 27.

variation markets show that the pilot has operated as intended and should be approved permanently.

For all of the above reasons, the Commission believes that the CHX proposal is consistent with Section 6(b)(5) of the Act. Moreover, the Commission also believes that the proposal is consistent with the Rule 11b–1(a)(2)(ii) of the Act.[23] Rule 11b–1(a)(2)(ii) requires that a specialist engage in a course of dealings for his own account that assist in the maintenance, so far as practicable, of a fair and orderly market. As previously noted in the 1992 Approval Order, the Commission believes that the proposal is consistent with the objectives of this Rule because the implementation of the proposal should help the specialist to provide an opportunity for price improvement to the customer whose stop order is granted, without placing a burden on specialists by requiring that specialists execute other pre-existing bids or offers when such executions would not be otherwise required under Exchange rules.

The Commission also believes that the proposal is consistent with the prohibition in Section 11(b) against providing discretion to a specialist in the handling of an order.[24] Section 11(b) was designed, in part, to address potential conflicts of interest that may arise as a result of the specialist's dual role as agent and principal in executing stock transactions. In particular, Congress intended to prevent specialists from unduly influencing market trends through their knowledge of market interest from the specialist's book and their handling of discretionary agency orders.[25] The Commission has stated that, pursuant to Section 11(b), all orders other than market or limit orders are discretionary and therefore cannot be accepted by specialists.[26]

As previously noted in the 1992 Approval Order, the Commission believes that it is appropriate to treat stopped orders, even those under the pilot procedures, as equivalent to limit orders. A limit order is an order to buy or sell a stated amount of security at a specified price, or better if obtainable. The Commission believes that stopped orders are equivalent to limit orders, in this instance, because the orders would be automatically elected after a transaction takes place on the primary market at the stopped price. The Commission, therefore, believes that the requirements imposed on the specialist for granting stops in minimum variation markets provide sufficiently stringent guidelines to ensure that the specialist will implement the proposed rule change in a manner consistent with his market making duties and Section 11(b).[27]

In permanently approving the Exchange's proposal, the Commission expects the Exchange to continue monitoring the practice of stopping stock in minimum variation markets and to take appropriate action in the event CHX identifies any instances of specialist non-compliance with the program's procedures.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (SR–CHX–95–10) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

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[Release 34–36398; File No. 600–23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of an Application for Full Clearing Agency Registration and an Application for Extension of Temporary Registration as a Clearing Agency

October 20, 1995.

Notice is hereby given that on February 3, 1995, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') an application, pursuant to sections 17A and 19(a) of the Securities Exchange Act of 1934 (''Act''),[1] requesting that the Commission grant GSCC full registration as a clearing agency or in the alternative extend GSCC's temporary registration as a clearing agency until such time as the Commission grants GSCC permanent registration.[2] The Commission is publishing this notice to solicit comments from interested persons on GSCC's application.

On May 24, 1988, the Commission approved, pursuant to Sections 17A and 19(a) of the Act and Rule 17Ab2–1(c) thereunder,[3] the application of GSCC for registration as a clearing agency for a period of three years.[4] The Commission subsequently has extended GSCC's registration until November 30, 1995.[5]

GSCC provides clearance and settlement services for its members' transactions in government securities. GSCC offers its members services for next-day settling trades, forward settling trades, auction takedown activity, the multilateral netting of trades, the novation of netted trades, and daily marking-to-the-market. In connection with GSCC's clearance and settlement services, GSCC provides a centralized loss allocation procedure and maintains margin to offset netting and settlement risks.

At the time of GSCC's initial temporary registration, the Commission granted GSCC exemptions from compliance with the participation standards in Sections 17A(b)(3)(B) and 17A(b)(4)(B) and with the fair representation requirements in Section 17A(b)(3)(C).[6] GSCC has requested that the Commission remove GSCC's exemption from the participation standards in Sections 17A(b)(3)(B) and 17A(b)(4)(B). As more fully set forth in the February Registration Letter, GSCC believes that it has adequately addressed the Commission's concerns regarding GSCC's membership eligibility standards by establishing new categories of membership.[7] In the May

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[23] 17 CFR 240.11b–1(a)(2)(ii).

[24] Section 11(b) permits a specialist to accept only market or limit orders.

[25] *See* H. Rep. No. 1383, 73d Cong. 2d Sess. 22, S. Rep. 792, 73d Cong. 2d Sess. 18 (1934).

[26] *See* Special Study, *supra* note 18.

[27] Moreover, stopped orders as ''limit orders'' would not bypass pre-existing limit orders on the same side of the market. Under CHX's procedures, specialists may not execute a stopped order before the limit order interest on the Exchange (at the same price as the stopped order) is exhausted.

[28] 15 U.S.C. 78s(b)(2).

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78q–1, 78s(a) (1988).

[2] Letter from Charles A. Moran, President, GSCC, to Brandon Becker, Director, Division of Market Regulation (''Division''), Commission (February 3, 1995) (''February Registration Letter''). GSCC supplemented the February Registration letter in its letter from Charles A. Moran, President, GSCC, to Brandon Becker, Director, Division, Commission (September 15, 1995) (''September Registration Letter'').

[3] 17 CFR 240.17Ab2–1 (1994).

[4] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[5] Securities Exchange Act Release Nos. 29067 (April 11, 1991), 56 FR 15652; 32385 (June 3, 1993), 58 FR 32405; and 35787 (May 31, 1995), 60 FR 30324.

[6] The Commission determined that GSCC's rules did not enumerate the statutory categories of membership as required by Section 17A(b)(3)(B) or the financial standards for applicants and members as contemplated by Section 17A(b)(4)(B). 15 U.S.C. 78q–1(b)(3)(B), 78q–1(b)(4)(B) (1988). In addition, the Commission determined that while the composition of GSCC's Board of Directors reasonably reflected GSCC's anticipated initial membership, it would be appropriate to reevaluate whether GSCC's process for selecting its Board of Directors complied with the fair representation requirements in Section 17A(b)(3)(C) before granting full registration as a clearing agency. 15 U.S.C. 78q–1(b)(3)(C) (1988).

[7] Since the Commission's original order granting GSCC temporary registration, the Commission has

Continued

31, 1995, order extending GSCC's temporary registration as a clearing agency,[8] the Commission noted that GSCC's new categories of membership had not been extensively used. As discussed below, GSCC is in the process of introducing services for trades in repurchase agreements involving government securities (''repos''). Because institutional entities are more significant participants in the repo market than in the cash market, GSCC expects much greater utilization of these and other nontraditional membership categories (*e.g.*, those membership categories for entities other than dealers and banks) in the coming years. In the February Registration Letter, GSCC stated that it believes its current method of selecting its board of directors assures members fair representation.[9] The Commission is reviewing GSCC's request to remove the exemptions.

In addition to the accomplishments cited by GSCC in the February Registration Letter, GSCC asserts that it has made significant progress towards offering a comprehensive set of services to the Government securities marketplace through the implementation of its comparison service for repos [10] and through its proposed rule change that would grant GSCC the authority to implement netting, settlement, and guarantee services for the non-same-day-settling aspects of overnight and term repos.[11] Furthermore, GSCC represents that it and the Board of Trade Clearing Corporation have made progress toward establishing a cross-margining arrangement for the benefit of market participants that are active in both the cash and futures Government securities markets.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application by November 16, 1995. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with Section 19(a)(1) of the Act.[12] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. 600–23. Copies of the amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

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approved two proposed rule changes that increased the categories of those eligible for membership in GSCC's netting system. Securities Exchange Act Release Nos. 34935 (November 3, 1994), 59 FR 56100 (order approving establishment of new categories of netting system membership for futures commission merchants) and 32722 (August 5, 1993), 58 FR 42993 (order approving establishment of new categories of netting system membership for dealer and interdealer brokers, issuers of government securities, insurance companies, registered clearing agencies, and registered insurance companies).

[8] *Supra* note 5.

[9] GSCC's current selection process for its board of directors permits any GSCC member to nominate candidates for election to the Board and to vote for candidates so nominated. In the February Registration Letter, GSCC stated that it recognizes future membership growth may require GSCC to adjust the selection process to ensure fair member representation on the Board.

[10] In the September Registration Letter, GSCC represents that since May 12, 1995, the repo comparison service has grown to include 43 participants with an average daily volume of 2,330 repos compared with an average value of $74.1 billion. The average daily comparison rate for these repos is 93 percent. For a complete description of GSCC's comparison service for repos, refer to Securities Exchange Act Release No. 35557 (March 31, 1995), 60 FR 17598 (order approving the GSCC comparison service for repos).

[11] For a description of GSCC's proposal regarding the implementation of netting, settlement, and guarantee services for the non-same-day-settling aspects of overnight and term repos, refer to Securities Exchange Act Release No. 36252 (September 19, 1995), 60 FR 49649 [File No. SR–GSCC–95–02] (notice of filing of proposed rule change).

[12] 15 U.S.C. 78s(a)(1) (1988).

[13] 17 CFR 200.30–3(a)(16) (1994).

[Release No. 34–36396; File No. SR–NASD–95–47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Member Subscriber Deposits for Nasdaq Level ⅔ Service and Equipment

October 20, 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 October 11, 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 as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as establishing or changing a due, fee, or other charge under Section 19(b)(3)(A) of the Act, which renders the rule effective upon the Commission's receipt of this filing. 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

Pursuant to the provisions of Section 19(b)(1) under the Act, the NASD is proposing to revise the subscriber deposit requirements contained in Part VIII, Paragraph G.1. and 2. of Schedule D to the NASD By-Laws. The text of the proposed rule change is as follows. (Additions are italicized; deletions are bracketed.)

Schedule D

Part VIII

Schedule of NASD Charges for Services and Equipment

* * * * *

G. Subscriber Deposits

New and existing subscribers to Level ⅔ or Nasdaq Workstation ™ service shall be subject to the following deposit charges per unit:

1. New subscriber
   a. estimated *telecommunciations provider* [installation] charges [including cable, freight and telephone company charge;] *for network infrastructure, connection and testing;*
   b. two (2) months *circuit* [service and equipment] charges; and
   c. estimated *telecommunciations provider* disconnect charges [including Harris disconnect and freight charges].
2. Existing subscribers subject to subscriber deposits include those that have been placed on the termination list two or more times within a two year period; those that have paid for services with one or more NSF checks; and those that have had service disconnected for non-payment but have not had equipment removed:
   a. two (2) months *circuit* [service and equipment] charges; and
   b. estimated *telecommunciations provider* disconnect charges [including Harris disconnect and freight charges].

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

The proposed rule change reflects increased charges for the provision of telecommunications services underlying Nasdaq Workstation II Service, and clarifies the various component functions encompassed within the circuit installation fee so that the true nature of the charge is made clear to new subscribers. These requirements would pertain only to new subscribers or existing subscribers that have defaulted on the payment of their charges.

Note that the proposed rule change has become effective immediately upon filing with respect to NASD members as indicated in Section III below. A companion filing, which applies the proposed rule change to non-member subscribers, is being filed separately pursuant to Section 19(b)(2) of the Act.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rules of the Association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

(B) Self-Regulatory Organization's Statement of Burden on Competition

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

With respect to NASD members, the foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder because it establishes or changes a due, fee or other charge imposed by the NASD. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any 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 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 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–36397; File No. SR–NASD–95–48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Non-Member Subscriber Deposits for Nasdaq Level 2/3 Service and Equipment

October 20, 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 October 11, 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 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

Pursuant to the provisions of Section 19(b)(1) under the Act, the NASD is proposing to revise the subscriber deposit requirements contained in Part VIII, Paragraph G.1. and 2. of Schedule D to the NASD By-Laws. The text of the proposed rule change is as follows. (Additions are italicized; deletions are bracketed.)

Schedule D

Part VIII

Schedule of NASD Charges for Services and Equipment

G. Subscriber Deposits

New and existing subscribers to Level 2/3 or Nasdaq Workstation™ servicer shall be subject to the following deposit charges per unit:

1. New subscriber
   a. estimated *telecommunications provider* [installation] charges [including cable, freight and telephone company charges;] *for network infrastructure, connection and testing;*
   b. two (2) months *circuit* [service and equipment] charges; and
   c. estimated *telecommunications provider* disconnect charges [including Harris disconnect and freight charges].
2. Existing subscribers subject to subscriber deposits include those that have been placed on the termination list two or more times within a two year period; those that have paid for services with one or more NSF checks; and those that have had service disconnected for non-payment but have not had equipment removed:
   a. two (2) *circuit* [service and equipment] charges; and
   b. estimated *telecommunciations provider* disconnect charges [including Harris disconnect and freight charges].

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 NADS 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

The proposed rule change reflects increased charges for the provision of telecommunications services underlying Nasdaq Workstation II service, and clarifies the various component functions encompassed within the circuit installation fee so that the true nature of the charge is made clear to new subscribers. These requirements would pertain only to new subscribers or existing subscribers that have defaulted on the payment of their charges.

Note that the instant filing applies only to non-member subscribers. A companion filing, which applies the proposed rule change to member subscribers, is being filed separately for immediate effectiveness.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rule of the Association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system while the association operates or controls.

(B) Self-Regulatory Organization's Statement on Burden on Competition

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

Written comments were neither solicited nor received.

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, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any 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 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 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26545 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36403; File No. SR–NASD–95–15]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to a Statement of Policy to Establish Internal NASD Procedures Delegating to the NASD Staff and the Fixed Income Committee Authority to Review Requests by Members for Exemptions from Rule G–37(b) of the Municipal Securities Rulemaking Board

October 20, 1995.

On April 15, 1995,[1] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder.[3] The proposed rule change adopts a statement of policy to establish internal NASD procedures[4] delegating to the NASD staff and the Fixed Income Committee the authority to review requests by members for exemptions from Rule G–37 of the Municipal Securities Rulemaking Board (''MSRB'').[5]

Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a Commission release (Securities Exchange Act Release No. 36151, August 24, 1995) and by publication in the Federal Register (60 FR 45202, August 30, 1995). No comment letters were received. This order approves the proposed rule change.

The Commission approved MSRB Rule G–37 on April 7, 1994.[6] MSRB Rule G–37(b) prohibits any broker, dealer, or municipal securities dealer from engaging in municipal securities business with any issuer within two years after any contribution to an official of that issuer made by that broker, dealer, or municipal securities dealer, any municipal finance professional associated with that broker, dealer, or municipal securities dealer, or any political action committee controlled by that broker, dealer, or municipal securities dealer. The two year prohibition, however, is not triggered by contributions by a municipal finance professional to issuer officials for whom that municipal finance professional was entitled to vote if such contribution, in total, did not exceed $250 per official per election. Subsequently, on June 3, 1994, the Commission granted accelerated approval to an amendment to MSRB Rule G–37[7] to provide a procedure for a broker, dealer, or municipal securities dealer to seek exemptive relief from MSRB Rule G–37(b) if that broker, dealer, or municipal securities dealer discovers that a prohibited political contribution was made. Pursuant to Release 34–34160, subsection (i) to MSRB Rule G–37 permits the NASD to

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[1] The NASD submitted two amendments to the proposed rule change prior to publication of notice in the Federal Register, and one amendment subsequent to publication of notice in the Federal Register. Amendment No. 1, submitted on August 15, 1995, deleted all portions of the proposed rule change addressing the ability of NASD members to apply to the Commission for review of any denial by the NASD of a member's request for exemption from Municipal Securities Board Rule G–37. Amendment No. 2, submitted on August 23 revised the proposed rule change to clarify the types of violations of Rule G–37 for which a member could request exemptions. Amendment No. 3, submitted on October 20, 1995, amends the NASD Code of Procedure by adding a footnote to the title referencing the procedures established in the proposed rule change.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] The internal NASD procedures established pursuant to the statement of policy will not amend existing rules contained in the NASD Code of Procedure or other existing NASD rules.

[5] MSRB Manual, General Rules, Rule G–37 (CCH) ¶ 3681. MSRB Rule G–37 prohibits members from engaging in municipal securities business if certain political contributions have been made to municipal issuers.

[6] Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994).

[7] Securities Exchange Act Release No. 34160 (June 3, 1994), 59 FR 30376 (June 13, 1994) (''Release 34–34160'').

exempt, conditionally or unconditionally, an NASD member who is prohibited from engaging in municipal securities business with an issuer pursuant to subsection (b) of MSRB Rule G–37 from that prohibition. MSRB Rule G–37(i)(i) provides that the NASD shall consider among other factors, whether such exemption is consistent with the public interest, the protection of investors and the purposes of this rule. MSRB Rule G–37(i)(ii) sets forth further criteria for the granting of the exemption by requiring that the MSRB member have in place procedures designed to ensure compliance with the rule,[8] had no actual knowledge of the contributions, has taken appropriate steps to obtain return of the contribution(s), and has taken other remedial measures as may be appropriate.

Release 34–34160 states that the MSRB believes that exemptions from MSRB Rule G–37 should be granted only if a disgruntled employee contributes to an issuer official for the purpose of injuring the member or if an employee makes a number of small contributions during an election cycle (*e.g.*, four years) which, when consolidated, amount to slightly over the $250 *de minimus* exemption (such as contributions totalling $255). It also states that the MSRB would expect that the exemption not be routinely requested by dealers and that exemptions would be granted by the NASD only in limited circumstances.[9]

In order to implement a procedure for reviewing requests for NASD member exemptions anticipated under MSRB Rule G–37, the rule change adopts a statement of policy that establishes an NASD internal procedure to grant exemptions from MSRB Rule G–37. As noted above, the statement of policy is an internal procedure and does not amend existing rules contained in the NASD Code of Procedure or other existing NASD rules.

The statement of policy provides that the staff of the Regulation Business Line, as assigned by the Executive Vice President of Regulation initially will issue a written decision concerning whether to grant a member's request for exemption from MSRB Rule G–37. If the staff determines to deny the member's request for exemption, the written decision must include a statement advising the member that it has 15 days in which to appeal the initial staff determination to the Fixed Income Committee of the NASD.

The statement of policy provides that the Board will delegate authority to the Fixed Income Committee, or a subcommittee thereof, to review the appeal of a member regarding an NASD staff denial of an exemption from MSRB Rule G–37.

The Board may review a decision of the Fixed Income Committee, or a subcommittee thereof, solely upon the request of one or more Governors. Such a review would be undertaken solely at the discretion of the Board and will be in accordance with resolutions of the Board. In reviewing any decision of the Fixed Income Committee, the Board may affirm, modify or reverse a decision of the Fixed Income Committee, or the relevant subcommittee, or remand the matter to the Fixed Income Committee with appropriate instructions.

The statement of policy reflects the NASD's belief that the Fixed Income Committee is the appropriate reviewing body because the members of the Fixed Income Committee should have the requisite knowledge regarding the municipal business necessary to weigh the member's argument that the requested exemption would comply with the provisions and intent of MSRB Rule G–37. In addition, the NASD stated that it believes that vesting authority with the Fixed Income Committee should ensure that uniform standards are applied throughout the country to requests for exemptions from Rule G–37, and that these standards should effectuate the intent of the MSRB that the NASD grant such exemptions under very limited circumstances, as noted above.

The Commission finds that the rule change is consistent with the provisions of Section 15A(b)(2) of the Act because it establishes a procedure to enforce compliance with MSRB Rule G–37 that is intended to effectuate the intent of the MSRB that the NASD grant exemptions only under the limited circumstances contemplated by the MSRB. The Commission also finds that, for the reasons set forth above, the rule change is consistent with the provisions of Section 19(g)(1)(B) of the Act, which requires that the NASD, absent reasonable justification or excuse, enforce compliance with MSRB rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–95–15 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26572 Filed 10–25–95; 8:45 am]

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[8] The MSRB clarifies its view regarding effective compliance procedures for Rule G–37 in a letter dated March 14, 1995 from Christopher A. Taylor, Executive Director, MSRB, to John E. Pinto Jr., Executive Vice President—Regulation, NASD. That letter states that the MSRB believes that Rule G–37 requires a dealer to have information regarding each contribution made by the dealer, dealer-controlled political action committees and municipal finance professionals so that it can determine where and with whom it may or may not engage in municipal securities business. In addition, the dealer must have information on executive officer contributions and political party payments and consultant hiring practices for disclosure purposes. Moreover, the dealer must ensure that those persons and entities subject to MSRB Rule G–37 are not causing the dealer to violate MSRB Rule G–37. Furthermore, the dealer must ensure that other people and entities hired to assist in municipal securities activities (*e.g.*, consultants) are not being directed to make contributions, or otherwise being used as conduits, in violation of MSRB Rule G–37.

[9] Release 34–34160 also states that the MSRB will seek information from the NASD regarding the granting of any exemptions in order to monitor the implementation of this provision, and to determine if any changes are necessary.

[Release No. 34–36392; File No. SR–NSCC–95–11]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Temporary Approval of a Proposed Rule Change Concerning Book-Entry Money Settlements With Members

October 18, 1995.

On August 8, 1995, the National Securities Clearing Corporation (''NSCC'') filed a proposed rule change (File No. SR–NSCC–95–11) with the Securities and Exchange Commission (''Commission'') 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 24, 1995.[2] No comments were received by the Commission. This order approves the proposal on a temporary basis.

I. Description of the Proposal

On October 5, 1990, NSCC filed a proposed rule change with the Commission that was noticed in the Federal Register [3] and was subsequently amended three times.[4] On September 4, 1992, the proposal as amended was approved on a temporary basis through

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 36112 (August 17, 1995), 60 FR 44093.

[3] Securities Exchange Act Release No. 28715 (December 12, 1990), 55 FR 715 [File No. SR–NSCC–90–21].

[4] Letters from: (1) Jeffrey F. Ingber, Associate General Counsel, NSCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation (''Division''), Commission (August 14, 1991); (2) Peter J. Axilrod, Associate General Council, NSCC, to Jerry Carpenter, Branch Chief, Division, Commission (March 23, 1992); and (3) Peter J. Axilrod, Associate General Counsel, NSCC, to Thomas C. Etter, Jr., Attorney, Division, Commission (July 22, 1992).

August 31, 1993.[5] The temporary approval subsequently was extended through August 31, 1995.[6] The current filing requests an extension of the temporary approval order until such time as NSCC implements its same-day funds settlement system.[7]

As discussed in detail in the approval order of September 4, 1992, the rule change permits NSCC members to satisfy their settlement obligations to NSCC and permits NSCC to satisfy its settlement obligations to its members by means of electronic intrabank funds transfers between members' accounts and NSCC's accounts at various settlement banks. Under the proposal, two types of intrabank funds transfers are available: (1) Electronic transfers whereby on settlement day NSCC pays a member by check for next-day value and the member pays NSCC by NSCC directing the settlement bank to make an irrevocable transfer from the member's account to NSCC's account for next-day availability or whereby a member pays NSCC by check and NSCC effects payment by electronic transfer (''one-way electronic transfers'') and (2) electronic transfers whereby on settlement day both NSCC and a member pay by NSCC directing the settlement banks to make irrevocable transfers for next-day value without any netting (''two-way electronic transfers'').

As a prerequisite to either NSCC or any of its members making a settlement payment by an electronic funds transfer, the rule change imposes three requirements. First, any such payment must be effected on a next-day funds availability basis.[8] Second, any such payment must be in conformity with an agreement, which must be executed by NSCC and any bank that acts as a payment intermediary, which stipulates that any such funds transfer must be effected on an irrevocable and final basis.[9] Third, any bank that acts as an intermediary for such funds transfers must meet NSCC's standards for letter of credit issuers.[10]

II. Discussion

The Commission believes that the proposal is consistent with the Act and particularly with Section 17A of the Act.[11] Section 17A(a)(1) of the Act[12] encourages the use of efficient, effective, and safe procedures for securities clearance and settlement. Moreover, Section 17A(b)(3)(F) of the Act[13] requires that the rules of clearing agencies be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of funds in the custody or control of clearing agencies or for which they are responsible. As set forth in its original approval order of September 4, 1992, the Commission agrees with NSCC that substantial marketplace efficiencies should be achieved by authorizing NSCC and its members to effect electronic intrabank funds transfers to satisfy their settlement obligations. The Commission recognizes that the exchange of checks is labor-intensive and that physical movement of checks can involve loss or delay. Intrabank funds transfers should, therefore, enhance the proficiency of the transferring and the safeguarding of funds. Moreover, earlier finality of settlement provides certainty to the marketplace and serves to increase investor confidence in the markets.

The Commission is temporarily approving this proposed rule change in order that NSCC may continue the program until such time as NSCC implements its same-day funds settlement system. Furthermore, the Commission notes that this order relates only to intrabank transfers of funds available on a next-day basis. If and when NSCC desires to implement an interbank funds transfer program whereby same-day funds are transferred, NSCC will be required to submit for Commission approval a separate and comprehensive Rule 19b–4 filing.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act[14] that the above-mentioned proposed rule change (File No. SR–NSCC–95–11) be, and hereby is, approved until such time as NSCC implements its same-day funds settlement system.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

[FR Doc. 95–26544 Filed 10–25–95; 8:45 am]

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[5] Securities Exchange Act Release No. 31157 (September 4, 1992), 57 FR 42602 [File No. SR–NSCC–90–21].

[6] Securities Exchange Act Release No. 32836 (September 2, 1993), 58 FR 47483 [File No. SR–NSCC–93–08]; Securities Exchange Act Release No. 34573 (August 22, 1994), 59 FR 44443 [File No. SR–NSCC–94–17].

[7] It is anticipated that same-day funds settlement will be instituted in early 1996.

[8] The term ''next-day funds'' refers to funds paid today that will be available tomorrow. By contrast, ''same-day funds'' refers to funds that are immediately available.

[9] The September 4, 1992, order noted that on March 24, 1992, NSCC filed with the Commission a letter representing that NSCC: (1) Will submit for Division approval the current form of any agreement pursuant to which intrabank funds transfers are to be made and (2) will notify the Division of the identity of each bank that enters into any such contract. Letter from Peter J. Axilrod, Associate General Counsel, NSCC, to Jerry Carpenter, Branch Chief, Division, Commission (March 23, 1992).

[10] For a bank or trust company to be approved by NSCC to issue letters of credit on behalf of members for purposes of clearing fund requirements, the bank or trust company must meet specific standards in terms of: (1) Minimum levels of stockholders' equity and (2) certain credit ratings for its short term obligations as determined by Standard and Poor's Corporation or Moody's Investor Service, Inc. NSCC Rule 4, Section 1; Securities Exchange Act Release No. 29444 (July 16, 1991), 56 FR 34081 [File No. SR–NSCC–91–03] (order approving NSCC's revised standards for approved issuers of letters of credit for clearing fund purposes).

[11] 15 U.S.C. 78q–1 (1988).

[12] 15 U.S.C. 78q–1(a)(1) (1988).

[13] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[14] 15 U.S.C. 78s(b)(2) (1988).

[15] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–36399; File No. SR–NYSE–95–14]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Permanent Approval of Its Pilot Program for Stopping Stock under Amendments to Rule 116.30

October 20, 1995.

I. Introduction

On March 31, 1995, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to approve permanently amendments to Exchange Rule 116.30 that would permit specialists to stop stock in minimum variation markets.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35908 (June 28, 1995), 60 FR 34564 (July 3, 1995). The Commission received a total of three comment letters opposing the proposal, two of which were from the same commenter.[3] The NYSE submitted one letter supporting its proposal and responding to the Peake March 1, 1995

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Junius W. Peake, Monfort Professor of Finance, University of Northern Colorado, to Secretary, SEC, dated March 1, 1995 (''Peake March 1, 1995 Letter''); letter from Junius W. Peake, Monfort Professor of Finance, University of Northern Colorado, to Secretary, SEC, dated July 21, 1995 (''Peake July 21, 1995 Letter''); letter from Morris Mendelson, Professor Emeritus of Finance, The Wharton School of University of Pennsylvania, to Jonathan Katz, Secretary, SEC, dated August 2, 1995 (''Mendelson Letter''). Two of the letters were submitted by one commenter, with the later letter responding to NYSE's response to the commenter's first letter. *See infra* note 4. *See also infra* notes 13–15 and accompanying discussion.

Letter.[4] For the reasons discussed below, the Commission has decided to approve the NYSE's proposal.

II. Description of Proposal

The practice of stopping stock refers to a guarantee by a specialist that an order the specialist receives will be executed at no worse a price than the contra side price in the market when the order was received, with the understanding that the order may obtain a better price. Prior to the proposed rule change, Exchange Rule 116.30 permitted a specialist to stop stock only when the quotation spread was at least twice the minimum variation (*i.e.*, for most stocks ¼ point), with the specialist then being required to narrow the quotation spread by making a bid or offer, as appropriate, on behalf of the order that is stopped.

In March 1991, the Commission approved on a pilot basis [5] amendments to Exchange Rule 116.30 that permitted a specialist to stop stock in a minimum variation market (*i.e.*, an ⅛-point market currently).[6] The Commission subsequently has extended the Exchange's pilot program several times without any modifications.[7] The most recent extension of the pilot program is scheduled to expire on October 21, 1995.

The pilot program amends Rule 116.30 to permit a specialist, upon request, to stop individual orders of 2,000 shares or less, up to an aggregate total of 5,000 shares for all stopped orders (*i.e.*, multiple orders) in ⅛ point markets. A specialist may stop an order of a specified larger order size threshold, or a larger aggregate number of shares after obtaining Floor Official approval. For a specialist to stop an order in a minimum variation market, there must be a significant disparity between the bid and ask size (on the opposite side of the market from the order being stopped) that suggests the likelihood of price improvement.[8] In the 1991 Approval Order, first approving the pilot, the Commission noted that a large imbalance on the opposite side of the market would help ensure that stops in a minimum variation market occur only when the likelihood of the benefits to the customer's order being stopped far exceeds the possibility of harm to customers' orders on the limit order book.[9]

Under these limited circumstances, the pilot permitted a specialist to stop a buy (sell) order at the market upon request and guarantee that the order will receive no worse than the best then-prevailing offer (bid) price. The specialist would then increase the bid (offer) size to reflect the stopped order.[10] If the pre-existing volume at the bid (offer) is exhausted and a seller (buyer) hits the bid (offer) made on behalf of the stopped order, the buyer's (seller's) stopped order would obtain price improvement. If, however, before that event occurs another buyer's (seller's) order is executed at the offer (bid), then the specialist would execute the stopped order at the stopped price.

In the order approving the pilot procedures, the Commission requested that the Exchange study the effects of stopping stock in minimum variation markets and collect certain data to allow the Commission to evaluate fairly and comprehensively the pilot program.[11] In the Commission's 1994 Approval Order extending the pilot program until March 21, 1995, the Commission requested that the Exchange submit a fourth monitoring report on the stopping stock pilot.[12] The NYSE subsequently submitted its fourth monitoring report. The Commission then approved an extension of the pilot until October 21, 1995, so that the Commission would have additional time to evaluate the information provided in the fourth monitoring report and to ensure that Rule 116.30, as amended, provides a benefit to investors through the possibility of price improvement to customers whose orders are granted stops in minimum variation markets while unduly harming public customer limit orders on the specialist book.

III. Summary of Comments

The Commission received three negative comment letters regarding the permanent approval of the Exchange's procedures for stopping stock in minimum variation markets.[13] Two of the letters were submitted by the same commenter, Junius Peake. The NYSE Letter was in support of its proposal and in response to the Peake March 1, 1995 Letter.[14] The third negative comment letter was submitted in support of the position in the Peake letters.[15] The issues raised therein are discussed below.

Professor Peake states that the NYSE's proposal should not be approved and that all rules allowing specialists to stop stock should be repealed. In his initial letter, Professor Peake states that a specialist has inherent conflicts of interest as auctioneer, fiduciary (or agent for investors on each side of the market), and provider of immediate liquidity. Professor Peake argues that the practice of stopping stock aggravates a specialist's conflict of interest by pitting the specialist's obligation as agent to the investors who have entrusted him with limit orders against his obligation to a market order that normally would be filled against such limit orders.

Moreover, Professor Peake states that when the specialist is the only source of the quotation against which the stop is given, the specialist is improving his chance of avoiding an unwanted trade because the specialist is hoping that another customer order will arrive at a better price than at which the specialist is willing to trade. Professor Peake also asserts that a specialist as a competitor in the stocks in which he makes a market should not be given such latitude in setting execution prices.

Professor Peake believes that the conflicts inherent in the specialist's role could be avoided and the need for the stopping stock rules obviated if the

[4] *See* letter from James Buck, Senior Vice President and Secretary, NYSE, to Jonathan Katz, Secretary, SEC, dated July 17, 1995 (''NYSE Letter '').

[5] *See* Securities Exchange Act Release No. 28999 (Mar. 21, 1991), 56 FR 12964 (Mar. 28, 1991) (File No. SR–NYSE–90–48) (''1991 Approval Order'').

[6] NYSE Rule 62 sets forth the minimum variations for stocks traded on the Exchange. This Rule provides that bids or offers in stocks above one dollar per share shall not be made at a less variation under ⅛ of one dollar per share; in stocks below one dollar but above ½ of one dollar per share, at a less variation than 1/16 of one dollar per share; and in stocks below ½ of one dollar per share, at a less variation than 1/32 of a dollar per share. This Rule also provides that the Exchange may fix variations of less than the above for bids and offers in specific issues of securities or classes of securities.

[7] *See* Securities Exchange Act Release Nos. 30482 (Mar. 16, 1992), 57 FR 10198 (Mar. 24, 1992) (File No. SR–NYSE–92–02) (''1992 Approval Order''); 32031 (Mar. 22, 1993), 58 FR 16563 (Mar. 29, 1993) (File No. SR–NYSE–93–18) (''1993 Approval Order''); 33792 (Mar. 21, 1994), 59 FR 14437 (Mar. 28, 1994) (File No. SR–NYSE–94–06) (''1994 Approval Order''); 35309 (Jan. 31, 1995), 60 FR 7247 (Feb. 7, 1995) (File No. SR–NYSE–95–02) (''January 1995 Approval Order''); 36009 (July 21, 1995), 60 FR 38878 (July 28, 1995) (''July 1995 Approval Order'').

[8] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Mary N. Revell, Branch Chief, Division of Market Regulation, SEC, dated December 27, 1990; 1991 Approval Order, *supra* note 5; NYSE information memo #1809, dated September 12, 1991.

[9] The 1991 Approval Order also noted NYSE's representation and the Commission's understanding that specialists would not routinely use such procedures or that Floor Officials would not routinely authorize the specialists to exceed the parameters of the proposal.

[10] The stopped order would be placed behind the existing limit orders at the bid (offer) for priority purposes.

[11] *See supra* notes 5 and 7.

[12] *See* 1994 Approval Order, *supra* note 7.

[13] *See* Peake March 1, 1995 Letter, *supra* note 3; Peake July 21, 1995 Letter, *supra* note 3: Mendelson Letter, *supra* note 3. Although the comment letters referred to File No. SR–NYSE–95–02, the Commission will treat them as comments to this rule proposal because the comments relate to the permanent approval of amendments to NYSE Rule 116.30.

[14] *See* NYSE Letter, *supra* note 4.

[15] *See* Mendelson Letter, *supra* note 3.

competitiveness of the exchanges and the over-the-counter markets was increased. Professor Peake believes that the easiest method to accomplish this would be to reduce the minimum price variation between trades to one cent. Professor Peake also believes that the entire limit order book should be displayed and accessible to all market participants.

In response to Professor Peake, the Exchange characterizes his letter as a broad attack on the concept of stopping stock that fails to analyze the specific aspects of the Exchange's proposal.[16] The Exchange argues that, notwithstanding Professor Peake's assertions of a theoretical conflict of interest in a specialist's role in representing both buyer and seller, the procedures utilized in the pilot have proven effective in providing opportunities for price improvement. The Exchange states that its studies show that more than half of eligible orders (*i.e.*, orders for 2,000 shares or less) stopped in minimum variation markets received price improvement, resulting in savings of millions of dollars to public investors. The Exchange reiterates that the proposal enables specialists to better serve investors through the ability to offer price improvement to stopped orders while having relatively little impact on the other orders on the book.

In response to the NYSE Letter, Professor Peake states that contrary to the NYSE's position, a specialist stopping stock faces conflicts of interest. Moreover, Professor Peake argues that for every investor for whom price is improved when stock is stopped, there is always another investor who will receive a worse price or be unable to complete the trade at all. Professor Peake suggests that the Commission might be able to remedy the situation by conditioning approval of the NYSE's proposal on requiring neutral exchange employees, rather than specialists, to take the responsibility for stopping stock against other investors' orders. Professor Peake admits, however, that this alternative might be awkward and overly expensive.

Finally, in his letter, Professor Mendelson agrees with Professor Peake and believes that the proposed rule change permits the specialist to violate his fiduciary responsibility. Moreover, he believes that the proposed rule change hampers price discovery because a stop delays the execution of an order.

IV. Discussion

After careful consideration of the comments, the NYSE response thereto, and the data submitted by the NYSE over the course of the pilot, the Commission has determined to approve permanently the proposed rule change. For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5)[17] and Section 11(b)[18] of the Act.

Historically, the Commission has had mixed reactions about the practice of stopping stock. The 1963 Report of the Special Study of the Securities Markets found that unexecuted customer limit orders on the specialist's book might be bypassed by the stopped orders.[19] The Commission, nevertheless, has allowed the practice of stopping stock in markets where the spread is at least twice the minimum variation because the possible harm to orders on the book is offset by the reduced spread that results and the possibility of price improvement.

Although the procedures for stopping stock in minimum variation markets do not reduce the spread between the quotes the Commission has allowed, on a pilot basis, the practice in limited circumstances where there is a substantial imbalance on the opposite side of the market from the order being stopped. This limitation is intended to assure that specialists would stop stock in minimum variation markets only in situations where the likelihood of price improvement outweighs the possibility that contra-side limit orders would be bypassed.[20] Moreover, the order size restrictions would act to ensure that most stops are granted to public customers with small orders, whose orders could most benefit from the professional handling by specialists.[21] In addition, limiting the total stops to 5,000 shares is intended to ensure that the amount of stopped stock does not become so large that there would, in effect, cease to be an imbalance on the opposite side of the market from the order being stopped (*i.e.*, less likelihood of price improvement for the stopped orders). Finally, although the spread cannot be reduced by stopping stock in minimum variation markets, specialists must change the quote bid or offer size to reflect the size of the order being stopped. This should ensure that the stopped stock will be shown in the quote.

To examine whether specialists have been using the pilot program as intended, the Commission had asked the Exchange to provide data on the stopping stock program in a minimum variation market.[22] The Exchange has submitted to the Commission four monitoring reports regarding the amendments to Rule 116.30. The commission believes that the monitoring reports, especially, the fourth (and latest) monitoring report, provide useful information regarding the effectiveness of the program during the pilot period.

Specifically, according to the NYSE's fourth report, approximately half of eligible orders (*i.e.*, orders for 2,000 shares or less) stopped in minimum variation markets received price improvement. Moreover, according to the NYSE report, stops in minimum variation markets generally have been granted when there was a significant disparity (in both absolute and relative terms) between the number of shares bid for and the number offered. In particular, the Exchange reports that for a substantial majority of stops granted, the size of the stopped order was less than, or equal to, 25% of the size of the opposite side quote. The Exchange also reports that only approximately a third of the limit orders on the opposite side of the market from all market orders stopped in eighth point markets were

[16] *See* NYSE Letter, *supra* note 4.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78k.

[19] *See* SEC, Report of the Special Study of Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess., Pt. 2 (1963) (''Special Study'').

When stock is stopped, limit book orders on the opposite side of the market do not receive an immediate execution. Consequently, if the stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

[20] As for limit book orders on the same side of the market as the stopped stock, the Commission believes that Rule 116.30's requirements make it unlikely that these limit orders would not be executed. Under the NYSE pilot program, an order can be stopped only if a substantial imbalance exits on the opposite side of the market. In those circumstances, the stock would probably trade away from the large imbalance, resulting in execution of orders on the limit order book.

[21] As part of its initial proposed rule change, the NYSE provided the following example illustrating the relationship between quote size imbalance and the likelihood of price improvement: Assume that the market for a given stock is quoted 30 to 30⅛, with 1,000 shares bid for and 20,000 shares offered. The large imbalance on the offer side of the market suggests that subsequent transactions will be on the bid side. Accordingly, the NYSE states that it might be appropriate to stop a market order to buy, since the delay might allow the specialist to execute the buyer's order at a lower price. After granting such a stop, under NYSE rules the specialist would be required to increase his quote by the size of the stopped buy order, thereby adding depth to the bid side of the market.

[22] *See supra* notes 5 and 7.

not executed by the end of the day.[23] Finally, with respect to Floor Official approval of waivers to the numerical limitations, the Exchange reports that, after some problems in the earlier phases of the pilot, a very high percentage of orders requiring Floor Official approval received such an approval.

The Commission, therefore, believes that the data on stopping stock in minimum variation markets show that the pilot has operated as intended and should be approved permanently. Moreover, for the reasons discussed below, the Commission believes that the commenters' criticisms of the proposals have been adequately addressed.

First, although the Commission recognizes that a specialist potentially may have multiple responsibilities with respect to limit orders on the book and to market orders, the stopping stock program in minimum variation markets is a reasonable approach to the balancing of interests.[24] The program attempts to maximize the possibility of price improvement for market order customers while minimizing the possibility that limit orders may be bypassed. This is accomplished by permitting the use of the stopping stock procedures in minimum variation markets in limited circumstances: Where the disparity between the bid and offer size appears to be significant enough that there is likelihood of price improvement. Moreover, as discussed above the data indicates that the pilot has fulfilled its expectations in that customers, for the most part, have been stopped only in markets with substantial disparities and have received price improvement in many of these situations.

Second, the Commission disagrees with Professor Peake that the specialist is using the stopping stock procedures to avoid making an unwanted trade with his own quote. The requirement that there be a large imbalance on the opposite side of the stopped order for a specialist to stop stock makes it unlikely that the specialist would be the only source of a quote.

Third, Professor Peake states that the specialist should not be given latitude in setting execution prices through stopping stock. Given that there must be a significant imbalance between the bid and offer that strongly suggests the likelihood of price improvement, the Commission does not believe that a specialist stopping stock and providing price improvement is provided with unfettered discretion in setting prices or unduly influencing market trends.[25]

Fourth, Professor Peake suggests that the decimalization of quotes and full disclosure of the limit order book would make the practice of stopping stock unnecessary.[26] Such a possibility, however, should not preclude the NYSE from developing price improvement procedures based upon existing spread parameters. Moreover, in regard to market structure concerns over order handling and transparency, the Commission recently proposed rules designed, among other things, to improve the display of limit orders.[27] The Commission does not believe that the proposed stopping stock procedures for minimum variation markets should be disapproved pending further action on the other proposals.

Fifth, Professor Mendelson states that the practice of stopping stock hampers price discovery because a stop delays the execution of an order. The Commission believes that although stopping stock might delay the execution of an order somewhat, the opportunity for price improvement for the order that is stopped outweighs concerns regarding the delay of an order execution. Moreover, the Commission believes that the practice of stopping stock may further the price discovery process of a stock because the stopped stock may receive an improved price, which might be a more accurate reflection of the interests in the market.

For all of the above reasons, the Commission believes that the NYSE proposal is consistent with Section 6(b)(5) of the Act. In addition to a determination that the NYSE proposal is consistent with Section 6 of the Act and adequately addresses the commenters' concerns, the Commission also believes that the proposal is consistent with the prohibition in Section 11(b) against providing discretion to a specialist in the handling of an order.[28] Section 11(b) was designed, in part, to address potential conflicts of interest that may arise as a result of the specialist's dual role as agent and principal in executing stock transactions. In particular, Congress intended to prevent specialists from unduly influencing market trends through their knowledge of market interest from the specialist's book and their handling of discretionary agency orders.[29] The Commission has stated that, pursuant to Section 11(b), all orders other than market or limit orders are discretionary and therefore cannot be accepted by specialists.[30]

As previously noted in the 1991 Approval Order, the Commission believes that it is appropriate to treat stopped orders, even those under the pilot procedures, as equivalent to limit orders. The NYSE's rules define a limit order as an order to buy or sell a stated amount of a security at a specified price, or at a better price if obtainable.[31] The Commission believes that stopped orders are equivalent to limit orders, in this instance, because the orders would be automatically elected at the best bid or offer, or better if obtainable. Although the proposed amendments permit the specialist to employ his judgment to some extent, the Commission believes that the requirements imposed on the specialist for granting stops in minimum variation markets provide sufficiently stringent guidelines to ensure that the specialist will only implement these provisions in a manner consistent with his market making duties and Section 11(b).[32]

In permanently approving the stopping stock procedures for minimum variation markets, the Commission is relying on three aspects of the program and expects the NYSE to reiterate these requirements in an Information Memo to members. *First*, the Commission continues to believe that the requirement of a sufficient market imbalance is important to the proper application of the program. This

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[23] The NYSE report finds that approximately 40% of the limit orders on the opposite side of the market from the stopped orders were canceled and approximately 30% were executed by the end of the day.

[24] *Cf.* Securities Exchange Act Release No. 36310 (Sept. 29, 1995), 60 FR 52792, 52807 (Oct. 10, 1995), where the Commission requests comment on order exposure procedures in minimum variation markets and how price improvement procedures would operate in such situations.

[25] The Commission notes that to the extent there is a large price discrepancy between sequential orders, the NYSE surveillance procedures would review whether orders were executed consistent with price parameters for continuity and depth.

[26] *See* Securities Exchange Act Release No. 33026 (Oct. 6, 1993), 58 FR 36262 (Oct. 13, 1993) (seeking comment regarding decimal pricing in the Commission's proposal to require disclosure of payment for order flow).

[27] *See* Securities Exchange Act Release No. 36310 (Sept. 29, 1995), 60 FR 52792 (Oct. 10, 1995) (proposing a minimum standard for all markets that would require the display of customer limit orders under certain circumstances). In addition, as noted above the stopping stock pilot provides, to a certain extent, market transparency by requiring that the stopped orders be reflected in the quote. *See also* Division of Market Regulation, SEC, ''Market 2000, An Examination of Current Equity Market Developments'' (Jan. 1994) (''*Market 2000*'') Study IV at 5–6.

[28] Section 11(b) permits a specialist to accept only market or limit orders.

[29] *See* H. Rep. No. 1383, 73d Cong. 2d Sess. 22, S. Rep. 792, 73d Cong. 2d Sess. 18 (1934).

[30] *See* Special Study, *supra* note 19.

[31] *See* NYSE Rule 13.

[32] Moreover, stopped orders as ''limit orders'' would not bypass pre-existing limit orders on the same side of the market. Under the NYSE's procedures, specialists may not execute a stopped order before the limit order interest on the Exchange (at the same price as the stopped order) is exhausted. *See supra* note 20.

requirement should help the NYSE ensure that stops are only granted in a minimum variation market when the benefit (*i.e.*, price improvement) to orders being stopped far exceeds the potential for harm to orders on the specialist's book. *Second*, the Commission expects the NYSE to take appropriate action in response to any instance of specialist non-compliance with the stopping stock procedures in minimum variation markets. *Third*, the Commission emphasizes that Floor Official approval of an increase in the size of the stopped order or stopping more than 5000 shares must not be routine. The Commission expects the NYSE to continue to monitor compliance with these aspects of the stopping stock program through its special surveillance procedures.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[33] that the proposed rule change (SR–NYSE–95–14) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26575 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

[33] 15 U.S.C. 78s(b0(2).

[34] 17 CFR 200.30–3(a0(12).

[Release No. 34–36395; File No. SR–PHLX–95–58]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Trader Registration and the Use of the Series 7A Examination

October 20, 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 22, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' of ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On October 6, 1995 the Exchange submitted Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to adopt paragraph (d) to Rule 604, Registration and Termination of Registered Representatives, to require registration of persons who solicit or handle business in securities and are compensated by a member or participant organization for which the Phlx is the Designated Examining Authority (''DEA''). Only persons not otherwise required to register with the Exchange would be subject to Rule 604(d). Registration pursuant to the proposed rule would require filing Form U–4, Uniform Application for Securities Industry Registration or Transfer, with the Exchange. The Phlx also proposes to amend paragraph (c)(ii) of Rule 604, which names the Series 7A as the examination appropriate for Limited Registration/Floor Members,[2] to clarify that this is the appropriate examination for such members only, not all members who conduct a public business from the equity trading floor.

The text of the proposed rule change is as follows [new text is italicized]:

Rule 604 Registration and Termination of Registered Representatives

(c) Limited Registration/Floor Members

* * *

(ii) The appropriate examination *for a floor member* to conduct a public business from the equity trading floor is the Series 7A examination.

(d) Every person who is compensated directly or indirectly by a member or participant organization for which the Exchange is the Designated Examining Authority (''DEA'') for the solicitation or handling of business in securities, including trading securities for the account of the member or participant organization, whether such securities are those dealt in on the Exchange or those dealt in over-the-counter, who is not otherwise required to register with the Exchange by paragraph (a) of this rule or another rule shall file Form U–4, Uniform Application for Securities Industry Registration or Transfer, with the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change 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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the 600 series of rules generally govern registration of members.[3] Rule 604(a) requires Series 7 Registered Representatives to register with the Exchange on Form U–4. In addition, the Exchange requires Limited Registration/Floor Members to register pursuant to Rule 604(c). However, there is no requirement for proprietary ''upstaires'' traders (*i.e.,* those who trade for the firm's own account) to register with the Exchange. This proposal adopts such a requirement as Rule 604(d).

The Commission recently noted the absence of such a requirement during a Commission oversight examination of a Phlx participant organization. The Exchange has thus determined to require a firm's proprietary traders to register with the Exchange and believes that this requirement will enhance the Exchange's examination program. Specifically, Exchange files would contain a complete record of those trading for a member of participant organization, not just persons handling customer accounts. The Form U–4 would provide background information on such traders as well as a basis for further Exchange research if needed.

Similar to Rules 604(a) and (c), the proposal would require registration on Form U–4. This form is currently used in the Exchange's membership application process for prospective members or participants, as well as the officers, shareholders and directors of such organizations. In order to prevent duplicative registration, the proposal would not apply to persons who are otherwise registered with the Exchange.

The proposal also seeks to amend paragraph (c)(ii) of Rule 604. The

[1] *See* letter from Gerald O'Connell, First Vice President Market Regulation and Trading Operations, Phlx, to Glen Barrentine, Senior Counsel, SEC, dated October 3, 1995. In Amendment No. 1 the Exchange explained the purpose of its proposed amendment to Rule 604(c)(ii).

[2] A Limited Registration/Floor Member is a member who conducts a public business that is limited to accepting orders from professional customers for execution on the trading floor. The Series 7A examination is a module of the Series 7 (the General Securities Registered Representative Examination) developed to test the knowledge of relevant securities laws and Exchange rules required of such members. *See* Securities Exchange Act Release No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993) (File No. SR–NYSE–93–10).

[3] *See, e.g.,* Rule 600, Addresses of Members.

purpose of the amendment is to add limiting language to Rule 604(c)(ii) to clarify that the Series 7A is the appropriate examination for Limited Registration/Floor Members, not all members conducting a public business from the equity trading floor. Although the organization and intent behind the adoption of Rule 604 indicate that paragraph (c) and sub-paragraph (ii) thereunder apply only to Limited Registration/Floor Members,[4] on its face the text of 604(c)(ii) can be construed to apply to all members conducting a public business. The amendment would remove this ambiguity from Rule 604(c)(ii) by naming floor members specifically as the parties for whom the Series 7A is the appropriate examination.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act [5] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest by enhancing the Exchange's examination process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[4] *See* Securities Exchange Act Release No. 35258 (January 20, 1995), 60 FR 5449 (January 27, 1995) (File No. SR–Phlx–94–15) (order approving the Phlx's adoption of the Limited Registration/Floor Member status and its use of the Series 7A for such members).

[5] 15 U.S.C. 78f(b)(5).

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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–95–58 and should be submitted by November 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26543 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36402; File No. SR–OPRA–95–3]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to Extend the Scope and Duration of OPRA's Current Usage-Based Fee Pilot

October 20, 1995.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Exchange Act''), notice is hereby given that on October 5, 1995, the Options Price Reporting Authority (''OPRA'') [1] submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotations Information (''Plan''). The amendment extends both the scope and duration of OPRA's current usage-based fee pilot. OPRA has designated this proposal as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, permitting the proposal to become effective upon filing pursuant to Rule 11Aa3–2(c)(3)(i) under the Exchange Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3–2 thereunder. Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agree to the OPRA Plan are the American Stock Exchange (''AMEX''); the Chicago Board Options Exchange (''CBOE''); the New York Stock Exchange (''NYSE''); the Pacific Stock Exchange (''PSE''); and the Philadelphia Stock Exchange (''PHLX'').

I. Description and Purpose of the Amendment

The purpose of the amendment is to extend both the scope and duration of OPRA's current usage-based fee pilot that provides for a usage-based fee as an alternative to OPRA's port-based Dial-up Market Data Service Utilization Fee. The pilot became effective in September 1994, for a period of one year commencing with the time that the first dial-up vendor elected to pay the usage-based fee.[2]

OPRA is proposing to extend the usage-based fee concept by providing a usage-based fee as an alternative to OPRA's port-based Voice Synthesized Market Data Service Fee and OPRA's device-based Radio Paging Service Fee. In each case, the usage-based fee would be set at the same level that currently applies to the Dial-up Market Data Service.[3] The purpose of extending the usage-based alternative to providers of voice synthesized and radio paging service is to accommodate those service providers that have the capability of monitoring usage for all three services and that have indicated to OPRA that they would enjoy certain efficiencies if they could be charged for all three services on the same basis.[4]

OPRA does not expect the availability of these usage-based fees to have any

[2] The first dial-up vendor elected to pay this fee in June 1995. Based on the terms of the pilot, therefore, it will expire on June 30, 1996, unless extended.

[3] The usage-based fee has been established at \$0.02 for each ''quote packet'' consisting of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index accessed via the service. All inquiries, except those for historical information, would be included for purposes of calculating the fee. For this purpose, options market information becomes ''historical'' upon the opening of trading on the next succeeding trading day of that market.

[4] As with the current usage-based Dial-up Market Data Service Utilization Fee, persons that elect to pay the usage-based Voice Synthesized Market Data

Continued

significant impact on the total revenues realized by OPRA from fees imposed on these categories of service providers. However, because the actual impact of these alternative fees cannot be predicted with certainty, OPRA is proposing to offer them for a 15-month pilot period beginning on October 1, 1995, to December 31, 1996, during which time the overall impact of usage-based fees will be evaluated. In order to be able to continue to evaluate the usage-based Dial-up Market Data Service Utilization Fee in conjunction with the other usage-based fee, OPRA is proposing to extend the current pilot until December 31, 1996.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a National Market System; or otherwise in furtherance of the purposes of the Exchange Act.

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, and 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 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 the filing also will be available at the principal offices of OPRA. All submissions should refer to file number SR–OPRA–95–3 and should be submitted by November 17, 1995.

Service Fee or the usage-based Radio Paging Service Fee will be required to give at least 90 days written notice to OPRA before they may convert back to the port-based or device-based fees for such services.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26571 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

[5] 17 CFR 200.30–3(a)(29).

[Investment Company Act Rel. No. 21427; 811–3949]

Portfolios for Diversified Investment; Application for Deregulation

October 19, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregulation under the Investment Company Act of 1940 (''Act'').

APPLICANT: Portfolios for Diversified Investment.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on June 21, 1995, and amended on August 22 and October 11, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 13, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Bellevue Park Corporate Center, 400 Belleuve Parkway, Suite 100, Wilmington, DE 19809.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, at (202) 942–0583, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, which was originally incorporated in Maryland on January 18, 1984 as Diversified Investment Fund for Institutions, Inc., is an open-end diversified management investment company organized as a Massachusetts business trust.[1] On January 26, 1984, applicant filed a notification of registration under section 8(a) of the Act and a registration statement relating to its shares on Form N–1 under the Securities Act of 1933 and section 8(b) of the Act. This registration statement became effective on June 26, 1994. Applicant's initial public offering commenced on July 12, 1984. Applicant offered shares in four series: Diversified Equity Appreciation Fund, Diversified Fixed Income Fund and Long Fixed Income Fund (''Fixed Income Fund''), Short Fixed Income Fund, and Intermediated Fixed Income Fund. Applicant is seeking to deregister as an investment company because the last of these series, the Fixed Income Fund, terminated in June 1995.

2. At a meeting held on January 27, 1995, applicant's Board of Trustees approved an Agreement and Plan of Reorganization (''Plan''), between applicant and the PNC Fund, a registered, open-end management investment company. The Plan provided for the transfer of all assets and known liabilities of applicant's Fixed Income Fund in exchange for shares of the Institutional Class of the Intermediate-Term Bond Portfolio (the ''Bond Portfolio'') of the PNC Fund. The Board determined that the Plan would be likely to reduce the overall expense ratios for applicant's shareholders, and would provide potentially greater portfolio diversification.

3. Applicant and The PNC Fund are both advised by PNC Institutional Management Corporation, and share common directors and a majority of officers. Applicant therefore relied on the exemption provided by rule 17a–8 under the Act to effect the transaction.[2] Consequently, the Board determined, in accordance with rule 17a–8, that the proposed transaction was advisable and in the best interest of the shareholders

[1] Applicant subsequently changed its name to Diversified Investment Fund, Inc. (April 12, 1984), Diversified Securities Fund, Inc. (June 15, 1984), and Portfolios for Diversified Investment, Inc. (September 28, 1984). Finally, on June 11, 1985, applicant filed a declaration of trust with the State of Massachusetts under the name Portfolios for Diversified Investment.

[2] Rule 17a–8 provides relief from the affiliated transaction prohibition of section 17(a) of the Act for a merger of investment companies that may be affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

of the Fixed Income Fund, and that the interests of applicant's existing shareholders would not be diluted as a result of the transaction.

4. Definitive proxy materials relating to the Plan were filed with the SEC on May 19, 1995, and proxy materials were mailed to applicant's shareholders during the week of May 15, 1995. Applicant's shareholders voted to approve the Plan at a special meeting of shareholders on June 12, 1995.

5. As of June 12, 1995, the Fixed Income Fund had 1,059,353.225 shares outstanding with a net asset value per share of $9.76. A dividend in the amount of $.023212454 per share was declared and paid on June 16, 1995 to shareholders of the Fixed Income Fund. At the same time, pursuant to the Plan, the assets and known liabilities of the Fixed Income Fund were transferred to the Bond Portfolio in exchange for shares of the Bond Portfolio. Applicant then distributed the shares of the Bond Portfolio it received *pro rata* to its shareholders in complete liquidation of their interests in applicant.

6. The expenses incurred in connection with the Plan consisted of legal fees, filing fees, and printing expenses in the amount of approximately $51,000. Of this amount, approximately $22,000 has been or will be paid by applicant, and approximately $29,000 has been or will be paid by the Bond Portfolio.

7. At the time of the application, applicant had no shareholders, assets or liabilities, nor was applicant a party to any litigation or administrative proceeding. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

8. Applicant intends to file a Certificate of Termination with the Commonwealth of Massachusetts.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26549 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–36395]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 20, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 13, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/ or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities Service Company, Inc. et al. (70–8699)

Northeast Utilities Service Company (''NUSCO''), Northeast Nuclear Energy Company (''Northeast Nuclear'') and Connecticut Yankee Atomic Power Company (''Connecticut Yankee''), each of 107 Selden Street, Berlin, Connecticut 06037, North Atlantic Energy Service Corporation (''North Atlantic''), Route 1, Lafayette Road, Seabrook, New Hampshire 03874, and Yankee Atomic Electric Company (''Yankee Atomic''), 580 Main Street, Bolton, Massachusetts 01740, subsidiaries of Northeast Utilities, (''Northeast''), a registered holding company, have filed a declaration under sections 13(b) and 13(f) of the Act and rules 86, 90, 89, 90 and 91 thereunder.

NUSCO is a wholly owned service company subsidiary of Northeast that provides legal, accounting, and other administrative services to companies in the Northeast system. Northeast Nuclear and North Atlantic are wholly owned electric utility and service company subsidiaries of Northeast that operate the Millstone Nuclear Power Station and the Seabrook nuclear plant, respectively. Connecticut Yankee and Yankee Atomic are electric utility subsidiaries of Northeast [1] that own and operate the Connecticut Yankee Atomic Power Plant and the Yankee Nuclear Power Station, respectively.

The applicants seek authorization [2] to enter into a Reciprocal Support Agreement (''Agreement''), under which Northeast Nuclear, North Atlantic, Connecticut Yankee, and Yankee Atomic may temporarily provide technical resources, personnel and equipment to each other. NUSCO would provide billing, accounting and other similar services to facilitate the transactions among these companies and would be compensated for its services by the companies who receive equipment or services. Compensation for transactions under the Agreement would be at ''cost,'' as determined in accordance with the Act and related rules thereunder.

The applicants state that temporary sharing of resources and personnel between nuclear units is similar to the emergency provision of resources that occurs routinely on an informal basis in the nuclear industry, and that the Agreement is a logical extension and formalization of this practice.

Cinergy Corporation (70–8705)

CINergy Corporation (''Cinergy''), a registered holding company, 139 East Fourth Street, Cincinnati, Ohio 45202, has filed a declaration under sections 6(a) and 7 of the Act and rule 54 thereunder.

By order dated October 21, 1994 (HCAR No. 26146) (''Merger Order''), the Commission authorized Cinergy, among other things, to issue (and/or acquire in open market transactions) and sell up to ten million shares of Cinergy common stock, $.01 par value per share, to the Cinergy Reinvestment and Stock Purchase Plan, certain Cinergy stock-based employee benefit plans, and the 401(k) savings plans of Cinergy's subsidiaries, The Cincinnati Gas & Electric Company and PSI Energy, Inc., through December 31, 1995, (collectively, ''Plans''). As of September 1, 1995, Cinergy issued (or, in the case of open market transactions, acquired on behalf of plan participants) and sold the Plans a total of 2,613,304 shares of common stock pursuant to the Merger Order.

Cinergy now seeks Commission authorization to issue (or, in the case of

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[1] Connecticut Yankee and Yankee Atomic are also subsidiaries of New England Electric System, also a registered holding company under the Act.

[2] Pursuant to prior orders of the Commission, Northeast Nuclear and North Atlantic Service have agreed to seek Commission approval prior to providing services to entities other than the joint owners of the respective nuclear units that they operate. *Northeast Utilities et al.*, Holding Co. Act Release No. 25565 (June 29, 1992), and *Northeast Nuclear Energy Company*, Holding Co. Act Release No. 25950 (Dec. 16, 1993).

shares purchased on the open market, to acquire on behalf of plan participants) and well under the Plans, from time to time through December 31, 2000: (1) The remaining shares of common stock covered under the Merger Order, consisting of 7,386,696 shares at September 1, 1995; and (2) up to an additional 15 million shares of Cinergy common stock.

Cinergy proposes to use the proceeds from sales of the Cinergy common stock for general corporate purposes, including repayment of short-term indebtedness and investments in subsidiary companies.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26577 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26396]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

October 20, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 13, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Transok, Inc., et al. (70–8519)

Transok, Inc. (''Transok''), a wholly-owned non-utility subsidiary of Central and South West Corporation (''CSW''), a registered holding company, Transok Acquisition Company (''TAC''), a wholly-owned non-utility subsidiary of Transok, and Transok Gas Transmission Company (''Transmission'') and Transok Gas Gathering Company (''Gathering''), wholly-owned non-utility subsidiaries of TAC,[1] all located at P.O. Box 3008, Tulsa, Oklahoma 74101, have filed an application-declaration under sections 9(a), 10, 12(c) and 12(f) of the Act and rules 42, 43, 45(a) and 54 thereunder.

Applicants request authorization to merge TAC, Transmission and Gathering into Transok, with Transok being the surviving corporation.[2] The mergers would simplify Transok's corporate structure by eliminating one of its first-tier subsidiaries (TAC) and two of its second-tier subsidiaries (Transmission and Gathering).[3] As a result of the mergers, Transok will acquire all of the assets and assume all of the liabilities of TAC, Transmission and Gathering. Each outstanding share of capital stock Transok will remain unchanged with the same rights, privileges and preferences as before the mergers. Each outstanding share of capital stock of TAC, Transmission and Gathering will be cancelled and extinguished. Applicants state that they expect the mergers to produce several benefits and efficiencies, including (i) annual tax savings of approximately $500,000; (ii) simplified and less costly internal and external accounting operations; (iii) reduced and less costly regulatory reporting and compliance requirements; (iv) reduced administrative costs; and (v) simplified and less costly contracting procedures for Transok and its customers.

Applicants also request authorization for Transok to transfer certain natural gas compression assets, as a capital contribution, to Transok Gas Processing Company, another of its wholly-owned subsidiaries.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26578 Filed 10–25–95; 8:45 am]

BILLING CODE 8010–01–M

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[1] In addition to Gathering and Transmission, TAC currently has two other wholly-owned non-utility subsidiaries: Transok Gas Company (''Marketing'') and Transok Gas Processing Company (''Processing'').

[2] The mergers would be accomplished in two stages: (1) the merger of TAC into Transok, with Transok being the surviving corporation, and (2) the subsequent mergers of Transmission and Gathering into Transok, with Transok being the surviving corporation.

[3] Transok currently has two first-tier subsidiaries, Transok Properties, Inc. (''Properties'') and TAC, and, through its sole ownership of TAC, four second-tier subsidiaries: Gathering, Transmission, Processing and Marketing. After the proposed mergers are consummated, Transok will have no second-tier subsidiaries and three first-tier subsidiaries: Properties, Processing and Marketing.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Change to Advisory Circular 27–1, Certification of Normal Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance and availability.

SUMMARY: Change 4, Advisory Circular (AC) 27–1, Certification of Normal Category Rotorcraft, was issued to bring the AC up-to-date with various rule changes to 14 CFR Part 27. As part of the FAA effort to achieve national standardization in rotorcraft certification, the AC serves as a ready reference for manufacturers, modifiers, FAA design evaluation engineers, flight test engineers, and engineering flight test pilots and has been harmonized with the Joint Aviation Authority (JAA) to establish common guidance for the U.S. and for JAA member nations. The AC material has no legally binding status and must be treated as advisory only.

DATES: Change 4, AC 27–1, was issued by the Rotorcraft Directorate, Aircraft Certification Service, on August 18, 1995.

How to Order: A copy of Change 4, AC 27–1, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or from any of the Government Printing Offices located in major cities throughout the United States. Identify the publication as Change 4, AC 27–1, Certification of Normal Category Rotorcraft, Stock Number 050–007–01103–2. The cost is $12.00 per copy. Send a check or money order, made payable to Superintendent of Documents, with your request. Requests may also be made by calling the Government Printing Office at 202–512–1800. Orders for mailing to foreign countries should include an additional $3.00 to cover handling. No c.o.d. orders are accepted.

FOR FURTHER INFORMATION CONTACT: Ms. Maria Garcia, Editorial Assistant, FAA, Regulations Group, Rotorcraft

Directorate, Aircraft Certification Service, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5112, fax (817) 222–5961.

Issued in Fort Worth, Texas, on October 11, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–26621 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Change to Advisory Circular 29–2A, Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance and availability.

SUMMARY: Change 3, Advisory Circular (AC) 29–2A, Certification of Transport Category Rotorcraft, was issued to bring the AC up-to-date with various rule changes to 14 CFR Part 29. As part of the FAA effort to achieve national standardization in rotorcraft certification, the AC serves as a ready reference for manufacturers, modifiers, FAA design evaluation engineers, flight test engineers, and engineering flight test pilots and has been harmonized with the Joint Aviation Authority (JAA) to establish common guidance for the U.S. and for JAA member nations. The AC material has no legally binding status and must be treated as advisory only.

DATES: Change 3, AC 29–2A, was issued by the Rotorcraft Directorate, Aircraft Certification Service, on June 1, 1995.

How to Order: A copy of Change 3, AC 29–2A, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or from any of the Government Printing Offices located in major cities throughout the United States. Identify the publication as Change 3, AC 29–2A, Certification of Transport Category Rotorcraft, Stock Number 050–007–01104–2. The cost is $16.00 per copy. Send a check or money order, made payable to Superintendent of Documents, with your request. Requests may also be made by calling the Government Printing Office at 202–512–1800. Orders for mailing to foreign countries should include an additional $4.00 to cover handling. No c.o.d. orders are accepted.

FOR FURTHER INFORMATION CONTACT: Ms. Maria Garcia, Editorial Assistant, FAA, Regulations Group, Rotorcraft Directorate, Aircraft Certification Service, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5112, fax (817) 222–5961.

Issued in Fort Worth, Texas, on October 11, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircaft Certification Service.

[FR Doc. 95–26620 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–13–M

Noise Exposure Map Notice; McGhee-Tyson Airport, Knoxville, TN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Metropolitan Knoxville Airport Authority for McGhee-Tyson Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Jerry O. Bowers, Airport District Office, 2851 Directors Cove, Suite #3, Memphis, TN 38131–0301, 901–544–3495.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for McGhee-Tyson Airport are in compliance with applicable requirements of Part 150, effective October 12, 1995.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposed for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Metropolitan Knoxville Airport Authority. The specific maps under consideration are McGhee-Tyson Airport Existing (1995) Noise Exposure Map and Future (2000) Noise Exposure Maps submission. The FAA has determined that these maps for McGhee-Tyson Airport are in compliance with applicable requirements. This determination is effective on October 12, 1995. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific priorities to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, D.C. 20591.

Federal Aviation Administration, Airports District Office, 3851 Directors Cove, Suite #3, Memphis, TN 38131–0301.

Mr. William F. Marrison, Director of Airport Operations, McGhee-Tyson Airport, P.O. Box 15600, Knoxville, Tennessee 37901.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Memphis Airports District Office, October 12, 1995.

LaVerne F. Reid,

Manager.

[FR Doc. 95–26622 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to impose and use the revenue from a Passenger Facility Charge (PFC) at Sacramento Metropolitan Airport, Sacramento, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sacramento Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 27, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas P. Engel, Director, Department of Airports, County of Sacramento, at the following address: 6900 Airport Boulevard, Sacramento, California 95837. Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Sacramento under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from Sacramento Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 13, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Sacramento was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 20, 1995. The following is a brief overview of the use application number AWP–95–02–C–00–SMF.

Level of proposed PFC: $3.00.

Charge effective date: March 1, 1996.

Estimated charge expiration date: October 31, 1997.

Brief description of the impose and use projects: Terminals and Concourses 1 & 2 Rehabilitation Phase 2, Terminals 1, 2 & 3 and Administration Building Electrical system Reconstruction/Upgrade, Taxiway Y Completion, Taxiway Guidance Signs, Runway Pavement Evaluation, Construction of Taxiway C5, Airfield Lighting Computerized Control System Replacement, Airfield Jet Rodder Vactor Replacement, Airfield Pavement Sweeper Replacement, ARFF Fire Truck Replacement, Construct New Runway 34L Holding Apron, Cargo Apron Expansion, Expansion of Existing Commuter Terminal, Reconstruct Electrical Vault, ARFF Station Building Seismic Upgrade, 800 MHz Radio System Phase 2, West Electrical Seismic Upgrade, Refueler Parking Ramp, and ARFF Station Building Expansion.

Total estimated net PFC revenue to be used on this use project: $10,445,000.00.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Sacramento.

Issued in Hawthorne, California, on October 16, 1995.

Robert C. Bloom,

Acting Manager, Airports Division, Western Pacific Region.

[FR Doc. 95–26623 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Winnebago County, Illinois; Rock County, Wisconsin

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed project in Winnebago County, Illinois, and Rock County, Wisconsin. The proposed project corridor will extend from the intersection of Wisconsin Route 213 and Nye School Road northwest of Beloit, Wisconsin, to the interchange of Rockton Road and I–90 southeast of South Beloit, Illinois. The proposed project is designated FAP 354.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Waidelich, Design Engineer, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703, Telephone: (217) 492–4622; Mr. William D. Ost, District Engineer, Illinois Department of Transportation, 819 Depot Avenue, Dixon, Illinois, Telephone: (815) 284–2271.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Illinois Department of Transportation, will prepare an Environmental Impact Statement on a proposal to construct a highway on new alignment over a distance of approximately 13 kilometers (8 miles). The area being studied begins near the intersection of Wisconsin Route 213 and Nye School Road and extends to the interchange of I–90 and Rockton Road southeast of South Beloit, Illinois.

Alternatives under consideration include a no-build alternative and a new, partially-access-controlled facility on new alignment. Although the Environmental Impact Statement will assess the impacts of a new four-lane roadway between the aforementioned termini, the proposed project may be stage-constructed to include interim improvements over a portion of the entire project, including initial two-way traffic operations.

The proposed project is intended to increase safety by providing a modern facility with improved horizontal and vertical sight distances, wider roadway and shoulders, and other improved geometric elements to remove through traffic from the street systems of the aforementioned cities; to provide additional capacity for increasing traffic volumes; to reduce congestion in Beloit and South Beloit, with the resulting expected decreases in vehicular-generated air pollution, noise pollution and travel time delay; to better serve the transportation needs of the Beloit-Janesville (South Beloit) Urbanized Area; and to support the economic development of the region.

The scoping process undertaken as a part of this proposed project will include distribution of a scoping information packet, coordination with appropriate Federal, State and local agencies and review sessions as needed. A formal scoping meeting will be held November 14, 1995, at the South Beloit City Hall in South Beloit, Illinois, beginning at 10 a.m. Immediately upon completion of the scoping meeting, another meeting will be convened at the same location to discuss with relevant agencies listed in 23 CFR 450.318 the alternatives necessary for the Major Metropolitan Transportation Investment proposed for this project.

To ensure that the full range of issues related to the proposed project are addressed and all significant issues identified, a comprehensive public involvement program will be undertaken. Public meetings will be held in the study area prior to the public hearing. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public agency review and comment prior to the public hearing. In addition, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or IDOT contact persons.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.

Issued on: October 18, 1995.

Walter Waidelich,

Design Engineer, Federal Highway Administration, Illinois Division, Springfield, Illinois.

[FR Doc. 95–26603 Filed 10–25–95; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owned the Government. Treasury's Cash Management Regulations (I TFM 6–8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 5 percent for calendar year 1996.

DATES: The rate will be in effect for the period beginning on January 1, 1996 and ending on December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Program Compliance & Evaluation Division, Financial Management Service, Department of the Treasury, 401 14th Street, S.W., Washington, D.C. 20227 (Telephone: (202) 874–6630).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Pub. L. 95–147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on the moving basis, changes by 2 per centum. The rate in effect for calendar year 1996 reflects the average investment rates for the 12-month period ended September 30, 1995.

Dated: October 20, 1995.

Larry D. Stout,

Assistant Commissioner, Federal Finance.

[FR Doc. 95–26618 Filed 10–25–95; 8:45 am]

BILLING CODE 4810–35–M

INFORMATION AGENCY

International Creative Arts Exchanges for Public and Private Non-Profit Organizations

NOTICE: New structure for proposal solicitation.

SUMMARY: The Office of Arts America Creative Arts Exchanges Division of the U.S. Information Agency's [USIA] Bureau of Educational and Cultural Affairs announces a new structure for the solicitation of proposals in its discretionary grant program. Under the new structure the Creative Arts Exchanges program will operate in two program categories: [A] Traditional and special projects program; [B] discretionary program. The discretionary program will operate in partnership with the six regional arts organizations encompassing the 50 states of the United States.

Traditional and Special Projects Program

This program will consist of a limited number of world multi-regional projects which now operate through recognized professional organizations in major museum and arts disciplines. It also will include from time-to-time major world multi-regional special projects. Because of their intrinsic complexity and the specialized knowledge needed to effect them, these projects will continue to be funded through sole-source solicitation of proposals.

Discretionary Program

The discretionary program will operate in partnership with the six regional arts organizations encompassing the 50 states of the United States. The Creative Arts Exchanges Division will request from the regional arts organizations lists of potential cooperating organizations within their regions to which it will address letters soliciting project concepts. Reorganizations of the Bureau of Educational and Cultural Affairs and funding realities will determine the number of solicitation letters to be sent. These projects will consist of residencies and/or exchange programs in which artists from the United States and other countries work and learn together. USIA concept review panels will choose a limited number of organizations from among those submitting concepts to receive from the Creative Arts Exchanges Division invitations to submit full proposals. These proposals then would be reviewed through the award competition process of the Bureau of Educational and Cultural Affairs. As in the past the competition for assistance awards will be conducted among public and private non-profit organizations that demonstrate disciplinary expertise in the arts and meet the provisions described in IRS regulation 26 CFR 1.501(c)(3)–1.

Overall grant making and funding authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *, to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

USIA's ability to award grants under this program is contingent upon the availability of funds.

The regional arts organizations cooperating with the Creative Arts Exchanges Division in its Discretionary Program follow.

Regional Arts Organizations

Arts Midwest

Operates in states of Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota and Wisconsin.

Mid-America Arts Alliance

Operates in states of Arkansas, Kansas, Missouri, Nebraska, Oklahoma and Texas.

Mid-Atlantic Arts Foundation

Operates in states of Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia as well as the District of Columbia.

New England Foundation for the Arts

Operates in states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Southern Arts Federation

Operates in states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee.

Western States Arts Federation

Operates in states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

FOR FURTHER INFORMATION: Please contact the Office of Arts America, Creative Arts Exchanges Division, Room 568, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547 (Phone: 202–619–5338, Fax 202–619–6315, Internet: ARTS@USIA.gov.

Dated: October 19, 1995.

John P. Loiello,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 95–26617 Filed 10–25–95; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Publication of a Quarterly Reference Journal and Provision of a Research Service for Overseas Educational Advisers

ACTION: Notice—Request for proposals.

SUMMARY: The Advising and Student Services Branch of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public or private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) (3)–1 may apply. In collaboration with the United States Information Agency (USIA), the organization will research, write, edit, and publish a quarterly reference journal to bring timely and in-depth information on issues and topics of importance to overseas educational advisers. Four issues of the publication are to be prepared during the period of the agreement, April 1, 1996 to March 31, 1997. Significant portions of the journal must also be made available on the internet. The organization will also answer reference inquiries from USIA-designated educational advising offices overseas, and compile a bibliography of recommended publications for overseas educational advisers. USIA anticipated awarding up to $102,500 to one organization for these activities.

OVERVIEW: An ideal proposal should illustrate how the organization will produce a professional journal for overseas educational advisers who are responsible for providing accurate, unbiased information and advising foreign nationals about opportunities for studying in the United States. Each issue will be centered on an overall theme related to trends and developments in international student mobility, the practice of educational advising, or U.S. higher education which will enhance the guidance given by overseas educational advisers to international students and others who inquire about opportunities for studying in the United States. In addition, each issue will contain current information on one or more of the following: academic news, university programs, new resources, short-term training opportunities, current testing announcements, academic accreditation, new degree programs, news briefs, and financial information considered useful to overseas educational advisers in the conduct of their duties.

To help expand the worldwide availability of information of interest to educational advisers and others involved in international education, the organization must provide electronic access to the major articles in each issue.

GUIDELINES: The organization will produce four issues of the journal: Summer 1996, Fall 1996, Winter 1996, and Spring 1997. Each issue will be at least 32 pages long. The first of the four issues should be published and available for distribution within 90 days of grant receipt, with subsequent issues scheduled to be released each ninety days. In-house desktop publishing facilities are required so that the journal issues will be produced quickly and efficiently in an attractive typeset quality format. In addition, funds will be awarded to enable the recipient to perform supplemental research to provide in-depth responses to inquiries from USIA-affiliated educational advisers overseas. The organization should track requests for information to gauge interest in the field and should use this information to determine themes of future journals. In addition, the research service must be designed to also respond to advisers who have questions that are too narrow or too geographically specific for publication in the aforementioned journal.

The Advising Branch supplies reference materials to overseas advising centers; the organization will be charged with monitoring new print resources related to educational advising and by December 1, 1996 should provide 550 copies of an annotated bibliography of recommended publications for advisers to the Advising Branch.

PROPOSED BUDGET: A compehensive line item budget should be submitted together with the proposal. The budget should not exceed $87,500 for publication of four issues of the advising journal and electronic access; $10,000 for responding directly to research inquiries for USIA-affiliated overseas educational advisers; and no more than $5,000 of production of the bibliography. The ability of an organization to sell journal subscriptions and advertising to offset production costs in excess of the grant will be a priority criterion for selection. Grants awarded to eligible organizations with less than four years of experience in conducting international educational programs will be limited to $60,000 for publication of the journal and conduct of the research service.

The applicant is required to submit a comprehensive line item budget, based on the specific guidance in the Solicitation Package. There must be a summary budget as well as a break-down of the administrative budget. USIA's grant assistance will not exceed $102,500. Of this amount, not more than $32,000 may be attributed to overhead expenses. The $102,500 is expected to constitute only a portion of the total project funding. Cost sharing is required and the proposal should list other anticipated sources of support. Grant applications should demonstrate financial and in-kind support.

Allowable costs for the program include the following:

(1) Salaries and fringe benefits
(2) Other direct costs, printing, utilities, etc.
(3) Indirect expenses, auditing costs

Applicants should refer to the Solicitation package for complete budget guidelines and formatting instructions.

REVIEW PROCESS: USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the Agency contracts office, as well as the USIA Area Offices and the USIS posts overseas, where appropriate. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

REVIEW CRITERIA: Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Planning: Proposals should exhibit originality, substance, precision, and relevance to produce an attractive quarterly journal which will successfully address the need for timely information and in-depth and balanced exploration of issues and topics important to overseas educational advisers. In addition, the proposal should illustrate that the resources and professional contacts necessary to respond in a timely manner to inquiries by overseas educational advisers are available.

2. Institution's Track Record/Ability: Proposals should demonstrate an institutional record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals.

3. Demonstrated Ability: Proposals should clearly demonstrate how the institution will meet the program's objectives and plan. The proposal should describe editorial and publication capabilities for producing four issues of the advising journal and demonstrate the ability of the organization's staff to provide accurate and timely supplemental research and reference services for responding directly to inquiries from USIA-affiliated educational advisers.

4. Project Evaluation: Proposal should provide a plan for evaluation by the grantee institution, including periodic progress reports. Proposal should include a plan to evaluate the journal's success, both as the issues are printed and at the end of the grant cycle. The recipient organization will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

5. Cost-Effectiveness: The overhead and administrative components of the proposal, including salaries, should be kept as low as possible. All other items should be necessary and appropriate.

6. Cost-Sharing: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions. Proposals should demonstrate the ability to sell subscriptions and advertising to offset some of the costs of publishing the journal. All income derived from subscription or advertising sales of the journal must be applied to the production costs.

7. Support of diversity: Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity, and should expose readers to the widest possible range of views and approaches to U.S. higher education. Attention should be given to printing articles relating to different kinds of schools and universities from various regions of the U.S.

AUTHORIZATION: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cutural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT NAME AND NUMBER: All communications with USIA concerning this announcement should refer to the above title and reference number E/ASA–96–08.

DEADLINE FOR PROPOSAL: All copies must be received at the U.S. Information Agency for 5 p.m. Washington, D.C. time on December 26, 1995. Faxed documents will not be accepted, nor will documents postmarked on December 26, 1995 but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline. Grant should begin April 1, 1996 and run through March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Advising and Student Services, E/ASA, Room 349, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, Tel: (202) 619–5434, Fax: (202) 401–1433, E-mail: althompsusia.gov. Potential applicants are encouraged to contact the program office to request an Application Package, which includes more detailed award criteria; all application forms, and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify the USIA Program Officer, Ann Thompson, on all inquiries and correspondences. Interested applicants should read the complete Federal Register announcement before addressing inquiries to E/ASA or submitting their proposals to the United States Information Agency. Once the RFP deadline has passed, the Bureau of Educational and Cultural Affairs may not discuss this competition in any way with applicants until after the Bureau proposal review process has been completed.

SUBMISSIONS: Applicants must follow all instructions given in the Solicitation Package. The original and ten copies of the complete application, plus one extra copy of the cover sheet, should be sent to: U.S. Information Agency, Ref.: E/ASA–96–08, Office of Grants Management, E/XE, Room 326, 301 4th Street, SW., Washington, DC 20547.

DIVERSITY GUIDELINES: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle, both in program administration and in journal content.

NOTICE: The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budget in accordance with the needs of the program and availability of funding. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

NOTIFICATION: All applicants will be notified of the results of the review process on or about March 22, 1996. Awards will be subject to periodic reporting and evaluation requirements.

Dated: October 20, 1995.

Dell Pendergrast,

Associate Director, Educational and Cultural Affairs.

[FR Doc. 95–26519 Filed 10–25–95; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 207

Thursday, October 26, 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 ELECTION COMMISSION

DATE AND TIME: Tuesday, October 31, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, November 2, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Advisory Opinion 1995–36: Grant S. Cowan on behalf of AK Steel Corporation

Regulations:

Announcement of Effective Date: Repeal of Obsolete Rules (Parts 104, 110, and 114)

Notice of Disposition of Petition for Rulemaking Filed by Anthony F. Essaye and William Josephson

Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 95–26746 Filed 10–24–95; 2:43 pm]

BILLING CODE 6715–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, November 6, 1995, and at 8:30 a.m. on Tuesday, November 7, 1995, in Washington, D.C.

The November 6 meeting is closed to the public. (See 60 FR 52730, October 10, 1995) The November 7 meeting is open to the public and will be held at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268–4800.

Agenda

Monday Session

November 6—1:00 p.m. (Closed)

1. Consideration of a funding request for redesign of the Priority Mail service program. (Loren E. Smith, Chief Marketing Officer and Senior Vice President, and Diane M. Regan, Vice President, Operations Redesign.)

Tuesday Session

November 7—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, October 2–3, 1995.
2. Remarks of the Postmaster General/Chief Executive Officer. (Marvin Runyon.)
3. Quarterly Report on Service Performance. (Yvonne D. Maguire, Vice President, Consumer Advocate.)
4. Consideration of Contract for Outside Audit Services. (Vice Chairman del Junco.)
5. Capital Investments.
   a. Seattle, Washington, P&DC/DDC & Everett, WA, Carrier Annex and Modification to Seattle, WA, Area Plan [final consideration] (Craig G. Wade, Vice President, Western Area Operations)
   b. Issaquah, Washington, Main Post Office [informational briefing]. (Craig G. Wade, Vice President, Western Area Operations)
6. Tentative Agenda for the December 4–5, 1995, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 95–26750 Filed 10–24–95; 3:16 pm]

BILLING CODE 7710–12–M

federal register

Thursday
October 26, 1995

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulation, Legal Proceedings Costs; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 93–10]

RIN 9000–AG65

Federal Acquisition Regulation; Legal Proceedings Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes to amend the Federal Acquisition Regulation (FAR) concerning costs related to legal and other proceedings to make the costs of pre- or post-award protests (except for costs incurred by an intervenor on the side of the Government) an unallowable cost. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Comments should be submitted on or before December 26, 1995 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets, NW, Room 4037, Washington, DC 20405.

Please cite FAR case 93–10 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 93–10.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule would add another category of unallowable costs to the list at 31.205–47(f) (except for costs incurred by an intervenor on the side of the Government) which should disallow most cost of pre- or post-award protests. This change is being proposed after the Defense Contract Audit Agency raised a concern that rulings by the Armed Services Board of Contract Appeals (ASBCA) would encourage contractors to protest Government awards (the appeal of Bos'n Towing and Salvage Company (ASBCA 1992) No. 41357, 92–2 BCA Paragraph 24,864 and the appeal of J.W. Cook & Sons, Inc., (ASBCA 1992) No. 39691, 92–3 BCA Paragraph 25,053). The ASBCA had ruled that FAR 31.205–47(f)(1) only applied to claims under the Contract Disputes Act and not to protests under the Competition in Contracting Act and that, therefore, protest costs were allowable as either a direct or indirect cost on Government contracts.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. The cost principles apply only to contracts for which cost or pricing data has been submitted. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601 *et seq.* (FAR case 93–10), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: October 18, 1995.

Edward C. Loeb,

Acting Director, Officer of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–47 is amended by adding paragraph (f)(8) to read as follows:

31.205–47 Costs related to legal and other proceedings.

* * * * *

(f) * * *

(8) Protests of Federal Government solicitations or contract awards, unless the costs are incurred by interested parties to defend against such protests.

* * * * *

[FR Doc. 95–26487 Filed 10–25–95; 8:45 am]

BILLING CODE 6820–EP–M

Thursday
October 26, 1995

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulation, Contingent Fees; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 93–19]

RIN 9000–AG64

Federal Acquisition Regulation; Contingent Fees

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes to the Federal Acquisition Regulation (FAR) to limit the allowability of contingent fees. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Comments should be submitted on or before December 26, 1995 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405.

Please cite FAR case 93–19 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 93–19.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils are proposing to revise the FAR guidance concerning contingent fees because the Office of Federal Procurement Policy SWAT Team on Civilian Agency Contracting in its report of December 3, 1992, entitled ''Improving Federal Contracts'', expressed concern that contingent fee arrangements based on percentage of sales, revenue, cost incurred or reimbursed, are similar to a cost-plus-percentage-of-cost type of contracting. There is a blank check effect in that the agent's fee is unknown at the time of contract award and will grow through the life of the contract. Cost-plus-percentage-of-cost contracts are prohibited by statute (10 U.S.C. 2306(a) and 41 U.S.C. 254(b)). The SWAT Team report had recommended several changes to the FAR which were viewed to have Governmentwide benefit and which would make the FAR less general with respect to the allowability of certain costs.

The proposed FAR rule would revise the cost principle at FAR 31.205–38, Selling costs, to clarify that the costs of contingent fees are allowable only when stated as a sum certain or not-to-exceed amount agreed upon between the company and its agent (*i.e.*, employee or commercial/selling agency) in advance of the services being rendered.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. This rule clarifies a condition of cost allowability for contractors who wish to be reimbursed under Government contracts subject to FAR Subpart 31.2. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601 *et seq.* (FAR case 93–19), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: October 19, 1995.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–38 is amended by revising paragraph (f) to read as follows:

31.205–38 Selling costs.

* * * * *

(f) Notwithstanding any other provision of this subsection, sellers' or agents' compensation, fees, commissions, percentages, retainer or brokerage fees, whether or not contingent upon the award of contracts, are allowable only when—

(1) Paid to bona fide employees or established commercial or selling agencies maintained by the contractor for the purpose of securing business (see 3.408–2); and

(2) Such costs are stated as a sum certain or a not-to-exceed amount determined in advance of services rendered.

[FR Doc. 95–26489 Filed 10–25–95; 8:45 am]

BILLING CODE 6820–EP–M

federal register

Thursday
October 26, 1995

Part IV

Department of Justice

Bureau of Prisons

28 CFR Part 541

Inmate Discipline and Good Conduct Time; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

[BOP–1040–P]

RIN 1120–AA34

Inmate Discipline and Good Conduct Time

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to implement provisions of the Violent Crime Control and Law Enforcement Act of 1994 which make the earning of good conduct time by violent offenders contingent upon exemplary compliance with institution regulations. The list of sanctions which may be imposed by the Discipline Hearing Officer in instances where an inmate has been determined to be not in compliance with institution regulations is accordingly being modified to achieve this purpose.

DATES: Comments must be submitted by December 26, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: Bureau of Prisons regulations on inmate discipline were previously published in the Federal Register January 5, 1988 (53 FR 197) and were amended October 17, 1988 (53 FR 40686), September 22, 1989 (54 FR 38987 and 39095), February 1, 1991 (56 FR 4159), July 10, 1991 (56 FR 31530), June 2, 1992 (57 FR 23260), and July 21, 1993 (58 FR 39095).

Section 20405 of the Violent Crime Control and Law Enforcement Act of 1994 provides that a prisoner who is serving a term of imprisonment of more than one year for a crime of violence, other than a term of imprisonment for the duration of the prisoner's life, may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to the determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance with such institutional disciplinary regulations.

To that purpose, the Bureau is proposing the following amendments. 28 CFR 541.13(a)(1) is amended to ensure that when a VCCLEA inmate rated as violent (i.e., an inmate who, as specified in the Violent Crime Control and Law Enforcement Act of 1994, committed a crime of violence after September 13, 1994) is found to have committed a greatest category offense, the Discipline Hearing Officer (DHO) must, as a minimum, impose a sanction disallowing all Good Conduct Time (GCT) for the evaluation period. This means a loss of 54 days GCT. Section 541.13(a)(2) is similarly amended to require the DHO to impose, as a minimum, a sanction disallowing all GCT when a VCCLEA inmate rated as violent is found to have committed a high category offense. As revised, paragraph (a)(2) also requires that all high category offense charges for a VCCLEA inmate rated as violent be referred to the DHO for disposition.

Section 541.13(a)(3) is amended to require the DHO to impose, as a minimum, a sanction disallowing up to 14 days GCT when the DHO finds that a VCCLEA inmate rated as violent has committed a moderate offense category. As revised, paragraph (a)(3) allows, but does not require, the Unit Discipline Committee to refer to the DHO a moderate category charge for a VCCLEA inmate rated as violent.

Section 541.13(a)(4) is amended to require the DHO to impose, as a minimum, a sanction disallowing up to 7 days GCT when the DHO finds that a VCCLEA inmate rated as violent has committed a low moderate category offense. As revised, paragraph (a)(3) allows, but does not require, the Unit Discipline Committee to refer to the DHO a low moderate category charge for a VCCLEA inmate.

Section 541.13(f) is amended in conformance with changes to Table 6 as discussed below.

Table 3 for § 541.13 is amended by specifying the applicable loss of GCT in Sanction B.1 for the various categories of offenses, by specifying in Sanction B.1 that disallowance sanction may not be suspended, and by including reference to non-vested GCT in Sanction B. Previously, GCT became vested when awarded. Because Section 20412 of the Violent Crime Control and Law Enforcement Act of 1994 requires that, for VCCLEA inmates (whether rated violent or not), GCT is vested upon obtaining or upon making satisfactory progress toward obtaining a GED, it is possible for a VCCLEA inmate to have been awarded GCT which is not vested.

Table 4 for § 541.13 is amended to include conforming changes to the explanations of Sanctions B and B.1. With respect to Moderate Category and Low Moderate Category Prohibited Acts, Sanction B.1 provides that the amount of disallowed GCT for VCCLEA inmates rated as violent ordinarily shall be a minimum of 14 days or 7 days GCT respectively, but that the DHO may impose less upon careful examination of mitigating factors.

Table 5 for § 541.13 is amended to include reference to non-vested GCT.

Section 541.14(a) is amended to specify that only the DHO may make a final disposition on a prohibited act in the Greatest Severity or on a High Category prohibited act (when the High Category prohibited act has been committed by a VCCLEA inmate rated as violent.

As noted above, these proposed sanctions are applicable to VCCLEA inmates rated as violent (i.e., inmates who, as specified in the Violent Crime Control and Law Enforcement Act of 1994, committed a crime of violence after September 13, 1994). Inmates who are eligible for good conduct time because they were sentenced under the provisions of the Sentencing Reform Act of 1984, but who were sentenced for a crime of violence committed on or before September 13, 1994 are not defined as ''VCCLEA inmates rated as violent'' and consequently would be unaffected by the proposed new sanctions for those inmates.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the previously cited address. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the previously cited address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 541

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of

Prisons in 28 CFR 0.96(p), part 541 in subchapter C of 28 CFR, chapter V is proposed to be amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

1. The authority citation for 28 CFR part 541 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 541.13, paragraphs (a) (1) through (4), (f), and Tables 3, 4, and 5 are revised to read as follows:

§ 541.13 Prohibited acts and disciplinary severity scale.

(a) * * *

(1) *Greatest category offenses.* The Discipline Hearing Officer (DHO) shall impose and execute one or more of sanctions A through E. Sanction B.1 must be imposed for a VCCLEA inmate rated as violent (i.e., an inmate who, as specified in the Violent Crime Control and Law Enforcement Act of 1994, committed a crime of violence after September 13, 1994). The DHO may impose and execute sanction F and/or G only in addition to execution of one or more of sanctions A through E. Except as noted in the sanction, the DHO may also suspend one or more additional sanctions A through G.

(2) *High category offenses.* The Discipline Hearing Officer shall impose and execute one or more of sanctions A through M, and, except as noted in the sanction, may also suspend one or more additional sanctions A through M. Sanction B.1 must be imposed for a VCCLEA inmate rated as violent. The Unit Discipline Committee shall impose and execute one or more of sanctions G through M, and may suspend one or more additional sanctions G through M, except for a VCCLEA inmate rated as violent. All high category offense charges for a VCCLEA inmate rated as violent must be referred to the DHO.

(3) *Moderate category offenses.* The Discipline Hearing Officer shall impose at least one sanction A through N, but, except as noted in the sanction, may suspend any sanction or sanctions imposed. Sanction B.1 must be imposed for a VCCLEA inmate rated as violent. Except for charges referred to the DHO, the Unit Discipline Committee shall impose at least one sanction G through N, but may suspend any sanction or sanctions imposed. The UDC ordinarily shall refer to the DHO a moderate category charge for a VCCLEA inmate rated as violent. The UDC must thoroughly document in writing the reasons why the charge for such inmate was not referred to the DHO.

(4) *Low moderate category offenses.* The Discipline Hearing Officer shall impose at least one sanction B.1, or E through P. The Discipline Hearing Officer may suspend any E through P sanction or sanctions imposed (a B.1 sanction may not be suspended). Except for charges referred to the DHO, the Unit Discipline Committee (UDC) shall impose at least one sanction G through P, but may suspend any sanction or sanctions imposed. The UDC ordinarily shall refer to the DHO a low moderate category charge for a VCCLEA inmate rated as violent. The UDC must thoroughly document in writing the reasons why the charge for such inmate was not referred to the DHO.

* * * * *

(f) Sanctions by severity of prohibited act, with eligibility for restoration of forfeited and withheld statutory good time and forfeited good conduct time are presented in Table 6.

* * * * *

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE GREATEST CATEGORY

[The UDC shall refer all Greatest Severity Prohibited Acts to the DHO with recommendations as to an appropriate disposition]

Code/Prohibited acts	Sanctions
100 Killing	A. Recommend parole date rescission or retardation.
101 Assaulting any person (includes sexual assault) or an armed assault on the institution's secure perimeter (a charge for assaulting any person at this level is to be used only when serious physical injury has been attempted or carried out by an inmate)	B. Forfeit earned statutory good time or non-vested good conduct time credit (up to 100%) and/or terminate or disallow extra good time (an extra good time sanction may not be suspended).
102 Escape from escort: escape from a secure institution (low, medium, high and administrative type institutions); or escape from a minimum security level institution *with* violence	B1. Disallow ordinarily between 50 and 75% (27–41 days) of good conduct time (GCT) credit available for year (a disallowance sanction may not be suspended) VCCLEA inmates rated as violent will be disallowed all GCT for that evaluation period.
103 Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance prohibited act of Greatest Severity, e.g., in furtherance of a riot or escape; otherwise the charge is properly classified Code 218 or 329)	C. Disciplinary Transfer (recommend).
104 Possession, manufacture, or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive or any ammunition	D. Disciplinary Segregation (up to 60 days).
105 Rioting	E. Make monetary restitution.
106 Encouraging others to riot	F. Withhold statutory good time (Note—can be in addition to A through E—cannot be the only sanction executed).
107 Taking hostage(s)	G. Loss of privileges (Note—can be in addition to A though E—cannot be the only sanction executed).
108 Possession, manufacture, or introduction of a hazardous tool (Tools most likely to be used in an escape or escape attempt or to serve as weapons capable of doing serious bodily harm to others; or those hazardous to institutional security or personal safety; e.g., hack-saw blade)	
109 Possession, introduction, or use of any narcotics, marijuana, drugs, or related paraphernalia not prescribed for the individual by the medical staff	
110 Refusing to provide a urine sample or to take part in other drug-abuse testing	

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE GREATEST CATEGORY—Continued

[The UDC shall refer all Greatest Severity Prohibited Acts to the DHO with recommendations as to an appropriate disposition]

Code/Prohibited acts	Sanctions
198 Interfering with a staff member in the performance of duties. (*Conduct must be of the Greatest Severity nature.*) This charge is to be used only when another charge of greatest severity is not applicable	
199 Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. (*Conduct must be of the Greatest Severity nature.*) This charge is to be used only when another charge of greatest severity is not applicable	
200 Escape from unescorted Community Programs and activities and Open Institutions (minimum security level) and from outside secure institutions—*without* violence 201 Fighting with another person 202 (Not to be used) 203 Threatening another with bodily harm or any other offense 204 Extortion, blackmail, protection: Demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing 205 Engaging in sexual acts 206 Making sexual proposals or threats to another 207 Wearing a disguise or a mask 208 Possession of any unauthorized locking device, or lock pick, or tampering with or blocking any lock device (includes keys), or destroying, altering, interfering with, improperly using, or damaging any security device, mechanism, or procedure 209 Adulteration of any food or drink 210 (Not to be used) 211 Possessing any officer's or staff clothing	A. Recommend parole date rescission or retardation. B. Forfeit earned statutory good time or non-vested good conduct time credit up to 50% or up to 60 days, whichever is less, and/or terminate or disallow extra good time (an extra good time sanction may not be suspended). B1. Disallow ordinarily between 25 and 50% (14–27 days) of good conduct time credit (GCT) available for year (a disallowance sanction may not be suspended). VCCLEA inmates rated as violent will be disallowed all GCT for that evaluation period. C. Disciplinary Transfer (recommend). D. Disciplinary segregation (up to 30 days). E. Make monetary restitution. F. Withhold statutory good time. G. Loss of privileges: commissary, movies, recreation, etc. H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters.
212 Engaging in, or encouraging a group demonstration	
213 Encouraging others to refuse to work, or to participate in a work stoppage	
214 (Not to be used)	
215 Introduction of alcohol into BOP facility	
216 Giving or offering an official or staff member a bride, or anything of value	
217 Giving money to, or receiving money from, any person for purposes of introducing contraband or for any other illegal or prohibited purposes	
218 Destroying, altering, or damaging government property, or the property of another person, having a value in excess of $100.00 or destroying, altering, or damaging life-safety devices (e.g., fire alarm) regardless of financial value	
219 Stealing (theft; this includes data obtained through the unauthorized use of a communications facility, or through the unauthorized access to disks, tapes, or computer printouts or other automated equipment on which data is stored.)	
220 Demonstrating, practicing, or using martial arts, boxing (except for use of a punching bag), wrestling, or other forms of physical encounter, or military exercise or drill	
221 Being in an unauthorized area with a person of the opposite sex without staff permission	
222 Making, possessing, or using intoxicants	
223 Refusing to breathe into a breathalyzer or take part in other testing for use of alcohol	
224 Assaulting any person (charged with this act only when a less serious physical injury or contact has been attempted or carried out by an inmate)	
298 Interfering with a staff member in the performance of duties. (*Conduct must be of the High Severity nature.*) This charge is to be used only when another charge of high severity is not applicable	
299 Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. (*Conduct must be of the High Severity nature.*) This charge is to be used only when another charge of high severity is not applicable	

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE GREATEST CATEGORY—Continued

[The UDC shall refer all Greatest Severity Prohibited Acts to the DHO with recommendations as to an appropriate disposition]

Code/Prohibited acts	Sanctions
300 Indecent exposure 301 (Not to be used) 302 Misuse of authorized medication 303 Possession of money or currency, unless specifically authorized, or in excess of the amount authorized 304 Loaning of property or anything of value for profit or increased return 305 Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular channels 306 Refusing to work, or to accept a program assignment 307 Refusing to obey an order of any staff member (May be categorized and charged in terms of greater severity, according to the nature of the order being disobeyed; e.g., failure to obey an order which furthers a riot would be charged as 105, Rioting; refusing to obey an order which furthers a fight would be charged as 201, Fighting; refusing to provide a urine sample when ordered would be charged as Code 110) 308 Violating a condition of a furlough 309 Violating a condition of a community program	A. Recommend parole date rescission or retardation. B. Forfeit earned statutory good time or non-vested good conduct time up to 25% or up to 30 days whichever is less, and/or terminate or disallow extra good time (an extra good time sanction may not be suspended). B.1 Disallow ordinarily up to 25% (1–14 days) of good conduct time credit available for year (a disallowance sanction may not be suspended). C. Disciplinary transfer (recommend). D. Disciplinary segregation (up to 15 days). E. Make monetary restitution. F. Withhold statutory good time. G. Loss of privileges: commissary, movies, recreation, etc. H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters. N. Extra duty.
310 Unexcused absence from work or any assignment	
311 Failing to perform work as instructed by the supervisor	
312 Insolence towards a staff member	
313 Lying or providing a false statement to a staff member	
314 Counterfeiting, forging or unauthorized reproduction of any document, article of identification, money, security, or official paper (May be categorized in terms of greater severity according to the nature of the item being reproduced; e.g., counterfeiting release papers to effect escape, Code 102 or Code 200)	
315 Participating in an unauthorized meeting or gathering	
316 Being in an unauthorized area	
317 Failure to follow safety or sanitation regulations	
318 Using any equipment or machinery which is not specifically authorized	
319 Using any equipment or machinery contrary to instructions or posted safety standards	
320 Failing to stand count	
321 Interfering with the taking of count	
322 (Not to be used)	
323 (Not to be used)	
324 Gambling	
325 Preparing or conducting a gambling pool	
326 Possession of gambling paraphernalia	
327 Unauthorized contacts with the public	
328 Giving money or anything of value to, or accepting money or anything of value from: another inmate, or any other person without staff authorization	
329 Destroying, altering or damaging government property, or the property of another person, having a value of $100.00 or less	
330 Being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards	
331 Possession, manufacture, or introduction of a non-hazardous tool or other non-hazardous contraband (Tool not likely to be used in an escape or escape attempt, or to serve as a weapon capable of doing serious bodily harm to others, or not hazardous to institutional security or personal safety; Other non-hazardous contraband includes such items as food or cosmetics)	
398 Interfering with a staff member in the performance of duties. (*Conduct must be of the Moderate Severity nature.*) This charge is to be used only when another charge of moderate severity is not applicable	
399 Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. (*Conduct must be of the Moderate Severity nature*). This charge is to be used only when another charge of moderate severity is not applicable	

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE GREATEST CATEGORY—Continued

[The UDC shall refer all Greatest Severity Prohibited Acts to the DHO with recommendations as to an appropriate disposition]

Code/Prohibited acts	Sanctions
400 Possession of property belonging to another person 401 Possessing unauthorized amount of otherwise authorized clothing 402 Malingering, feigning illness 403 Smoking where prohibited 404 Using abusive or obscene language 405 Tattooing or self-mutilation 406 Unauthorized use of mail or telephone (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G) (May be categorized and charged in terms of greater severity, according to the nature of the unauthorized use; e.g., the telephone is used for planning, facilitating, committing an armed assault on the institution's secure perimeter, would be charged as Code 101, Assault) 407 Conduct with a visitor in violation of Bureau regulations (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G) 408 Conducting a business 409 Unauthorized physical contact (e.g., kissing, embracing) 498 Interfering with a staff member in the performance of duties. *Conduct must be of the Low Moderate Severity nature.*) This charge is to be used only when another charge of low moderate severity is not applicable 499 Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. (*Conduct must be of the Low Moderate Severity nature.*) This charge is to be used only when another charge of low moderate severity is not applicable	B.1 Disallow ordinarily up to 12.5% (1–7 days) of good conduct time credit available for year (to be used only where inmate found to have committed a second violation of the same prohibited act within 6 months); Disallow ordinarily up to 25% (1–14 days) of good conduct time credit available for year (to be used only where inmate found to have committed a third violation of the same prohibited act within 6 months) (a disallowance sanction may not be suspended). E. Make monetary restitution. F. Withhold statutory good time. G. Loss of privileges: commissary, movies, recreation, etc. H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters. N. Extra duty. O. Reprimand. P. Warning.

Note: *Aiding* another person to commit any of these offenses, *attempting* to commit any of these offenses, *and making plans* to commit any of these offenses, in all categories of severity, shall be considered the same as a commission of the offenses itself.

TABLE 4.—SANCTIONS

1. *Sanction of the Discipline Hearing Officer*: (upon finding the inmate committed the prohibited act)

A. *Recommend parole date rescission or retardation*. The DHO may make recommendations to the U.S. Parole Commission for retardation or rescission of parole grants. This may require holding fact-findings hearings upon request of or for the use of the Commission.

B. *Forfeit earned statutory good time, non-vested good conduct time, and/or terminate or disallow extra good time.* The statutory good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of the offense for which forfeiture action is taken, by the applicable monthly rate specified in 18 U.S.C. 4161 (less any previous forfeiture or withholding outstanding). The amount of good conduct time (GCT) available for forfeiture is limited to the total number of days in the ''non-vested'' status at the time of the disciplinary hearing (less any previous forfeiture). Disallowance of extra good time is limited to the extra good time for the calendar month in which the violation occurs. It may not be withheld or restored. The sanction of termination or disallowance of extra good time may not be suspended. Authority to restore forfeited good time is delegated to the Warden. This decision may not be delegated lower than the Associate Warden level. Forfeited good conduct time will not be restored until the inmate has earned a high school diploma, equivalent degree (GED), or has been given an exemption to the GED requirement. Limitations on this sanction and eligibility for restoration are based on the severity scale. (See Table 6)

B.1 *Disallowance of good conduct time*. An inmate sentenced under the Sentencing Reform Act provisions of the 1984 Comprehensive Crime Control Act (includes the inmate who committed his or her crime on or after November 1, 1987) may not receive statutory good time, but is eligible to receive 54 days good conduct time credit each year (18 U.S.C. 3624(b)). Once awarded, the credit is vested, and may not be disallowed. However, for crimes committed on or after September 13, 1994, credit toward an inmate's service of sentence shall not be vested unless the inmate has earned or is making satisfactory progress toward a high school diploma or an equivalent degree, or has been exempted from participation because of a learning disability. Once disallowed, the credit may not be restored, except by immediate review or appeal action as indicated below. Prior to this award being made, the credit may be disallowed for an inmate found to have committed a prohibited act. A sanction of disallowance of good conduct time may not be suspended. Only the DHO can take action to disallow good conduct time. The DHO shall consider the severity of the prohibited act and the suggested disallowance guidelines in making a determination to disallow good conduct time. A decision to go above the guideline range is warranted for a greatly aggravated offense or where there is a repetitive violation of the same prohibited act that occurs within a relatively short time frame (e.g., within 18 months for the same greatest severity prohibited act, within 12 months for the same high severity prohibited act, and within 6 months for the same moderate severity prohibited act). A decision to go below the guidelines is warranted for strong mitigating factors. Any decision outside the suggested disallowance guidelines is to be documented and justified in the DHO report.

VCCLEA inmates rated as violent will ordinarily be disallowed 14 days good conduct time for each moderate level prohibited act they are found to have committed at a DHO hearing; VCCLEA inmates rated as violent will ordinarily be disallowed 7 days good conduct time for each low moderate level prohibited act they are found to have committed at a DHO hearing. However, the DHO may, after careful consideration of mitigating factors (seriousness of the offense, the inmate's past disciplinary record, the lack of available good conduct time, etc.) choose to impose a lesser sanction, or even disallow no GCT for moderate level and low moderate level prohibited acts by VCCLEA inmates rated as violent. The DHO must thoroughly detail the rationale for choosing to disallow less than 14 days or 7 days respectively. This will be documented in Section VII of the DHO report. Disallowances of amounts greater than 14 days or 7 days respectively will occur with repetitive offenses consistent with Table 5.

TABLE 4.—SANCTIONS—Continued

The decision of the DHO is final and is subject only to review by the Warden to ensure conformity with the provisions of the disciplinary policy and by inmate appeal through the administrative remedy procedures. The DHO is to ensure that the inmate is notified that any appeal of a disallowance of good conduct time must be made within the time frames established in the Bureau's rule on administrative remedy procedures.

Except for VCCLEA inmates rated as violent, Sanction B.1 may be imposed on the Low Moderate category *only* where the inmate has committed the same low moderate prohibited act more than one time within a six-month period.

C. *Recommend disciplinary transfer*. The DHO may recommend that an inmate be transferred to another institution for disciplinary reasons. Where a present or impending emergency requires immediate action, the Warden may recommend for approval of the Regional Director the transfer of an inmate prior to either a UDC or DHO Hearing. Transfers for disciplinary reasons prior to a hearing before the UDC or DHO may be used in emergency situations and only with approval of the Regional Director. When an inmate is transferred under these circumstances, the sending institution shall forward copies of incident reports and other relevant materials with completed investigation to the receiving institution's Discipline Hearing Officer. The inmate shall receive a hearing at the receiving institution as soon as practicable under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. All procedural requirements applicable to UDC or DHO hearings contained in this rule are appropriate, except that written statements of unavailable witnesses are liberally accepted instead of live testimony.

D. *Disciplinary segregation*. The DHO may direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this rule. Consecutive disciplinary segregation sanctions can be imposed and executed for inmates charged with and found to have committed offenses that are part of different acts only. Specific limits on time in disciplinary segregation are based on the severity scale. (See Table 6)

E. *Make monetary restitution*. The DHO may direct that an inmate reimburse the U.S. Treasury for any damages to U.S. Government property that the individual is determined to have caused or contributed to.

F. *Withholding statutory good time*. The DHO may direct that an inmate's good time be withheld. Withholding of good time should not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding is limited to the total amount of good time creditable for the single month during which the violation occurs. Some offenses, such as refusal to work at an assignment, may be recurring, thereby permitting, when ordered by the DHO, consecutive withholding actions. When this is the intent, the DHO shall specify at the time of the initial DHO hearing that good time may be withheld until the inmate elects to return to work. During the running of such a withholding order, the DHO shall review the offense with the inmate on a monthly basis. For an on-going offense, staff need not prepare a new Incident Report or conduct an investigation or initial hearing (UDC). The DHO shall provide the inmate an opportunity to appear in person and to present a statement orally or in writing. The DHO shall document its action on, or by an attachment to, the initial Institution Discipline report. If further withholding is ordered, the DHO shall advise the inmate of the inmate's right to appeal through the Administrative Remedy procedures (Part 542). Only the Warden may restore withheld statutory good time. This decision may not be delegated lower than the Associate Warden level. Restoration eligibility is based on the severity scale. (See Table 6)

2. *Sanctions of the Discipline Hearing Officer/Unit Discipline Committee*: (upon finding the inmate committed the prohibited act)

G. *Loss of privileges: commissary, movies, recreation, etc.* The DHO or UDC may direct that an inmate forego specific privileges for a specified period of time. Ordinarily, loss of privileges is used as a sanction in response to an abuse of that privilege. However, the DHO or UDC may impose a loss of privilege sanction not directly related to the offense when there is a lack of other appropriate sanctions or when imposition of an appropriate sanction previously has been ineffective.

H. *Change housing (quarters).* The DHO or UDC may direct that an inmate be removed from current housing and placed in other housing.

I. *Remove from program and/or group activity.* The DHO or UDC may direct that an inmate forego participating in any program or group activity for a specified period of time.

J. *Loss of job.* The DHO or UDC may direct that an inmate be removed from present job and/or be assigned to another job.

K. *Impound Inmate's personal property.* The DHO or UDC may direct that an inmate's personal property be stored in the institution (when relevant to offense) for a specified period of time.

L. *Confiscate contraband.* The DHO or UDC may direct that any contraband in the possession of an inmate be confiscated and disposed of appropriately.

M. *Restrict quarters.* The DHO or UDC may direct that an inmate be confined to quarters or in its immediate area for a specified period of time.

N. *Extra Duty.* The DHO or UDC may direct that an inmate perform tasks other than those performed during regularly assigned institutional job.

O. *Reprimand.* The DHO or UDC may reprimand an inmate either verbally or in writing.

P. *Warning.* The DHO or UDC may verbally warn an inmate regarding committing prohibited act(s).

TABLE 5.—SANCTIONS FOR REPETITION OF PROHIBITED ACTS WITHIN SAME CATEGORY[1]

Category	Prior offense (same code) within time period	Frequency of repeated offense	Sanction permitted
Low Moderate (400 series)	6 months	2d offense	Low Moderate Sanctions, plus: 1. Disciplinary segregation, up to 7 days. 2. Forfeit earned SGT or non-vested GCT up to 10% or up to 15 days, whichever is less, and/or terminate or disallow extra good time (EGT) (an EGT sanction may not be suspended).
		3d offense, or more	Any sanctions available in Moderate (300) and Low Moderate (400) series
Moderate (300 series)	12 months	2d offense	Moderate Sanctions (A, C, E–N), plus: 1. Disciplinary segregation, up to 21 days. 2. Forfeit earned SGT or non-vested GCT up to 37½% or up to 45 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3d offense, or more	Any sanctions available in Moderate (300) and High (200) series.
High (200 series)	18 months	2d offense	High Sanction (A, C, E–M), plus:

TABLE 5.—SANCTIONS FOR REPETITION OF PROHIBITED ACTS WITHIN SAME CATEGORY[1]—Continued

Category	Prior offense (same code) within time period	Frequency of repeated offense	Sanction permitted
			1. Disciplinary segregation, up to 45 days. 2. Forfeit earned SGT or non-vested GCT up to 75% or up to 90 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3d offense, or more	Any sanction available in High (200) and Greatest (100) series.

[1] When the Unit Discipline Committee or DHO finds that an inmate has committed a prohibited act in the Low Moderate, Moderate, or High category, and when there has been a repetition of the same offense(s) within recent months (offenses for violation of the same code), increased sanctions are authorized to be imposed by the DHO according to the following chart.
(**Note:** An informal resolution may not be considered as a prior offense for purposes of this chart.)

3. In § 541.14, paragraph (a) is amended by revising the last sentence to read as follows:

§ 541.14 Incident report and investigation.

(a) *Incident report.* * * * Only the DHO may make a final disposition on a prohibited act in the Greatest Severity Category or on a prohibited act in the High Category (when the High Category prohibited act has been committed by a VCCLEA inmate rated as violent).

* * * * *

[FR Doc. 95–26612 Filed 10–25–95; 8:45 am]

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federal register

Thursday
October 26, 1995

Part V

The President

Proclamation 6843—National Consumers Week, 1995

Proclamation 6844—United Nations Day, 1995

Proclamation 6845—Veterans Day, 1995

Federal Register

Vol. 60, No. 207

Thursday, October 26, 1995

Presidential Documents

Title 3—

The President

Proclamation 6843 of October 23, 1995

National Consumers Week, 1995

By the President of the United States of America

A Proclamation

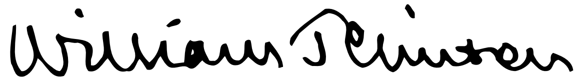
Business and trade have always been central to the American experience. In the period since the Industrial Revolution, the extraordinary growth of our economy has created a marketplace that is the foundation of global commerce. Unparalleled natural and human resources have energized every part of our society—from the agricultural heartland that feeds an international community; to the textile and steel mills that began the machine age in America; to the scientific, computer, and information companies that are leading the way into the fast-paced world of the 21st century.

Consumer protections such as fair pricing and product safety rules are more necessary than ever to ensure that all of us are able to fully and fairly participate in a free enterprise system that encourages competition, productivity, and innovation. These protections have evolved alongside the remarkable expansion of the world economy. In 1962, President John F. Kennedy clarified the importance of consumer protection in a Special Message to Congress that has become known as the Consumer Bill of Rights. This statement articulated each person's rights to safety, information, and choice, and the right to be heard in the process of resolving consumer problems. In 1975 President Gerald R. Ford added the right to consumer education.

As the driving force behind the richest, most prosperous country in the world, the United States' free market is a model for others to emulate. We must ensure that our system continues to emphasize the centrality of the consumer even as it becomes increasingly technology-oriented. Accordingly, last year, I was proud to add the latest element to the Consumer Bill of Rights—the right to service—which urges that convenience, courtesy, performance, and responsiveness remain hallmarks of the American marketplace. So that Federal workers and agencies can take the lead in providing high-quality service, my Administration has also initiated the National Performance Review to improve efficiency and promote excellence in every sector of our Government.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 22 through October 28 as National Consumers Week. I call upon Government officials, industry leaders, and the people of the United States to recognize the vital relationship between our economy and our citizenry and to support the right of all Americans to service excellence.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



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Presidential Documents

Proclamation 6844 of October 23, 1995

United Nations Day, 1995

By the President of the United States of America

A Proclamation

Fifty years ago, at the end of the most destructive war the world has ever known, delegates from fifty-one countries met in San Francisco to establish the United Nations. Inspired by a common determination ''to save succeeding generations from the scourge of war,'' the delegates recognized that their vision of a better world could not simply be defined by the absence of conflict, nor could peace be maintained without broad international cooperation. Thus they resolved to ''unite our strength to maintain international peace and security,'' to ''promote social progress and better standards of life,'' and to reaffirm universal human rights.

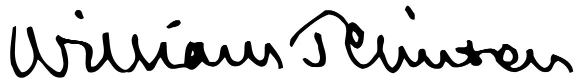
This year, the U.N., which now numbers 185 member countries, has continued its tradition of promoting peace and security around the globe. Its agencies are important instruments in the campaign to stop the proliferation of nuclear arms and other weapons of mass destruction. It works to provide security for the conduct of free elections. And United Nations troops strive to keep the peace in places of great importance to the United States— on the Kuwait border, in the Mediterranean and in Europe.

We can also be proud of the U.N. agencies and programs that work to support sustainable development, protect the environment, battle the spread of disease, and promote human rights. In fighting the deadly outbreak of the Ebola virus, immunizing millions of children, and securing relief for hundreds of thousands of refugees, agencies like the World Health Organization, UNICEF, and the United Nations High Commissions for Human Rights and Refugees make important contributions to the international community.

The U.N. enters its second half-century of service facing new opportunities and challenges. If the nations of the world are to fully embrace these opportunities and overcome these challenges, we must work more closely together to fully realize the principles of the original United Nations Charter and must commit to improving the organization's efficiency and effectiveness. During this momentous anniversary celebration, let us reaffirm the ideals, principles, and goals contained in the Charter and rededicate ourselves to working for the good of all humankind.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Tuesday, October 24, 1995, as United Nations Day. I encourage all Americans to acquaint themselves with the activities and accomplishments of the U.N. and to observe this day with appropriate ceremonies, programs, and activities furthering the goal of international cooperation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 95–26741
Filed 10–24–95; 2:37 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6845 of October 24, 1995

Veterans Day, 1995

By the President of the United States of America

A Proclamation

During both war and peace, America's armed forces have helped to preserve the fundamental rights and liberties guaranteed by our Constitution. Every day, our men and women in uniform maintain an around-the-clock vigil to ensure that our Nation remains safe from harm and our citizens free from fear. Their sacrifices, and the dedication to duty exemplified by American troops throughout our history, have advanced democracy and human dignity around the world.

For generations, brave citizens from every walk of life have answered the call to service, fighting to defend the ideals we hold dear. Through long years of separation and hardship, the selfless contributions made by our veterans have preserved the blessings of freedom. As we honor their heroism, let us also remember the families whose support and prayers have added so much. We owe a heartfelt thanks to all those whose devoted efforts—both on the battlefield and in communities across the country—have laid the strong foundation of peace and security we enjoy today.

On this 50th anniversary of the end of World War II, we take special pride in recognizing those who served the United States during that terrible conflict—the 16,535,000 men and women who risked their lives to defeat oppression. The ensuing half-century has brought momentous changes in global affairs, and the generation of veterans who triumphed over tyranny continues to hold a sacred place in our national memory.

Veterans of other wars throughout our Nation's history merit no less distinction. There are some 27 million veterans in America today whose service ranges from World War I, through the Cold War, to the Persian Gulf War and our other recent military missions around the globe. Thanks to their loyalty and courage, this country remains a symbol of hope for all those who seek democracy and peace. On Veterans Day and on every day throughout the year, let us remember and honor the sacrifices of our veterans and renew our commitment to accounting for their comrades-in-arms who have fallen, unknown and unrecovered, in distant fields of battle.

In order that we may pay tribute to those who have served in our Armed Forces, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a day to recognize America's veterans.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Saturday, November 11, 1995, as Veterans Day. I urge all Americans to honor the resolution and commitment of our veterans through appropriate public ceremonies and private prayers. I call upon Federal, State, and local officials to display the flag of the United States and to encourage and participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with suitable commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 95–26827
Filed 10–25–95; 11:29 am]
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Federal Register

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Thursday, October 26, 1995

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

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3 CFR

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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