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Monday
February 13, 1995

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Presidential Documents

Title 3—

The President

Executive Order 12949 of February 9, 1995

Foreign Intelligence Physical Searches

By the authority vested in me as President by the Constitution and the laws of the United States, including sections 302 and 303 of the Foreign Intelligence Surveillance Act of 1978 (''Act'') (50 U.S.C. 1801, *et seq.*), as amended by Public Law 103–359, and in order to provide for the authorization of physical searches for foreign intelligence purposes as set forth in the Act, it is hereby ordered as follows:

Section 1. Pursuant to section 302(a)(1) of the Act, the Attorney General is authorized to approve physical searches, without a court order, to acquire foreign intelligence information for periods of up to one year, if the Attorney General makes the certifications required by that section.

Sec. 2. Pursuant to section 302(b) of the Act, the Attorney General is authorized to approve applications to the Foreign Intelligence Surveillance Court under section 303 of the Act to obtain orders for physical searches for the purpose of collecting foreign intelligence information.

Sec. 3. Pursuant to section 303(a)(7) of the Act, the following officials, each of whom is employed in the area of national security or defense, is designated to make the certifications required by section 303(a)(7) of the Act in support of applications to conduct physical searches:

(a) Secretary of State;

(b) Secretary of Defense;

(c) Director of Central Intelligence;

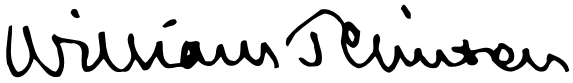
(d) Director of the Federal Bureau of Investigation;

(e) Deputy Secretary of State;

(f) Deputy Secretary of Defense; and

(g) Deputy Director of Central Intelligence.

None of the above officials, nor anyone officially acting in that capacity, may exercise the authority to make the above certifications, unless that official has been appointed by the President, by and with the advice and consent of the Senate.



THE WHITE HOUSE,
February 9, 1995.

[FR Doc. 95–3671
Filed 2-9-95; 2:30 pm]
Billing code 3195–01–P

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1751

RIN 0572–AB07

Telecommunications System Planning and Design Criteria, and Procedures

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) hereby amends its rule on State Telecommunications Modernization Plans to incorporate changes in RUS Telecommunications Program policy. These amendments also incorporate suggestions received from the public in response to the proposed rule. All Telephone Borrowers will be affected by this final rule.

EFFECTIVE DATE: March 15, 1995.

FOR FURTHER INFORMATION CONTACT: Orren E. Cameron III, Director, Telecommunications Standards Division, U.S. Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue, SW., Room 2835–S, Washington, DC 20250–1500, telephone number (202) 720–8663.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule will not: (1) Preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule; (2) Have any retroactive effect; and (3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS Telecommunications Program provides loans to RUS Borrowers at interest rates and terms that are more favorable than those generally available from the private sector. RUS Borrowers, as a result of obtaining federal financing, receive economic benefits which ultimately offset any direct economic costs associated with complying with RUS regulations and requirements. Moreover, this action is in response to the Rural Electrification Loan Restructuring Act of 1993.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in the final rule have been submitted to OMB for approval in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Send comments regarding this collection of information to: Department of Agriculture, Clearance Office, Office of Information Resources Management, Room 404–W, Washington, DC 20250, and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, Room 10102, New Executive Office Building, Washington, DC 20503.

National Environmental Policy Act Certification

RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance Programs under 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS and RTB loans and loan guarantees to governmental and nongovernmental entities from coverage under this Order.

Background

The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178), (Reorganization Act), signed by President Clinton on October 13, 1994, provides for a streamlining and reorganizing of the Department of Agriculture (Department). The Reorganization Act requires the Secretary of Agriculture (Secretary) to establish the Rural Utilities Service (RUS) within the Department. On October 20, 1994, the Secretary of Agriculture, in Secretary's Memorandum 1010–1, abolished the Rural Electrification Administration (REA) and established RUS, as required by the Reorganization Act.

On December 20, 1993, RUS (formerly REA) published an interim rule (58 FR 66250) to incorporate changes to telephone loan policies required by the Rural Electrification Loan Restructuring Act of 1993 (RELRA) (107 Stat. 1356).

On April 13, 1994, RUS adopted its interim rule as a final rule (59 FR 17460) with one exception, 7 CFR Part 1751, Telecommunications System Planning and Design Criteria, and Procedures. Because of the overwhelming response and concerns regarding the requirements of the State Telecommunications Modernization Plan (Modernization Plan), RUS published proposed amendments to 7 CFR Part 1751, Subpart B on October 27, 1994 (59 FR 53939).

During the comment period RUS received 39 comments regarding the proposed rule and these comments were taken into consideration in preparing the final rule. Comments were received from the following:

(1) Colorado Public Utilities Commission Staff.
(2) Florida Public Service Commission.
(3) Idaho Public Utilities Commission.
(4) Illinois Commerce Commission.

(5) Louisiana Public Service Commission.
(6) Michigan Public Service Commission Staff.
(7) Missouri Public Service Commission.
(8) Nebraska Public Service Commission.
(9) New England Conference of Public Utilities Commissioners, Inc.
(10) New York State Department of Public Service.
(11) Ohio Public Utilities Commission.
(12) Pennsylvania Public Utility Commission.
(13) Texas Public Utility Commission.
(14) Virginia State Corporation Commission.
(15) Wisconsin Public Service Commission.
(16) Wyoming Public Service Commission.
(17) National Association of Regulatory Utility Commissioners.
(18) GTE Service Corporation.
(19) Joint comments from 15 RUS Telephone Borrowers and 2 consulting engineering companies located in South Carolina.
(20) TDS Telecom.
(21) Unicom.
(22) United and Central Telephone Companies.
(23) National Emergency Number Association.
(24) Joint comments from the National Rural Telecom Association and the Western Rural Telephone Association.
(25) Nebraska Telephone Association.
(26) North Dakota Association of Telephone Cooperatives.
(27) National Telephone Cooperative Association.
(28) New York State Telephone Association, Inc.
(29) Joint comments from the Oklahoma Rural Telephone Coalition, Rural Arkansas Telephone Systems, and Texas Statewide Telephone Cooperative, Inc.
(30) Organization for the Protection and Advancement of Small Telephone Companies.
(31) Oregon Independent Telephone Association.
(32) United States Telephone Association.
(33) Bell Atlantic Telephone Companies.
(34) Southwestern Bell Telephone Company.
(35) U.S. West Communications, Inc.
(36) MCI Telecommunications Corporation.
(37) Kadrmas, Lee & Jackson, P.C.
(38) GVNW Inc/Management.
(39) Reed Veach Wurdeman and Associates.

1. Comment Summary. Many commenters argued that the Modernization Plan requirements in the proposed rule go beyond a reasonable reading of RELRA. More specifically, they said that RELRA requires ''objectives'', but the proposed rule translates those into requirements, and sets deadlines for accomplishment of those requirements that are insensitive to market forces, technological development, and State regulatory authority.

Response. RUS believes that a Modernization Plan without service improvement requirements, and timeframes for achievement, would be ineffective in accomplishing the modernization of rural telecommunications infrastructure that RELRA clearly intends. RELRA makes the Modernization Plan a condition to eligibility for certain financing programs administered by RUS. An ineffective Modernization Plan would undermine this direction of financing resources under RELRA.

In response to the substance of these comments, RUS has recast its requirements and timeframes. The long-term requirements have been changed to goals, and some requirements have been reduced. From the comments received, RUS believes that these changes will mitigate the concerns about marketability of required technologies. RUS again invites States to exercise their authority by taking advantage of the one year period of eligibility to prepare a Modernization Plan.

2. Comment Summary. One commenter noted that if no Modernization Plan is developed for a State, thereby excluding the State from some RUS program benefits, service rates would probably increase in the State. Others expressed concern that investments made to comply with Modernization Plan requirements would affect other Telecommunications Providers through the universal service fund and other toll settlement plans.

Response. The Telecommunications Providers covered by Modernization Plans are interconnected with other telecommunications carriers in many ways, and they are certainly interconnected economically. Borrowers and PUC's can make various decisions that can jeopardize RUS funding of projects, and these may affect service rates for subscribers and toll pool distributions. RELRA requires that no loans except guaranteed loans be made in a State without a Modernization Plan.

3. Comment Summary. Many commenters suggested that the language in § 1751.106(a)(5) is not consistent with the language in § 1751.106(f) of the proposed rule. Some commenters preferred the language in the response to comments to the language presented in the proposed rule.

Response. The language in § 1751.106(a)(5) was a restatement of the provision in RELRA. Paragraph (g), (paragraph (f) in the proposed rule) of the subsection is RUS's effort to clarify the term ''uniform deployment schedules'' and is intended to allow Plan Developers some latitude in the timing of deployment of advanced services. § 1751.106(a) has been rewritten to clarify that it is a restatement of RELRA so as to eliminate any appearance of a conflict with paragraph (g).

4. Comment Summary. Many commenters wonder what guidelines RUS will use to determine whether something is ''technically or economically feasible'', under § 1751.103(b) of the proposed rule.

Response. Technical feasibility means the equipment is available to do the job. Economic feasibility means the job can be done at a reasonable cost. Every telecommunications loan processed by RUS is studied for technical and economic feasibility. Technical feasibility of the loan is determined by telecommunications engineers with knowledge of current technology and facility costs. Economic feasibility is determined by the loan feasibility study which is a comprehensive consideration of projected revenues and expenses for the particular Borrower. The results of RUS's studies are submitted to the Borrower for concurrence before a loan is approved.

5. Comment Summary. One commenter pointed out that the extension process discussed in § 1751.106(b) may require Borrowers to request extensions from groups of other Borrowers who might have competitive interests. This could happen if the Plan Developer is a Borrower group.

Response. This has been rewritten to give this authority to RUS in those cases where the Plan Developer is the majority of RUS Borrowers.

6. Comment Summary. Many commenters opposed the requirement in § 1751.106(g)(2)(ii) for eliminating inductive loading of copper loops. Some commenters argued that § 1751.106(g)(2)(ii) is contradictory to § 1751.103(b) in the proposed rule.

Response. The requirement in § 1751.106(g)(2)(ii) has been deleted.

7. Comment Summary. Some commenters expressed concern about the exception process mentioned in § 1751.106(g)(2)(i) in the proposed rule for those who do not want the elimination of party line service.

Response. The language providing for the elimination of party line service has been revised to focus this requirement on the capability of providing one-party service.

8. Comment Summary. Many commenters argued that the powering requirement in § 1751.106(h)(2)(ii) and § 1751.106(i)(2)(iv) in the proposed rule is not supported by industry consensus at this time. Some suggested that this item be approached from a reliability standpoint. Some commenters believed this requirement covered powering of fax machines and PBXs.

Response. RUS does not want to see the reliability of basic telecommunications service decline as a result of modernization. Such a decline will most certainly occur if local powering is relied upon even for basic voice telephone service, because the average annual outage time for a residential line connected to the public switched network is estimated at 105 minutes, whereas the average annual outage time for residential power users is over 300 minutes. The final rule has been revised to require that the Plan Developer make ''provision for'' service continuation during local power failure. Regarding the confusion over what has to be resilient to local power failure, this provision was carefully written in the proposed rule to cover only basic voice communications in the event of a local power failure. RUS has rewritten this provision to make this point without mentioning specific equipment and technologies that need not be provided with alternative power.

9. Comment Summary. Many commenters expressed opposition to the medium-term requirement for switched 1.544 Mb/sec service. Some commenters suggested that this would be very expensive to provide. Others suggested that only a few central office switches could provide the service. One commenter suggested the capability would be useless unless interexchange carriers could carry such signals. One commenter noted that in Alaska, where satellites play an important role in connecting exchanges to the network, this requirement would be very difficult.

Response. The substance of the comments received has caused RUS to reconsider this requirement. The requirement for switched 1.544 Mb/sec service in the proposed rule has been changed to a requirement for the transmission and reception of at least 1 Mb/sec and the reception of video. The Plan Developer may specify how this is to be accomplished.

10. Comment Summary. Two commenters observed that the Modernization Plan would apply to all Borrowers, and as defined that would include past as well as present and future Borrowers. This would mean that RUS would apply RELRA requirements retroactively.

Response. This was not RUS's intent. The language has been changed to clarify that the Modernization Plan for a State will only act to set requirements on Borrowers for certain kinds of loans, and further, only if the loan is approved after the date that the Modernization Plan is approved by RUS.

11. Comment Summary. Some commenters thought that § 1751.106(i)(2)(iii) in the proposed rule was intended to eliminate plain old telephone service (''POTS'') as a new service offering, and that this long-term requirement would force subscribers to purchase digital telephones.

Response. This requirement has been deleted from the regulation as part of the recasting of the Modernization Plan discussed above.

12. Comment Summary. One commenter suggested that § 1751.105 be revised to state that no amended Modernization Plan could increase the requirements of a previously-approved Modernization Plan.

Response. RUS disagrees. This could unreasonably limit a State or group of Borrowers in their efforts to continue to modernize telecommunications systems in the State.

13. Comment Summary. One commenter is concerned whether RUS will follow 5 U.S.C. § 553 regarding notice and comment procedures if the rule is changed in the future. Another commenter felt that RUS has no statutory authority to revise the rule after the final rule is issued.

Response. The underlying purpose of the Modernization Plan is to stimulate the continuing modernization of telephone service. RUS believes that it has the obligation to provide guidance to Plan Developers for updating their Modernization Plans. As is stated in § 1751.105(e), RUS, if it revises the rule, must follow the Administrative Procedures Act.

14. Comment Summary. One commenter expressed concern that under § 1751.103 as written in the proposed rule, RUS could deny loans to all Borrowers in a State if any Borrower does not participate in the Modernization Plan.

Response. This was not RUS's intent. Language in this subsection has been revised to clarify that only the Borrower who does not participate in the Modernization Plan is denied certain types of loans.

15. Comment Summary. Many commenters expressed displeasure with the one year period for State eligibility with no extensions, and the rejection of Borrower-prepared plans before the end of that year. Also, one commenter recommended that States be required to notify other interested parties 180 days before the expiration of the one year period of their intent to file or not to file a proposed Modernization Plan.

Response. Beginning with the publication of this Final Rule, States have a one year period of eligibility for preparing a Modernization Plan. There is no provision in RELRA for any party other than a State to prepare a Modernization Plan until the expiration of that one year. Regarding the suggestion for advance notice of the State's intent to file, RUS agrees and has added language to § 1751.102 (b) to request a State to inform RUS if it does not intend to submit a proposed Modernization Plan. RUS will inform its Borrowers as well as telephone industry associations when it has been notified that a State does not intend to develop a Modernization Plan.

16. Comment Summary. Several commenters expressed opposition to § 1751.106(e) in the proposed rule, which provides for Modernization Plan guidelines for the development of affordable tariffs for medical links and distance learning services. Two commenters argued that this provision would usurp a PUC's rate regulatory authority by mandating a subsidy.

Response. One of the requirements of RELRA is that the ''Modernization Plan must provide for the availability of telecommunications services for improved business, educational, and medical services.'' If such services are to be ''available'' in any reasonable sense, they must be affordable.

17. Comment Summary. Several commenters suggested that RUS should provide a model Modernization Plan.

Response. RUS believes, and most commenters have strongly asserted, that Modernization Plans can best be developed by local State groups and Telecommunications Providers. In view of the preponderance of comments received on the proposed rule, RUS declines to issue suggested language that might be seen as an ad hoc standard for Modernization Plans.

18. Comment Summary. One commenter suggested that requirements for improvements under Modernization Plans should be made conditional upon adequate available federal capital and cost recovery mechanisms.

Response. Unless the PUC decides otherwise, the Modernization Plan requirements only apply to RUS

Borrowers. Moreover, the only enforcement of a Modernization Plan pursuant to RELRA is denial of a loan to a Borrower that is not participating in the Modernization Plan. Therefore, to a considerable extent, Modernization Plan requirements are conditional upon the availability of federal capital and cost recovery mechanisms.

19. Comment Summary. Several commenters argued that RELRA did not give RUS the authority to require a modernization of the national communications infrastructure. These commenters noted that this is contrary to the Communications Act of 1934 objective of consolidating federal authority over telecommunications into one agency.

Response. Through various financing programs and technical initiatives, the REA, now RUS, has been instrumental in the modernization of the national rural telecommunications infrastructure. The provisions of RELRA as set forth in this final rule will continue that modernization.

20. Comment Summary. One commenter pointed out that since a Borrower-developed Modernization Plan can only apply to Borrowers, the rule should make that clear.

Response. Language has been added to § 1751.102(c) to clarify that a Borrower-developed plan will only apply to Borrowers.

21. Comment Summary. One commenter said that Borrower-developed plans can affect others, and proposed that RUS require that Borrowers allow outside participation in development of a plan.

Response. RUS encourages all Plan Developers to include outside participation, but does not believe it is necessary for Borrower groups to be required to include outside participation.

22. Comment Summary. One commenter expressed concern that Modernization Plan requirements would threaten universal service because it would require Borrowers and non-Borrowers to build infrastructure whether or not it met customer needs.

Response. The regulation has been revised to alleviate this concern. RUS performs feasibility studies to ensure that the proposed construction does not threaten the viability of a Borrower.

23. Comment Summary. One commenter suggested that in the balance between cost and improved service, cost is clearly secondary to RUS.

Response. RUS is concerned with improved service to rural subscribers at reasonable prices. RUS strongly feels that communications infrastructure is essential to rural economic development. The real cost of failing to provide this infrastructure is a failing rural economy, decline in rural subscribers and less revenue to the rural telecommunications provider.

24. Comment Summary. Many commenters found the approximate restatement of a part of RELRA in § 1751.106(a) to be confusing and vague. It uses terms that do not seem to apply to any communications industry segment such as ''video images'' and ''proper routing of information to subscribers''.

Response. This language has been clarified to show that § 1751.106(a) is a restatement of RELRA while the balance of the section implements the law.

25. Comment Summary. One commenter proposed that RUS should automatically grant lien accommodations for Borrowers that do not meet the minimum requirements of their State Modernization Plan.

Response. RUS disagrees. To do so would negate RELRA's purpose of improving and modernizing telecommunications and might jeopardize the security of RUS loans.

26. Comment Summary. One commenter proposed that RUS review Modernization Plans within 30 days without exception, and asserts that as written the rule allows RUS to postpone denial until it is too late for a developer to resubmit a plan for approval.

Response. Both Plan Developers and RUS face difficult schedules as a result of this regulation. RUS has developed an internal processing procedure intended to deal with the estimated 45 Modernization Plans that could be received simultaneously. It is the intent of RUS to process all Modernization Plans within 30 days of receipt of the proposed Modernization Plan. If the submission of the proposed Plan is timely, this will not be a problem.

27. Comment Summary. One commenter noted that RELRA places no time limit on RUS as to promulgation of a final rule. This commenter suggested that RUS should wait for further congressional direction.

Response. RUS was required under RELRA to issue the interim regulation, and RUS wishes to respond to the public by issuing a final rule that implements the requirements of RELRA in a reasonable and effective manner. Without this final rule, the interim rule remains in effect.

28. Comment Summary. One commenter asked why the rule does not apply to RUS electric borrowers and grant recipients who may compete with RUS telephone Borrowers either directly or through a subsidiary.

Response. As written, the Modernization Plan will serve as requirements for all telephone Borrowers seeking new financing. Modernization Plans developed by the States may expand coverage to others in the telecommunications industry.

List of Subjects in 7 CFR Part 1751

Loan programs—communications, Telecommunications, Telephone.

For reasons set forth in the preamble, chapter XVII of Title 7 of the Code of Federal Regulations is amended by revising part 1751 to read as follows:

PART 1751—TELECOMMUNICATIONS SYSTEM PLANNING AND DESIGN CRITERIA, AND PROCEDURES

Subpart A—[Reserved]

Sec.
1751.1–1751.99 [Reserved]

Subpart B—State Telecommunications Modernization Plan

1751.100 Definitions.
1751.101 General.
1751.102 Modernization Plan Developer; eligibility.
1751.103 Loan and loan advance requirements.
1751.104 Obtaining RUS approval of a proposed Modernization Plan.
1751.105 Amending a Modernization Plan.
1751.106 Modernization Plan; requirements.

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

Subpart A—[Reserved]

§§ 1751.1–1751.99 [Reserved]

Subpart B—State Telecommunications Modernization Plan

§ 1751.100 Definitions.

As used in this subpart:

Bit rate. The rate of transmission of telecommunications signals or intelligence in binary (two state) form in bits per unit time, e.g., Mb/s (megabits per second), kb/s (kilobits per second), etc.

Borrower. Any organization that has received an RUS loan designation number and which has an outstanding telephone loan made by RUS or the Rural Telephone Bank, or guaranteed by RUS, or which has a completed loan application with RUS.

Emerging technologies. New or not fully developed methods of telecommunications.

Modernization Plan (State Telecommunications Modernization Plan). A State plan, which has been approved by RUS, for improving the telecommunications network of those Telecommunications Providers covered

by the plan. A Modernization Plan must conform to the provisions of this subpart.

New facilities. Facilities which are wholly or partially constructed or reconstructed after a short- or medium-term requirements start date, as appropriate. This does not include connections or capacity extensions within the wired capacity of existing plant such as adding line cards to existing equipment.

Plan Developer. The entity creating the Modernization Plan for the State, which may be the State PUC, the State legislature, or a numeric majority of the RUS Borrowers within the State. When this part refers to the PUC as the Plan Developer, this includes the State legislature.

PUC (Public Utilities Commission). The public utilities commission, public service commission or other State body with such jurisdiction over rates, service areas or other aspects of the services and operation of providers of telecommunications services as vested in the commission or other body authority, to the extent provided by the State, to guide development of telecommunications services in the State. When this part refers to the PUC as the Plan Developer, this includes the State legislature.

RE Act. The Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

REA. The Rural Electrification Administration, formerly an agency of the United States Department of Agriculture and predecessor agency to RUS with respect to administering certain electric and telephone loan programs.

RELRA. The Rural Electrification Loan Restructuring Act of 1993 (107 Stat. 1356).

RUS. The Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to Section 232 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*)), successor to REA with respect to administering certain electric and telephone programs. See 7 CFR 1700.1.

RUS cost-of-money loan. A loan made under section 305(d)(2) of the RE Act bearing interest as determined under 7 CFR 1735.31(c). RUS cost-of-money loans are made concurrently with RTB loans.

RUS hardship loan. A loan made by RUS under section 305(d)(1) of the RE Act bearing interest at a rate of 5 percent per year.

RTB loan. A loan made by the Rural Telephone Bank (RTB) under section 408 of the RE Act bearing interest as determined under 7 CFR 1610.10. RTB loans are made concurrently with RUS cost-of-money loans.

State. Each of the 50 states of the United States, the District of Columbia, and the territories and insular possessions of the United States. This does not include countries in the Compact of Free Association.

Telecommunications. The transmission or reception of voice, data, sounds, signals, pictures, writings, or signs of all kinds, by wire, fiber, radio, light, or other visual or electromagnetic means.

Telecommunications providers. RUS Borrowers and if the Plan Developer is a PUC, such other entities providing telecommunications services as the developer of the Modernization Plan (See § 1751.101) may determine.

Wireline Service. Telecommunications service provided over telephone lines. It is characterized by a wire or wirelike connection carrying electricity or light between the subscriber and the rest of the telecommunications network. Wireline Service implies a physical connection. Although radio may form part of the circuit, it is not the major method of transmission as in radiotelephone.

§ 1751.101 General.

(a) It is the policy of RUS that every State have a Modernization Plan which provides for the improvement of the State's telecommunications network.

(b) A proposed Modernization Plan must be submitted to RUS for approval. RUS will approve the proposed Modernization Plan if it conforms to the provisions of this subpart. Once obtained, RUS's approval of a Modernization Plan cannot be rescinded.

(c) The Modernization Plan shall not interfere with RUS's authority to issue such other telecommunications standards, specifications, requirements, and procurement rules as may be promulgated from time to time by RUS including, without limitation, those set forth in 7 CFR part 1755.

(d) The Modernization Plan must, at a minimum, apply to RUS Borrowers' wireline service areas. If a Modernization Plan is developed by the PUC, RUS encourages, but does not require, that the Modernization Plan's requirements apply to the rural service areas of all providers of telecommunications services in the State. A PUC's decision not to include non-RUS Borrowers will not prejudice RUS approval of that PUC's Modernization Plan. The PUC may also, at its option, extend coverage of the Modernization Plan to all service areas of all providers of telecommunications services in the State. In addition, while the requirements and goals contained in § 1751.106 apply only to wireline services, the PUC, at its discretion, may extend coverage of Modernization Plans to wireless or other communications services in the State as it deems appropriate. Borrower-developed Modernization Plans apply only to Borrowers.

§ 1751.102 Modernization Plan Developer; eligibility.

(a) Each PUC is eligible until February 13, 1996 to develop a proposed Modernization Plan and deliver it to RUS. RUS will review and consider for approval all PUC-developed Modernization Plans received by RUS within this one year period. The review and approval, if any, may occur after the one year period ends even though the PUC is no longer eligible to submit a proposed Modernization Plan.

(b) The PUC must notify all Telecommunications Providers in the State and other interested parties of its intent to develop a proposed Modernization Plan. The PUC is encouraged to consider all Telecommunications Providers' and interested parties' views and incorporate these views into the Modernization Plan. In the event that the PUC does not intend to develop a proposed Modernization Plan, RUS requests that the PUC inform RUS of this decision as soon as possible.

(c)(1) If the PUC is no longer eligible to develop a Modernization Plan or has informed RUS that it will not develop a Modernization Plan, as described in paragraphs (a) and (b) of this section, a majority of the Borrowers within the State may develop the Modernization Plan. If a majority of Borrowers develops the Modernization Plan, the following apply:

(i) All Borrowers shall be given reasonable notice of and shall be encouraged to attend and contribute to all meetings and other proceedings relating to the development of the Modernization Plan; and

(ii) Borrowers developing a Modernization Plan are encouraged to solicit the views of other providers of telecommunications services and interested parties in the State.

(2) There is no time limit placed on Borrowers to develop a Modernization Plan. Borrowers should be aware that certain types of loans may be restricted until a Modernization Plan is approved. See § 1751.103.

§ 1751.103 Loan and loan advance requirements.

(a) For information about loan eligibility requirements in relation to the Modernization Plan, see 7 CFR part 1735. In particular, beginning February 13, 1996, RUS will make RUS hardship loans, RUS cost-of-money loans, and RTB loans for facilities and other RE Act purposes in a State only if:

(1) The State has an RUS approved Modernization Plan; and

(2) The Borrower to whom the loan is to be made is participating in the Modernization Plan for the State. A Borrower is considered to be participating if, in RUS's opinion, the purposes of the loan requested by the Borrower are consistent with the Borrower achieving the requirements stated in the Modernization Plan within the timeframe stated in the Modernization Plan unless RUS has determined that achieving the requirements is not technically or economically feasible.

(b) With regard to the three types of loans discussed in paragraph (a), only loans approved after the date the State has an RUS approved Modernization Plan are subject to complying with the Modernization Plan.

(c) For loans subject to complying with the Modernization Plan, advances will not be made if, in RUS's opinion, the advances are not consistent with achieving the requirements of the Modernization Plan.

§ 1751.104 Obtaining RUS approval of a proposed Modernization Plan.

(a) To obtain RUS approval of a proposed Modernization Plan, the Plan Developer must submit the following to RUS:

(1) A certified copy of the statute or PUC order, if the PUC is the Plan Developer, or a written request for RUS approval of the proposed Modernization Plan signed by an authorized representative of the Plan Developer, if a majority of Borrowers is the Plan Developer; and

(2) Three copies of the proposed Modernization Plan.

(b) Generally, RUS will review the proposed Modernization Plan within (30) days and either:

(1) Approve the Modernization Plan if it conforms to the provisions of this subpart in which case RUS will return a copy of the Modernization Plan with notice of approval to the Plan Developer; or

(2) Not approve the proposed Modernization Plan if it does not conform to the provisions of this subpart. In this event, RUS will return the proposed Modernization Plan to the Plan Developer with specific written comments and suggestions for modifying the proposed Modernization Plan so that it will conform to the provisions of this subpart. If the Plan Developer remains eligible, RUS will invite the Plan Developer to submit a modified proposed Modernization Plan for RUS consideration. This process can continue until the Plan Developer gains approval of a proposed Modernization Plan unless the Plan Developer is a PUC whose eligibility has expired. If a PUC's eligibility has expired, RUS will return the proposed Modernization Plan unapproved. Because RUS does not have authority to extend the term of a PUC's eligibility, RUS recommends that the PUC submit a proposed Modernization Plan at least 90 days in advance of February 13, 1996 to allow time for this process.

§ 1751.105 Amending a Modernization Plan.

(a) RUS understands that changes in standards, technology, regulation, and the economy could indicate that an RUS-approved Modernization Plan should be amended.

(b) The Plan Developer of the Modernization Plan may amend the Modernization Plan if RUS finds the proposed changes continue to conform to the provisions of this subpart.

(c) The procedure for requesting approval of an amended Modernization Plan is identical to the procedure for a proposed Modernization Plan except that there are no time limits on the eligibility of the Plan Developer.

(d) The existing Modernization Plan remains in force until RUS has approved the proposed amended Modernization Plan.

(e) RUS may from time to time revise these regulations to incorporate newer technological and economic standards that RUS believes represent more desirable goals for the future course of telecommunications services. Such revisions will be made in accordance with the Administrative Procedure Act. These revisions shall not invalidate Modernization Plans approved by RUS but shall be used by RUS to determine whether to approve amendments to Modernization Plans presented for RUS approval after March 15, 1995.

§ 1751.106 Modernization Plan; requirements.

(a) The requirements for a Modernization Plan as stated in RELRA are:

(1) The plan must provide for the elimination of party line service.

(2) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

(3) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

(4) The plan must provide for—

(i) Subscribers in rural areas to be able to receive through telephone lines—

(A) Conference calling;

(B) Video images; and

(C) Data at a rate of at least 1,000,000 bits of information per second; and

(ii) The proper routing of information to subscribers.

(5) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

(6) The plan must provide for such additional requirements for service standards as may be required by the Administrator.

(b) To implement the requirements of the law described in paragraph (a) of this section, RUS has set minimum requirements as described in paragraphs (i) and (j) of this section. They are grouped into short-term and medium-term requirements. RUS has also included long-term goals which are not requirements. The Modernization Plan must meet all of the statutory requirements of RELRA and shall provide that short- and medium-term requirements be implemented as set forth in this section of the regulation except that the PUC, if it is the Plan Developer, or RUS, if a majority of Borrowers is the Plan Developer, may approve extensions of time if the required investment is not economically feasible or if the best available telecommunications technology lacks the capability to enable the Telecommunications Provider receiving the extension to comply with the Modernization Plan. Extensions shall be granted only on a case-by-case basis and generally shall not exceed a total of five years from the first such extension granted to the Telecommunications Provider.

(c) Each State's Modernization Plan shall be a strategic development proposal for modernizing the telecommunications network of the Telecommunications Providers covered by the Modernization Plan. In addition to implementing the requirements described in paragraphs (a), (i), and (j) of this section, the Modernization Plan shall include a short engineering description of the characteristics of a future telecommunications structure that would enable all Telecommunications Providers to achieve the requirements and goals of the Modernization Plan.

(d) Within the scope of § 1751.101(d), if the Plan Developer is the PUC, the Modernization Plan shall name the Telecommunications Providers in the State, in addition to Borrowers, that are covered by the Modernization Plan.

(e) The Modernization Plan must require that the design of the network provided by Telecommunications Providers allow for the expeditious deployment and integration of such emerging technologies as may from time to time become commercially feasible.

(f) The Modernization Plan must provide guidelines to Telecommunications Providers for the development of affordable tariffs for medical links and distance learning services.

(g) With regard to the uniform deployment requirement of the law restated in paragraph (a)(5) of this section, if services cannot be deployed at the same time, only the minimum feasible interval of time shall separate availability of the services in rural and nonrural areas.

(h) The Modernization Plan must make provision for reliable powering of ordinary voice telephone service operating over those portions of the telecommunications network which are not network powered. In the event of electric utility power outages, an alternative source of power must be available to ensure reliable voice service.

(i) *Short-term requirements.* (1) The ''short-term requirements start date'' is the date one year after the date RUS approves the Modernization Plan for the State.

(2) All New Facilities providing Wireline Service after the short-term requirements start date, even if the construction began before such date, shall be constructed so that:

(i) Every subscriber can be provided 1-party service.

(ii) The New Facilities are suitable, as built or with additional equipment, to provide transmission and reception of data at a rate no lower than 1 Mb/sec.

(3) All switching equipment installed by a Telecommunications Provider after the short-term requirements start date shall be capable of:

(i) Providing custom calling features. At a minimum, custom calling features must include call waiting, call forwarding, abbreviated dialing, and three-way calling; and

(ii) Providing E911 service for areas served by the Telecommunication Provider when requested by the government responsible for this service.

(j) *Medium-term requirements.* (1) The ''medium-term requirements start date'' is the date six years after the date RUS approves the Modernization Plan for the State, or such earlier date as the Modernization Plan shall provide.

(2) All New Facilities providing Wireline Service after the medium-term requirements start date, even if the construction began before such date, shall be capable, as built or with additional equipment, of transmitting video to a subscriber. The video must be capable of depicting a reasonable representation of motion. The frame rate, resolution, and other measures of audio and video quality shall be determined by the Plan Developer.

(3) No later than the medium-term requirements start date, all switching equipment of Telecommunications Providers covered by the Modernization Plan must be capable of providing E911 service when requested by the government responsible for this service.

(4) No later than five years after the medium-term requirements start date, one-party service must be provided upon demand to any subscriber of a Telecommunications Provider covered by the Modernization Plan.

(k) *Long-term goals.* RUS suggests, but does not require, that the provisions of each Modernization Plan be consistent with the accomplishment of the following:

(1) The elimination of party line service.

(2) For subscribers that desire the service, universal availability of:

(i) digital voice and data service (56–164 kb/sec).

(ii) service that provides transmission and reception of high bit rate (no less than 1 Mb/sec) data.

(iii) service that provides reception of video as described in paragraph (j)(2) of this section.

Dated: January 23, 1995.

Bob J. Nash,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 95–3414 Filed 2–10–95; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–0835]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is amending its risk-based capital guidelines for state member banks and bank holding companies (banking organizations) to implement section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act). Section 350 states that the amount of risk-based capital required to be maintained by any insured depository institution, with respect to assets transferred with recourse, may not exceed the maximum amount of recourse for which the institution is contractually liable under the recourse agreement. This rule will have the effect of correcting the anomaly that currently exists in the risk-based capital treatment of recourse transactions under which an institution could be required to hold capital in excess of the maximum amount of loss possible under the contractual terms of the recourse obligation.

EFFECTIVE DATE: March 22, 1995.

FOR FURTHER INFORMATION CONTACT: Rhoger H Pugh, Assistant Director (202/728–5883), Thomas R. Boemio, Supervisory Financial Analyst (202/452–2982), or David Elkes (202/452–5218), Senior Financial Analyst, Policy Development, Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Board's current regulatory capital guidelines are intended to ensure that banking organizations that transfer assets and retain the credit risk inherent in the assets maintain adequate capital to support that risk. For banks, this is generally accomplished by requiring that assets transferred with recourse continue to be reported on the balance sheet in regulatory reports. These amounts are thus included in the calculation of banks' risk-based and leverage capital ratios. For bank holding companies, transfers of assets with recourse are reported in accordance with generally accepted accounting principles (GAAP), which treats most such transactions as sales, allowing the assets to be removed from the balance sheet.[1] For purposes of calculating bank

[1] The GAAP treatment focuses on the transfer of benefits rather than the retention of risk and, thus, allows a transfer of receivables with recourse to be accounted for as a sale if the transferor: (1) surrenders control of the future economic benefits of the assets; (2) is able to reasonably estimate its obligations under the recourse provision; and (3) is not obligated to repurchase the assets except pursuant to the recourse provision. In addition, the

Continued

holding companies' risk-based capital ratios, however, assets sold with recourse that have been removed from the balance sheet in accordance with GAAP are included in risk-weighted assets. Consequently, both banks and bank holding companies generally are required to maintain capital against the full risk-weighted amount of assets transferred with recourse.

In cases where an institution retains a low level of recourse, the amount of capital required under the Board's risk-based capital guidelines could exceed the institution's maximum contractual liability under the recourse agreement. This can occur in transactions in which a banking organization contractually limits its recourse exposure to less than the full effective risk-based capital requirement for the assets transferred—generally, 4 percent for mortgage assets and 8 percent for most other assets.

The Federal Reserve and the other federal banking agencies have long recognized this anomaly in the risk-based capital guidelines. On May 25, 1994, the banking agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), issued a Notice of Proposed Rulemaking (NPR) (59 FR 27116) that was aimed principally at amending the risk-based capital guidelines to limit the capital charge in low level recourse transactions to an institution's maximum contractual recourse liability. The proposal for these types of transactions would effectively result in a dollar capital charge for each dollar of low level recourse exposure, up to the full effective risk-based capital requirement on the underlying assets.

The proposal requested specific comment on whether an institution should be able to use the balance of the GAAP recourse liability account to reduce the dollar-for-dollar capital charge for the recourse exposure on assets transferred with low level recourse in a transaction recognized as a sale both under GAAP and for regulatory reporting purposes. In addition, the proposal indicated that the capital requirement for an exposure to low level recourse retained in a transaction associated with a swap of mortgage loans for mortgage-related securities would be the lower of the capital charge for the swapped mortgages or the combined capital charge for the low level recourse exposure and the mortgage-related securities, adjusted for any double counting.

The NPR also addressed other issues related to recourse transactions, including equivalent capital treatment of recourse arrangements and direct credit substitutes that provide first dollar loss protection and definitions for ''recourse'' and associated terms such as ''standard representations and warranties.'' The NPR was issued in conjunction with an Advance Notice of Proposed Rulemaking (ANPR) that outlined a possible alternative approach to deal comprehensively with the capital treatment of recourse transactions and securitizations. The comment period for the NPR and ANPR ended on July 25, 1994.

During the agencies' review of the comments received, the Riegle Act was signed into law on September 23, 1994. Section 350 of the Act requires the federal banking agencies to issue regulations limiting, as of March 22, 1995, the amount of risk-based capital an insured depository institution is required to hold for assets transferred with recourse to the maximum amount of recourse for which the institution is contractually liable. In order to meet the statutory requirements of section 350, the Federal Reserve is now issuing a rule that puts into final form only those portions of the NPR dealing with low level recourse transactions.

Comments Received

In response to the NPR and ANPR, the Federal Reserve Board received letters from 36 public commenters. Of these respondents, 27 addressed issues related to the NPR's proposed low level recourse capital treatment. These commenters included 13 banking organizations, including 11 multinational and regional banking organizations, one community banking organization, and one foreign banking organization; eight trade associations; two law firms; one government-sponsored agency; and three other commenters. Of these 27 respondents, 23 specifically provided a favorable overall assessment of the low level recourse proposal. In general, these respondents viewed the low level proposal as a way of rationally correcting an anomaly in the existing risk-based capital rules so that institutions would not be required to hold capital in excess of their contractual liability.

Ten of the commenters stated that, while the proposed low level recourse capital treatment was a positive step, it still would result in too high of a capital requirement for assets sold with limited recourse. These respondents, which included eight of the thirteen banking organizations and two of the eight trade associations, expressed the view that the banking agencies should adopt the GAAP treatment of assets sold with recourse for purposes of calculating the regulatory capital ratios. These commenters maintained that the GAAP recourse liability account provides adequate protection against the risk of loss on assets sold with recourse, obviating the need for additional capital.

The NPR specifically sought comment on five issues related to the proposed capital treatment of low level recourse transactions. Thirteen of the 27 respondents commented on the first issue, which concerned the treatment of the GAAP recourse liability account established for assets sold with recourse reported as sales for regulatory reporting purposes. These 13 commenters favored reducing the capital requirement for low level recourse transactions by the balance of its GAAP recourse liability account—which would continue to be excluded from an institution's regulatory capital. In their view, not taking this account into consideration would result in double coverage of the portion of the risk provided for in that account.

Fourteen commenters, including five banking organizations and five trade associations, responded to the second issue, which sought comment on whether a dollar-for-dollar capital requirement would be too high for low level recourse transactions. Eleven commenters indicated that such a capital charge would be too high since it was unlikely that an institution would incur losses up to its maximum contractual liability. Two others responded that whether the capital treatment was too high depended upon the credit quality of the underlying asset pool and the structure of the securitization. One commenter stated that the dollar-for-dollar capital charge would not be too onerous.

The third issue dealt with ways of demonstrating that the dollar-for-dollar capital requirement might be too high and possible methods for reducing this requirement without jeopardizing safety and soundness. The eight commenters on this issue indicated that historical analysis, examiner review, and ''depression scenario'' stress testing would show whether the capital requirement would be too high relative to historical losses.

The fourth issue concerned ways the banking agencies could handle the increased probability of loss to the insurance fund if less than dollar-for-dollar capital is maintained against low

transferor must establish a separate liability account equal to the estimated probable losses under the recourse provision (GAAP recourse liability account).

level recourse transactions. The eight commenters on this issue stated that as long as the amount of required capital held against the low level recourse transactions was prudently assessed based upon expected losses, actual losses would seldom, if ever, exceed the capital requirement. Thus, the insurance funds would not likely experience losses.

The fifth issue sought comment on whether the proposed low level recourse capital treatment would reduce transaction costs or otherwise help to facilitate the sale or securitization of banking organizations' assets. The eight commenters that responded to this issue were all of the opinion that the low level capital treatment generally would help lower transaction costs and help facilitate securitization.

Final Rule

After consideration of the comments received and further deliberation on the issues involved, particularly the requirements of section 350 of the Riegle Act, the Board is adopting a final rule amending the risk-based capital guidelines with respect to the treatment of low level recourse transactions. Specifically, the final amendments implement section 350 by reducing the capital requirements for all recourse transactions in which a state member bank contractually limits its recourse exposure to less than the full, effective risk-based capital requirement for the assets transferred. Although section 350 explicitly extends only to depository institutions, the Board, consistent with its proposal, is also issuing a parallel final amendment to its risk-based capital guidelines for bank holding companies.[2]

The final rule applies to low level recourse transactions involving all types of assets, including small business loans, commercial loans, and residential mortgages. In this regard, the Board notes that previously under the risk-based capital guidelines residential mortgage loans transferred with recourse were excluded from risk-weighted assets if the institution did not retain significant risk of loss. As proposed, this treatment would no longer apply and the low level recourse capital treatment the Board is now issuing would extend to these types of mortgage loan transfers.

Under the low level recourse rule, a banking organization that contractually limits its maximum recourse obligation to less than the full effective risk-based capital requirement for the transferred assets would be required to hold risk-based capital equal to the contractual maximum amount of its recourse obligation. This requirement limits to one dollar the capital charge for each dollar of low-level recourse exposure. Under this dollar-for-dollar capital requirement, the capital charge for a 100 percent risk-weighted asset transferred with 3 percent recourse would be 3 percent of the value of the transferred assets, rather than the 8 percent previously required. Thus, a banking organization's capital requirement on a low level recourse transaction would not exceed the contractual maximum amount it could lose under the recourse obligation.

Under the final rule, an institution may reduce the dollar-for-dollar capital charge held against the recourse exposure on assets transferred with low level recourse for a transaction recognized as a sale under GAAP and for regulatory reporting purposes by the balance of any associated non-capital GAAP recourse liability account. In adopting this aspect of the final rule, the Board concurs with commenters that indicated that nonrecognition of the liability account would result in double coverage of the portion of the credit risk provided for in that account.

In applying the final rule, the Board will, as proposed, limit the capital requirement for an exposure to low level recourse retained in a transaction associated with a swap of mortgage loans for mortgage-related securities to the lower of the capital charge for the swapped mortgages or the combined capital charge for the low level recourse exposure and the mortgage-related securities, adjusted for any double counting.

In setting forth this final rule, the Board has considered the arguments that several commenters made for adopting for regulatory capital purposes the GAAP treatment for all assets sold with recourse, including those sold with low levels of recourse. Under such a treatment, assets sold with recourse in accordance with GAAP would have no capital requirement, but the GAAP recourse liability account would provide some level of protection against losses.

The Board continues to believe it would not be appropriate to adopt for regulatory capital purposes the GAAP treatment of recourse transactions, even if the transferring bank retains only a low level of recourse. In the Board's view, the GAAP recourse liability account would be an inadequate substitute for maintaining capital at a level commensurate with the risks. One of the principal purposes of regulatory capital is to provide a cushion against unexpected losses. In contrast, the GAAP recourse liability account is, in effect, a specific reserve that is intended to cover only an institution's probable expected losses under the recourse provision. In this regard, the Board notes that the capital guidelines explicitly state that specific reserves may not be included in regulatory capital.

In addition, the amount of credit risk that is typically retained in a recourse transaction greatly exceeds the normal expected losses associated with the transferred assets. Thus, even though a transferring institution may reduce its exposure to potential catastrophic losses by limiting the amount of recourse it provides, it may still retain, in many cases, the bulk of the risk inherent in the assets. For example, an institution transferring high quality assets with a reasonably estimated expected loss rate of one percent that retains ten percent recourse in the normal course of business will sustain the same amount of losses it would have had the assets not been transferred. This occurs because the amount of exposure under the recourse provision is very high relative to the amount of expected losses. The Board believes that in such transactions the transferor has not significantly reduced its risk for purposes of assessing regulatory capital and should continue to be assessed regulatory capital as though the assets had not been transferred.

The GAAP reliance on reasonable estimates of all probable credit losses over the life of the receivables transferred poses additional concerns to the Board. While it may be possible to make such estimates for pools of consumer loans or residential mortgages, the Board is of the view that it is currently difficult to do so for other types of loans. Even if it is possible to make a reasonable estimate of probable credit losses at the time an asset or asset pool is transferred, the ability of an institution to make a reasonable estimate may change over the life of the transferred assets.

Finally, the Board is concerned that an institution transferring assets with recourse might estimate that it would not have *any* losses under the recourse provision, in which case it would not establish any GAAP recourse liability account for the exposure. If the transferor recorded either no liability or only a nominal liability in the GAAP

[2] In addition to amending the risk-based capital guidelines to reduce the capital requirement for low level recourse transactions (see paragraph g of section III.D.1. of the guidelines), the Board is also making some technical, nonsubstantive changes to that section of the guidelines by identifying each paragraph in the section with a letter designation.

recourse liability account for a succession of asset transfers, it could accumulate large amounts of credit risk that would not be reflected, or would be only partially reflected, on the balance sheet.

The Board is issuing this final rule now in order to implement section 350 of the Riegle Act in accordance with the statutory deadline. Consequently, the rule deals with only those portions of the NPR concerned with low level recourse transactions. The Board will continue to consider, on an interagency basis, the other aspects of the NPR, as well as all aspects of the ANPR that was issued in conjunction with the NPR.

Regulatory Flexibility Act

The purpose of this final rule is to reduce the risk-based capital requirement on transfers of assets with low levels of recourse. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, the Board hereby certifies that this rule will have a beneficial economic impact on small business entities (in this case, small banking organizations) that sell assets with low levels of recourse. The risk-based capital guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million; thus, this rule will not affect such companies.

Paperwork Reduction Act and Regulatory Burden

The Board has determined that this final rule will not increase the regulatory paperwork burden of banking organizations pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Section 302 requires that new regulations take effect on the first day of the calendar quarter following publication of the rule, unless, *inter alia,* the regulation, pursuant to any other Act of Congress, is required to take effect on a date other than the date determined under section 302. Section 350 of the Riegle Act requires that before the end of the 180-day period beginning on the date of enactment of the Act, or in this case no later than March 22, 1995, the amount of risk-based capital required to be maintained, under regulations prescribed by the appropriate Federal banking agency, by any insured depository institution transferring assets with recourse be limited to the maximum amount of recourse for which such institution is contractually liable under the recourse agreement. Accordingly, the Board has determined that an effective date of March 22, 1995 is appropriate.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board amends 12 CFR parts 208 and 225 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p–1, 3105, 3310, 3331–3351 and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1 and 78w; 31 U.S.C. 5318.

2. In Part 208, Appendix A, section III.D.1. is revised to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

III. * * *

D. * * *

1. *Items with a 100 percent conversion factor.*

a. A 100 percent conversion factor applies to direct credit substitutes, which include guarantees, or equivalent instruments, backing financial claims, such as outstanding securities, loans, and other financial liabilities, or that back off-balance sheet items that require capital under the risk-based capital framework. Direct credit substitutes include, for example, financial standby letters of credit, or other equivalent irrevocable undertakings or surety arrangements, that guarantee repayment of financial obligations such as: commercial paper, tax-exempt securities, commercial or individual loans or debt obligations, or standby or commercial letters of credit. Direct credit substitutes also include the acquisition of risk participations in bankers acceptances and standby letters of credit, since both of these transactions, in effect, constitute a guarantee by the acquiring bank that the underlying account party (obligor) will repay its obligation to the originating, or issuing, institution.[41] (Standby letters of credit that are performance-related are discussed below and have a credit conversion factor of 50 percent.)

b. The full amount of a direct credit substitute is converted at 100 percent and the resulting credit equivalent amount is assigned to the risk category appropriate to the obligor or, if relevant, the guarantor or the nature of the collateral. In the case of a direct credit substitute in which a risk participation[42] has been conveyed, the full amount is still converted at 100 percent. However, the credit equivalent amount that has been conveyed is assigned to whichever risk category is lower: the risk category appropriate to the obligor, after giving effect to any relevant guarantees or collateral, or the risk category appropriate to the institution acquiring the participation. Any remainder is assigned to the risk category appropriate to the obligor, guarantor, or collateral. For example, the portion of a direct credit substitute conveyed as a risk participation to a U.S. domestic depository institution or foreign bank is assigned to the risk category appropriate to claims guaranteed by those institutions, that is, the 20 percent risk category.[43] This approach recognizes that such conveyances replace the originating bank's exposure to the obligor with an exposure to the institutions acquiring the risk participations.[44]

c. In the case of direct credit substitutes that take the form of a syndication as defined in the instructions to the commercial bank Call Report, that is, where each bank is obligated only for its *pro rata* share of the risk and there is no recourse to the originating bank, each bank will only include its *pro rata* share of the direct credit substitute in its risk-based capital calculation.

d. Financial standby letters of credit are distinguished from loan commitments (discussed below) in that standbys are irrevocable obligations of the bank to pay a third-party beneficiary when a customer (account party) fails to repay an outstanding loan or debt instrument (direct credit substitute). Performance standby letters of credit (performance bonds) are irrevocable obligations of the bank to pay a third-party beneficiary when a customer (account party) fails to perform some other contractual non-financial obligation.

e. The distinguishing characteristic of a standby letter of credit for risk-based capital purposes is the combination of irrevocability with the fact that funding is triggered by some failure to repay or perform an obligation. Thus, any commitment (by

[41] Credit equivalent amounts of acquisitions of risk participations are assigned to the risk category appropriate to the account party obligor, or, if relevant, the nature of the collateral or guarantees.

[42] That is, a participation in which the originating bank remains liable to the beneficiary for the full amount of the direct credit substitute if the party that has acquired the participation fails to pay when the instrument is drawn.

[43] Risk participations with a remaining maturity of over one year that are conveyed to non-OECD banks are to be assigned to the 100 percent risk category, unless a lower risk category is appropriate to the obligor, guarantor, or collateral.

[44] A risk participation in bankers acceptances conveyed to other institutions is also assigned to the risk category appropriate to the institution acquiring the participation or, if relevant, the guarantor or nature of the collateral.

whatever name) that involves an *irrevocable* obligation to make a payment to the customer or to a third party in the event the customer fails to repay an outstanding debt obligation or fails to perform a contractual obligation is treated, for risk-based capital purposes, as respectively, a financial guarantee standby letter of credit or a performance standby.

f. A loan commitment, on the other hand, involves an obligation (with or without a material adverse change or similar clause) of the bank to fund its customer in the normal course of business should the customer seek to draw down the commitment.

g. Sale and repurchase agreements and asset sales with recourse (to the extent not included on the balance sheet) and forward agreements also are converted at 100 percent. The risk-based capital definition of the sale of assets with recourse, including the sale of 1- to 4-family residential mortgages, is the same as the definition contained in the instructions to the commercial bank Call Report. Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of 1- to 4-family residential mortgages, are to be converted at 100 percent and assigned to the risk weight appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The terms of a transfer of assets with recourse may contractually limit the amount of the institution's liability to an amount less than the effective risk-based capital requirement for the assets being transferred with recourse. If such a transaction (including one that is reported as a financing, i.e., the assets are not removed from the balance sheet) meets the criteria for sales treatment under GAAP, the amount of total capital required is equal to the maximum amount of loss possible under the recourse provision. If the transaction is also treated as a sale for regulatory reporting purposes, then the required amount of capital may be reduced by the balance of any associated non-capital liability account established pursuant to GAAP to cover estimated probable losses under the recourse provision. So-called ''loan strips'' (that is, short-term advances sold under long-term commitments without direct recourse) are defined in the instructions to the commercial bank Call Report and for risk-based capital purposes as assets sold with recourse.

h. Forward agreements are legally binding contractual obligations to purchase assets with certain drawdown at a specified future date. Such obligations include forward purchases, forward forward deposits placed,[45] and partly-paid shares and securities; they do not include commitments to make residential mortgage loans or forward foreign exchange contracts.

i. Securities lent by a bank are treated in one of two ways, depending upon whether the lender is at risk of loss. If a bank, as agent for a customer, lends the customer's securities and does not indemnify the customer against loss, then the transaction is excluded from the risk-based capital calculation. If, alternatively, a bank lends its own securities or, acting as agent for a customer, lends the customer's securities and indemnifies the customer against loss, the transaction is converted at 100 percent and assigned to the risk weight category appropriate to the obligor, to any collateral delivered to the lending bank, or, if applicable, to the independent custodian acting on the lender's behalf. Where a bank is acting as agent for a customer in a transaction involving the lending or sale of securities that is collateralized by cash delivered to the bank, the transaction is deemed to be collateralized by cash on deposit in the bank for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities and the cash collateral received and any reinvestment risk associated with that cash collateral is borne by the customer.

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PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In Part 225, Appendix A, section III.D.1. is revised to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risked-Based Measure

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III. * * *

D. * * *

1. *Items with a 100 percent conversion factor.*

a. A 100 percent conversion factor applies to direct credit substitutes, which include guarantees, or equivalent instruments, backing financial claims, such as outstanding securities, loans, and other financial liabilities, or that back off-balance sheet items that require capital under the risk-based capital framework. Direct credit substitutes include, for example, financial standby letters of credit, or other equivalent irrevocable undertakings or surety arrangements, that guarantee repayment of financial obligations such as: commercial paper, tax-exempt securities, commercial or individual loans or debt obligations, or standby or commercial letters of credit. Direct credit substitutes also include the acquisition of risk participations in bankers acceptances and standby letters of credit, since both of these transactions, in effect, constitute a guarantee by the acquiring banking organization that the underlying account party (obligor) will repay its obligation to the originating, or issuing, institution.[44] (Standby letters of credit that are performance-related are discussed below and have a credit conversion factor of 50 percent.)

b. The full amount of a direct credit substitute is converted at 100 percent and the resulting credit equivalent amount is assigned to the risk category appropriate to the obligor or, if relevant, the guarantor or the nature of the collateral. In the case of a direct credit substitute in which a risk participation[45] has been conveyed, the full amount is still converted at 100 percent. However, the credit equivalent amount that has been conveyed is assigned to whichever risk category is lower: the risk category appropriate to the obligor, after giving effect to any relevant guarantees or collateral, or the risk category appropriate to the institution acquiring the participation. Any remainder is assigned to the risk category appropriate to the obligor, guarantor, or collateral. For example, the portion of a direct credit substitute conveyed as a risk participation to a U.S. domestic depository institution or foreign bank is assigned to the risk category appropriate to claims guaranteed by those institutions, that is, the 20 percent risk category.[46] This approach recognizes that such conveyances replace the originating banking organization's exposure to the obligor with an exposure to the institutions acquiring the risk participations.[47]

c. In the case of direct credit substitutes that take the form of a syndication, that is, where each banking organization if obligated only for its *pro rata* share of the risk and there is no recourse to the originating banking organization, each banking organization will only include its *pro rata* share of the direct credit substitute in its risk-based capital calculation.

d. Financial standby letters of credit are distinguished from loan commitments (discussed below) in that standbys are irrevocable obligations of the banking organization to pay a third-party beneficiary when a customer (account party) *fails to repay* an outstanding loan or debt instrument (direct credit substitute). Performance standby letters of credit (performance bonds) are irrevocable obligations of the banking organization to pay a third-party beneficiary when a customer (account party) *fails to perform* some other contractual non-financial obligation.

e. The distinguishing characteristic of a standby letter of credit for risk-based capital purposes is the combination of irrevocability with the fact that funding is triggered by some failure to repay or perform an obligation. Thus, any commitment (by whatever name) that involves an *irrevocable*

[45] Forward forward deposits accepted are treated as interest rate contracts.

[44] Credit equivalent amounts of acquisitions of risk participations are assigned to the risk category appropriate to the account party obligor, or, if relevant, the nature of the collateral or guarantees.

[45] That is, a participation in which the originating banking organization remains liable to the beneficiary for the full amount of the direct credit substitute if the party that has acquired the participation fails to pay when the instrument is drawn.

[46] Risk participations with a remaining maturity of over one year that are conveyed to non-OECD banks are to be assigned to the 100 percent risk category, unless a lower risk category is appropriate to the obligor, guarantor, or collateral.

[47] A risk participation in bankers acceptances conveyed to other institutions is also assigned to the risk category appropriate to the institution acquiring the participation or, if relevant, the guarantor or nature of the collateral.

obligation to make a payment to the customer or to a third party in the event the customer *fails to repay* an outstanding debt obligation or *fails to perform* a contractual obligation is treated, for risk-based capital purposes, as respectively, a financial guarantee standby letter of credit or a performance standby.

f. A loan commitment, on the other hand, involves an obligation (with or without a material adverse change or similar clause) of the banking organization to fund its customer *in the normal course* of business should the customer seek to draw down the commitment.

g. Sale and repurchase agreements and asset sales with recourse (to the extent not included on the balance sheet) and forward agreements also are converted at 100 percent.[48] So-called ''loan strips'' (that is, short-term advances sold under long-term commitments without direct recourse) are treated for risk-based capital purposes as assets sold with recourse and, accordingly, are also converted at 100 percent.

h. Forward agreements are legally binding contractual obligations to purchase assets with *certain* drawdown at a specified future date. Such obligations include forward purchases, forward forward deposits placed,[49] and partly-paid shares and securities; they do not include commitments to make residential mortgage loans or forward foreign exchange contracts.

i. Securities lent by a banking organization are treated in one of two ways, depending upon whether the lender is at risk of loss. If a banking organization, as agent for a customer, lends the customer's securities and does not indemnify the customer against loss, then the transaction is excluded from the risk-based capital calculation. If, alternatively, a banking organization lends its own securities or, acting as agent for a customer, lends the customer's securities and indemnifies the customer against loss, the transaction is converted at 100 percent and assigned to the risk weight category appropriate to the obligor, to any collateral delivered to the lending banking organization, or, if applicable, to the independent custodian acting on the lender's behalf. Where a banking organization is acting as agent for a customer in a transaction involving the lending or sale of securities that is collateralized by cash delivered to the banking organization, the transaction is deemed to be collateralized by cash on deposit in a subsidiary lending institution for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities and the cash collateral received and any reinvestment risk associated with that cash collateral is borne by the customer.

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By order of the Board of Governors of the Federal By Reserve System, February 7, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–3469 Filed 2–10–95; 8:45 am]

BILLING CODE 6210–01–P

[48] In regulatory reports and under GAAP, bank holding companies are permitted to treat some asset sales with recourse as ''true'' sales. For risk-based capital purposes, however, such assets sold with recourse and reported as ''true'' sales by bank holding companies are converted at 100 percent and assigned to the risk category appropriate to the underlying obligor or, if relevant, the guarantor or nature of the collateral, provided that the transactions meet the definition of assets sold with recourse (including assets sold subject to pro rata and other loss sharing arrangements), that is contained in the instructions to the commercial bank Consolidated Reports of Condition and Income (Call Report). This treatment applies to any assets, including the sale of 1- to 4-family and multifamily residential mortgages, sold with recourse. Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of 1- to 4-family residential mortgages, are to be converted at 100 percent and assigned to the risk category appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The terms of a transfer of assets with recourse may contractually limit the amount of the institution's liability to an amount less than the effective risk-based capital requirement for the assets being transferred with recourse. If such a transaction is recognized as a sale under GAAP, the amount of total capital required is equal to the maximum amount of loss possible under the recourse provision, less any amount held in an associated non-capital liability account established pursuant to GAAP to cover estimated probable losses under the recourse provision.

[49] Forward forward deposits accepted are treated as interest rate contracts.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AB20

Capital Maintenance

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its capital standards for insured state nonmember banks to establish a limitation on the amount of certain deferred tax assets that may be included in (that is, not deducted from) Tier 1 capital for risk-based and leverage capital purposes. Under the final rule, deferred tax assets that can be realized through carrybacks to taxes paid on income earned in prior periods generally will not be subject to limitation for regulatory capital purposes. On the other hand, deferred tax assets that can only be realized if an institution earns sufficient taxable income in the future will be limited for regulatory capital purposes to the amount that the institution is expected to realize within one year of the most recent calendar quarter-end date, based on the institution's projection of taxable income for that year, or ten percent of Tier 1 capital, whichever is less. Deferred tax assets in excess of these limitations will be deducted from Tier 1 capital and from assets for purposes of calculating both the risk-based and leverage capital ratios.

This regulatory capital limit was developed on a consistent basis by the FDIC, the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) (hereafter, the federal banking agencies or the agencies) in response to the issuance by the Financial Accounting Standards Board (FASB) of Statement No. 109, ''Accounting for Income Taxes'' (FASB 109), in February 1992.

The capital limitation is intended to balance the FDIC's continued concerns about deferred tax assets that are dependent upon future taxable income against the fact that such assets will, in many cases, be realized. The limitation also ensures that state nonmember banks do not place excessive reliance on deferred tax assets to satisfy the minimum capital standards.

EFFECTIVE DATE: April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Chief, Accounting Section, Division of Supervision, (202) 898–8906, or Joseph A. DiNuzzo, Counsel, Legal Division, (202) 898–7349, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Characteristics of Deferred Tax Assets

Deferred tax assets are assets that reflect, for financial reporting purposes, amounts that will be realized as reductions of future taxes or as future receivables from a taxing authority. Deferred tax assets may arise because of specific limitations under tax laws of different tax jurisdictions that require that certain net operating losses (*i.e.*, when, for tax purposes, expenses exceed revenues) or tax credits be carried forward if they cannot be used to recover taxes previously paid. These ''tax carryforwards'' are realized only if the institution generates sufficient future taxable income during the carryforward period.

Deferred tax assets may also arise from the tax effects of certain events that have been recognized in one period for financial statement purposes but will result in deductible amounts in a future period for tax purposes, *i.e.*, the tax effects of ''deductible temporary differences.'' For example, many depository institutions may report higher income to taxing authorities than

they reflect in their regulatory reports [1] because their loan loss provisions are expensed for reporting purposes but are not deducted for tax purposes until the loans are charged off.

Deferred tax assets arising from an organization's deductible temporary differences may or may not exceed the amount of taxes previously paid that the organization could recover if the temporary differences fully reversed at the report date. Some of these deferred tax assets may theoretically be ''carried back'' and recovered from taxes previously paid. On the other hand, when deferred tax assets arising from deductible temporary differences exceed such previously paid tax amounts, they will be realized only if there is sufficient future taxable income during the carryforward period. Such deferred tax assets, and deferred tax assets arising from tax carryforwards, are hereafter referred to as ''deferred tax assets that are dependent upon future taxable income.''

FASB 109

In February 1992, the FASB issued Statement No. 109, which superseded Accounting Principles Board Opinion No. 11 (APB 11) and FASB Statement No. 96 (FASB 96), the previous standards governing accounting for income taxes. FASB 109 provides guidance on many aspects of accounting for income taxes, including the accounting for deferred tax assets. FASB 109 generally allows institutions to report certain deferred tax assets on their balance sheets that they could not recognize as assets under previous generally accepted accounting principles (GAAP) and the federal banking agencies' prior reporting policies.[2] Unlike the general practice under previous standards, FASB 109 permits the reporting of deferred tax assets that are dependent upon future taxable income. However, FASB 109 requires the establishment of a valuation allowance to reduce deferred tax assets to an amount that is more likely than not (*i.e.*, a greater than 50 percent likelihood) to be realized.

FASB 109 became effective for fiscal years beginning on or after December 15, 1992. The adoption of this standard has resulted in the reporting of additional deferred tax assets in Call Reports and TFRs that have directly increased institutions' undivided profits and Tier 1 capital.

Concerns Regarding Deferred Tax Assets That Are Dependent Upon Future Taxable Income

The FDIC has certain concerns about including in capital deferred tax assets that are dependent upon future taxable income. Realization of such assets depends on whether a bank has sufficient future taxable income during the carryforward period. Since a bank that is in a net operating loss carryforward position is often experiencing financial difficulties, its prospects for generating sufficient taxable income in the future are uncertain. In addition, the condition of and future prospects for an organization often can and do change very rapidly in the banking environment. This raises concerns about the realizability of deferred tax assets that are dependent upon future taxable income, even when a bank ostensibly appears to be sound and well-managed. Thus, for many banks, such deferred tax assets may not be realized and, for other banks, there is a high degree of subjectivity in determining the realizability of this asset. In this regard, many banks may be able to make reasonable projections of future taxable income for relatively short periods of time and actually realize the projected income, but beyond these short time periods, the reliability of the projections tends to decrease significantly. Furthermore, unlike many other assets, banks generally cannot realize the value of deferred tax assets by selling them.

In addition, as a bank's condition deteriorates, it is less likely that deferred tax assets that are dependent upon future taxable income will be realized. Therefore, the bank is required under FASB 109 to reduce its deferred tax assets through increases to the asset's valuation allowance. Additions to this allowance would reduce the bank's regulatory capital at precisely the time it needs capital support the most. Thus, the inclusion in a bank's reported capital of deferred tax assets that are dependent upon future taxable income raises supervisory concerns.

Because of these concerns, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), considered how the deferred tax assets of depository institutions should be treated for regulatory reporting and capital purposes. In August 1992, the FFIEC requested public comment on this matter (57 FR 34135, Aug. 3, 1992). After considering the comments received, the FFIEC decided in December 1992, that banks and savings associations should adopt FASB 109 for reporting purposes in Call Reports and Thrift Financial Reports (TFRs) beginning in the first quarter of 1993 (or the beginning of their first fiscal year thereafter, if later). Insured banks were notified by the FFIEC that they should report deferred tax assets in their Call Reports in accordance with FASB 109 in Financial Institutions Letter FIL–97–92 dated December 31, 1992. For insured state nonmember banks, this GAAP reporting standard has superseded the regulatory reporting limitation on deferred tax assets established by the FDIC in Bank Letter BL–36–85 dated October 4, 1985. As a consequence, this 1985 Bank Letter has been withdrawn.

II. Proposed Regulatory Capital Treatment of Deferred Tax Assets

The FFIEC, in reaching its decision on regulatory reporting, also recommended that each of the federal banking agencies should amend its regulatory capital standards to limit the amount of deferred tax assets that can be included in regulatory capital. In response to the FFIEC's recommendation, on May 5, 1993, the FDIC issued for public comment a proposal to adopt the recommendation of the FFIEC in full, as summarized below (58 FR 26701). The FFIEC recommended that the agencies limit the amount of deferred tax asset that are dependent upon future taxable income that an institution can include in regulatory capital to the lesser of:

(1) the amount of such deferred tax assets that the institution expects to realize within one year of the quarter-end report date, based on its projection of future taxable income (exclusive of tax carryforwards and reversals of existing temporary differences) for that year, or

(2) ten percent of Tier 1 capital before deducting any disallowed purchased mortgage servicing rights, any disallowed purchased credit card

[1] Insured commercial banks and FDIC-supervised savings banks are required to file quarterly Consolidated Reports of Condition and Income (Call Reports) with their primary federal regulatory agency (the FDIC, the FRB, or the OCC, as appropriate). Insured savings associations file quarterly Thrift Financial Reports (TFRs) with the OTS.

[2] Prior reporting policies of the OCC and FDIC, as set forth in Banking Circular 202 dated July 2, 1985, and Bank Letter BL–36–85 dated October 4, 1985, respectively, limited the reporting of deferred tax assets in the regulatory reports filed by national banks and insured state nonmember banks to the amount of taxes previously paid which are potentially available through carryback of net operating losses. As such, the OCC and FDIC did not permit the reporting of deferred tax assets that are dependent upon future taxable income in the Call Reports filed by national and insured state nonmember banks. The FRB and OTS did not issue policies explicitly addressing the recognition of deferred tax assets. Consequently, state member banks and savings associations were able to report deferred tax assets in accordance with GAAP. Prior to FASB 109, GAAP, as set forth in APB 11 and FASB 96, also for the most part did not permit the reporting of deferred tax assets that are dependent upon future taxable income.

relationships, and any disallowed deferred tax assets.

When the recorded amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, exceeds this limitation, the excess amount would be deducted from Tier 1 capital and from assets in regulatory capital calculations. Deferred tax assets that can be realized from taxes paid in prior carryback years and from future reversals of existing taxable temporary differences generally would not be limited under the proposal.

III. Public Comments on the Proposal

The comment period for the FDIC's proposal closed on June 4, 1993. The FDIC received comment letters from 23 entities, 18 of which were banks or bank holding companies, four of which were bank trade associations, and one of which was an accounting firm (which submitted two comment letters). Only two commenters expressed support for or nonobjection to the proposed regulatory capital limitation, although each raised an implementation question about the limit. Two others favored the concept of a regulatory capital limitation on deferred taxes, but recommended that the limit be set in a different manner than was proposed. Three commenters seemed to suggest that deferred tax assets should not be included in regulatory capital at all. The remaining 16 commenters, including all of the larger banking organizations that commented, expressed a preference for placing no limit on the amount of deferred tax assets that can be included in regulatory capital. These commenters generally indicated that a regulatory capital limitation on deferred tax assets is unnecessary because FASB 109 contains sufficient safeguards to ensure that the amount of deferred tax assets carried on an institution's balance sheet is realizable. Instead, they supported the full adoption of FASB 109 for both regulatory reporting and regulatory capital purposes, indicating that such an approach would limit regulatory burden. Nevertheless, while preferring no capital limit on deferred tax assets, two commenters considered the agencies' decision to include some deferred tax assets that are dependent upon future taxable income in regulatory capital as a positive step compared to prior regulatory policies and proposals permitting little or no inclusion of such deferred tax assets in regulatory reports and regulatory capital.

Responses to the FDIC's Questions

The proposed rule requested specific comment on a number of questions.

Question (1): The FDIC's first question asked about the appropriateness of the proposed capital limit, particularly the ten percent of Tier 1 capital limitation. Eight commenters specifically responded to this question, while the views expressed by most of the remaining commenters could also be regarded as responsive to this question. In other words, because more than two-thirds of the commenters favored relying on the proper application of GAAP to the reporting of deferred tax assets over establishing a separate regulatory capital limit on such assets, these commenters generally considered the proposed limits to be inappropriate and unnecessary. Some of those who commented on this issue noted that any percentage of capital limit would be inappropriate because realizability is a function of an institution's ability to generate future taxable income. Thus, several letters described the proposed ten percent limit as arbitrary and too conservative.

One commenter noted that healthy banks typically earn in excess of ten percent of Tier 1 capital each year, thereby ensuring that this percentage limit will be the operative limit for such banks. This commenter suggested setting the percentage limitation for institutions that are deemed to be ''well-capitalized'' for prompt corrective action purposes at 20 percent of Tier 1 capital.

Another commenter likened deferred tax assets to the two identifiable intangible assets, purchased mortgage servicing rights (PMSRs) and purchased credit card relationships (PCCRs), that are included in Tier 1 capital. This commenter's recommendation was to apply the existing percentage limits for these two intangibles to deferred tax assets, *i.e.*, a 50 percent of Tier 1 capital limit for the total of PMSRs, PCCRs, and deferred tax assets along with 25 percent of Tier 1 capital sublimits for both PCCRs and deferred tax assets.

Question (2): The second question dealt with whether certain identifiable assets acquired in a nontaxable business combination accounted for as a purchase should be adjusted for the tax effect of the difference between the market or appraised value of the asset and its tax basis. Under FASB 109, this tax effect is recorded separately in a deferred tax liability account, whereas under previous GAAP, this tax effect reduced the amount of the intangible asset. This change in treatment could cause a large increase, *i.e.*, a ''gross-up,'' in the reported amount of certain identifiable intangible assets, such as core deposit intangibles, which are deducted for purposes of computing regulatory capital.

Six commenters indicated that institutions should be permitted to deduct the net after-tax amount of the intangible asset from capital, not the gross amount of the intangible asset. These commenters argued that FASB 109 will create artificially high carrying values for intangible assets and a related deferred tax liability when an institution acquires assets with a carryover basis for tax purposes but revalues the assets for financial reporting purposes. The commenters generally indicated that, under FASB 109, the balance sheet will not accurately reflect the value paid for the intangibles. Furthermore, commenters indicated that the increased carrying value of the intangible asset posed no risk to an institution, because a reduction in the value of the asset would effectively extinguish the related deferred tax liability.

On the other hand, one commenter indicated that deferred tax assets resulting from the gross-up effect in certain business combinations should not be treated differently from other deferred tax assets.

Question (3): The FDIC's third question inquired about (a) the potential burden associated with the proposal and whether a limitation based on projections of future taxable income would be difficult to implement and (b) the appropriateness of the separate entity method for determining the proposed limit on deferred tax assets and for tax sharing agreements in general.

Question (3)(a): The FDIC received seven comment letters specifically addressing the issue of potential burden and a limitation based on income projections.

Two commenters supported the use of income projections. The first one stated that capital limitations on deferred tax assets based on projected future taxable income should not be difficult to implement and should not impose an additional burden. This commenter noted that many institutions already forecast future taxable income in order to support the recognition of deferred tax assets on their balance sheets. The second commenter similarly observed that these taxable income projections must be evaluated by institutions' independent auditors and that the subjectivity and complexity involved in such projections are no greater than for the process of determining loan loss reserves. Another commenter added that

these calculations should not pose any problems, provided they are done on a consolidated basis. One other commenter, who did not appear to oppose the concept of income projections, nevertheless reported that requiring banks to project their taxable income for the next year at the end of each interim quarter presents a potentially difficult burden to smaller banks.

In addition, one commenter who did not directly address the burden of income projections recommended that the FDIC clarify the term ''expected to be realized within one year.'' This commenter suggested that the term should mean the amount of deferred tax assets that could be absorbed by the expected amount of income taxes that would result from an institution's projected future taxable income for the next 12 months, and not the amount of deferred tax assets that actually will be used.

In contrast, three commenters specifically opposed an income approach, preferring that a limit be determined by other means. These commenters opposed the income approach because they believe that projecting future earnings involves either too much subjectivity or complexity. Instead, the three commenters expressed a preference for setting the regulatory capital limit for deferred tax assets solely as a percentage of capital. Two of these commenters suggested that the deferred tax asset limit should be a function of an institution's capital level for prompt corrective action purposes, with the highest limit for ''well capitalized'' banks. The other commenter recommended that the FDIC adopt percentage of capital limits consistent with those applicable to purchased mortgage servicing rights and purchased credit card receivables. On the other hand, one commenter specifically opposed the establishment of a capital limitation based upon the perceived ''health'' of an institution, stating that this method could lead to arbitrary and inconsistent measures of capital adequacy.

Question (3)(b): Seven commenters expressed opinions concerning the separate entity method. The FDIC's proposal stated that the capital limit for deferred tax assets would be determined on a separate entity basis for each insured state nonmember bank. Under this method, a bank (together with its consolidated subsidiaries) that is a subsidiary of a holding company is treated as a separate taxpayer rather than as part of a consolidated group.

All of these commenters opposed the separate entity approach, although one commenter appeared to support this approach for banks that do not have a ''strong'' holding company. Commenters argued that the separate entity approach is artificial and that tax-sharing agreements between financially capable bank holding companies and bank subsidiaries should be considered when evaluating the recognition of deferred tax assets for regulatory capital purposes. Commenters also stated that the separate entity method is unnecessarily restrictive and is contrary to bank tax management practices. It was suggested that any systematic and rational method that is in accordance with GAAP should be permitted for the calculation of the limitation for each bank.

One commenter's opposition to the separate entity approach was based on the view that the limitation is not consistent with the Federal Reserve Board's 1987 ''Policy Statement on the Responsibility of Bank Holding Companies to Act as Sources of Strength to Their Subsidiary Banks'' and the FDIC's 1990 ''Statement of Policy Regarding Liability of Commonly Controlled Depository Institutions,'' which, in some respects, treat a controlled group as one entity. Another commenter contended that the effect of a separate entity calculation would be to reduce bank capital which is needed for future lending, an outcome that would be inconsistent with the objectives of the March 10, 1993, ''Interagency Policy Statement on Credit Availability.'' This same commenter as well as one other further noted that the required use of the separate entity method creates significant regulatory burden and adds to the cost and complexity of calculating deferred tax assets for both bankers and regulators.

Question (4): The FDIC's fourth question requested comment on the appropriateness of the provisions of the proposal that would (a) consider tax planning strategies as part of an institution's projections of taxable income for the next year and (b) assume that all temporary differences fully reverse at the report date.

Question (4)(a): The FDIC's proposal stated that the effect of tax planning strategies that are expected to be implemented to realize tax carryforwards that will otherwise expire during the next year should be included in taxable income projections. Five commenters addressed this issue. All of these commenters expressed support for including tax planning strategies in an institution's projection of taxable income. However, one commenter went on to state that the proposal should be modified to permit institutions to consider strategies that would ensure realization of deferred tax assets within the one-year time frame.

Question (4)(b): Six commenters specifically addressed the full reversal of temporary differences assumption and all but one agreed that this assumption is appropriate. One commenter observed that this assumption would eliminate the burden of scheduling the ''turnaround'' of temporary differences. In contrast, one commenter felt that this assumption was not realistic.

Question (5): The FDIC's final question asked whether the definition for the term ''deferred tax assets that are dependent upon future taxable income'' should appear in the rule, as proposed, or in the Call Report instructions. The only commenter who responded to this question indicated that the Call Report instructions should reference definitions in the tax rules and FASB 109.

IV. Final Rule

Limitation on Deferred Tax Assets

After considering the comments received on the proposed rule and consulting with the other federal banking agencies, the FDIC is limiting the amount of deferred tax assets that are dependent on future taxable income that can be included in Tier 1 capital for risk-based and leverage capital purposes. The limitation is consistent with both the FDIC's proposal and the recommendation of the FFIEC's Task Force on Supervision to the agencies as announced by the FFIEC on November 18, 1994. Under the final rule, for regulatory capital purposes, deferred tax assets that are dependent upon future taxable income are limited to the lesser of:

(1) the amount of such deferred tax assets that the institution expects to realize within one year of the quarter-end report date, based on its projection of future taxable income (exclusive of tax carryforwards and reversals of existing temporary differences), or

(2) ten percent of Tier 1 capital before deducting any disallowed purchased mortgage servicing rights, any disallowed purchased credit card relationships, and any disallowed deferred tax assets.

Deferred tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences generally are not limited under the final rule. The reported amount of deferred tax assets, net of its valuation

allowance, in excess of the limitation will be deducted from Tier 1 capital for purposes of calculating both the risk-based and leverage capital ratios. Banks should not include the amount of disallowed deferred tax assets in risk-weighted assets in the risk-based capital ratio and should deduct the amount of disallowed deferred tax assets from average total assets in the leverage capital ratio. Deferred tax assets included in capital continue to be assigned a risk weight of 100 percent.

To determine the limit, a bank should assume that all temporary differences fully reverse as of the report date. The amount of deferred tax assets that are dependent upon future taxable income that is expected to be realized within one year means the amount of such deferred tax assets that could be absorbed by the amount of income taxes that are expected to be payable based upon the bank's projected future taxable income for the next 12 months. Estimates of taxable income for the next year should include the effect of tax planning strategies that the bank is planning to implement to realize tax carryforwards that will otherwise expire during the year. Consistent with FASB 109, the FDIC believes tax planning strategies are carried out to prevent the expiration of such carryforwards. These provisions of the final rule are consistent with the proposed rule.

The capital limitation is intended to balance the FDIC's continued concerns about deferred tax assets that are dependent upon future taxable income against the fact that such assets will, in many cases, be realized. The limitation also ensures that state nonmember banks do not place excessive reliance on deferred tax assets to satisfy the minimum capital standards.

The final rule generally permits full inclusion of deferred tax assets potentially recoverable from carrybacks, since these amounts normally will be realized. The final rule also includes in Tier 1 capital those deferred tax assets that are dependent upon future taxable income, if they can be recovered from projected taxable income during the next year, provided this amount does not exceed ten percent of Tier 1 capital. The FDIC is limiting projections of future taxable income to one year because the FDIC believes that banks generally are capable of making taxable income projections for the following twelve month period that have a reasonably good probability of being achieved. However, the reliability of projections tends to decrease significantly beyond that time period. Deferred tax assets that are dependent upon future taxable income are also limited to ten percent of Tier 1 capital, since the FDIC believes such assets should not comprise a large portion of a bank's capital base given the uncertainty of realization associated with these assets and the difficulty in selling these assets apart from the bank. Furthermore, a ten percent of capital limit also reduces the risk that an overly optimistic estimate of future taxable income will cause a bank to significantly overstate the allowable amount of deferred tax assets.

Banks are required to follow FASB 109 for regulatory reporting purposes and, accordingly, are already making projections of taxable income. The ten percent of Tier 1 capital calculation also is straightforward. In addition, banks have been reporting the amount of deferred tax assets that would be disallowed under the proposal in their Call Reports since the March 31, 1993, report date. Therefore, the FDIC believes that banks will not have significant difficulty in implementing this final rule. In this regard, as of the September 30, 1994, report date, more than one third of the 7,000 state nonmember banks carried no net deferred tax assets on their balance sheets. Fewer than 300 state nonmember banks with net deferred tax assets reported that any portion of this asset would have been disallowed under the proposal.

Guidance on Specific Implementation Issues

In response to the comments received and after discussions with the other federal banking agencies, the FDIC is providing the following additional guidance concerning the implementation of the limit.

Projecting Future Taxable Income: Banks may choose to use the future taxable income projections for their current fiscal year (adjusted for any significant changes that have occurred or are expected to occur) when applying the capital limit at an interim report date rather than preparing a new one-year projection each quarter. One commenter expressed concern about the potential burden and difficulty of preparing revised projections each quarter, particularly for smaller banks.

In addition, the final rule does not specify how originating temporary differences should be treated for purposes of projecting future taxable income for the next year. Each institution should decide whether to adjust its income projections for originating temporary differences and should follow a reasonable and consistent approach.

Tax Jurisdictions: Unlike the proposed rule, the final rule does not require an institution to determine its limitation on deferred tax assets on a jurisdiction-by-jurisdiction basis. While an approach that looks at each jurisdiction separately theoretically may be more accurate, the FDIC does not believe the greater precision that would be achieved in mandating such an approach outweighs the complexities involved and its inherent cost to institutions. Therefore, to limit regulatory burden, a bank may calculate one overall limit on deferred tax assets that covers all tax jurisdictions in which the bank operates.

Available-for-sale Securities: Under FASB Statement No. 115, ''Accounting for Certain Investments in Debt and Equity Securities'' (FASB 115), ''available-for-sale'' securities are reported in regulatory reports at fair value, with unrealized holding gains and losses on such securities, net of tax effects, included in a separate component of stockholders equity. These tax effects may increase or decrease the reported amount of a bank's net deferred tax assets.

The FDIC has recently decided to exclude from regulatory capital the amount of net unrealized holding gains and losses on available-for-sale securities (except net unrealized holding losses of available-for-sale equity securities with readily determinable fair values) (59 FR 66662, Dec. 28, 1994). Therefore, it would be consistent to exclude the deferred tax effects relating to unrealized holding gains and losses on these available-for-sale securities from the calculation of the allowable amount of deferred tax assets for regulatory capital purposes. On the other hand, requiring the exclusion of such deferred tax effects would add significant complexity to the regulatory capital standards and in most cases would not have a significant impact on regulatory capital ratios.

Therefore, when determining the capital limit for deferred tax assets, the FDIC has decided to permit, but not require, institutions to adjust the reported amount of deferred tax assets for any deferred tax assets and liabilities arising from marking-to-market available-for-sale debt securities for regulatory reporting purposes. This choice will reduce implementation burden for institutions not wanting to contend with the complexity arising from such adjustments, while permitting those institutions that want to achieve greater precision to make such adjustments. Institutions must follow a consistent approach with respect to such adjustments.

Separate Entity Method: Under the proposed rule, the capital limit would

be determined on a separate entity basis by each bank that was a subsidiary of a holding company. The use of a separate entity approach for income tax sharing agreements (including intercompany tax payments and current and deferred taxes) is generally required by the FDIC's 1978 Statement of Policy on Income Tax Remittance by Banks to Holding Company Affiliates, and similar policies are followed by the other federal banking agencies. Thus, any change to the separate entity approach for deferred tax assets would also need to consider changes to this policy statement, which is outside the scope of this rulemaking. The FDIC also notes that income tax data in bank regulatory reports generally are required to be prepared using a separate entity approach and consistency between these reports would be reduced if institutions were permitted to use other methods for calculating deferred tax assets in addition to a separate entity approach. Thus, while a number of the commenters suggested that the FDIC consider permitting other approaches, the FDIC has decided that the final rule should retain the separate entity approach.

The final rule departs from the separate entity approach in one situation. This situation arises when a bank's parent holding company, if any, does not have the financial capability to reimburse the bank for tax benefits derived from the bank's carryback of net operating losses or tax credits. If this occurs, the amount of carryback potential the bank may consider in calculating the amount of deferred tax assets that may be included in Tier 1 capital may not exceed the amount which the bank could reasonably expect to have refunded by its parent. This provision of the final rule is consistent with the proposed rule.

Gross-up of Intangibles: As noted above, the manner in which FASB 109 must be applied when accounting for purchase business combinations can lead to a large increase (*i.e.*, ''gross-up'') in the reported amount of certain intangible assets, such as core deposit intangibles, which are deducted for purposes of computing regulatory capital. Commenters stated that the increased carrying value of such an intangible posed no risk to an institution, because a reduction in the value of the asset would effectively extinguish the related deferred tax liability. The FDIC agrees with these commenters and, consequently, will permit, for capital adequacy purposes, the netting of deferred tax liabilities arising from this gross-up effect against related intangible assets. This will result in the same treatment for intangibles acquired in purchase business combinations as under the accounting standards in effect prior to FASB 109. However, a deferred tax liability netted in this manner may not also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income. Netting will not be permitted against purchased mortgage servicing rights and purchased credit card relationships, since these intangible assets are deducted for capital adequacy purposes only if they exceed specified capital limits.

Leveraged Leases: While not expected to significantly affect many banks, one commenter stated that future net tax liabilities related to leveraged leases acquired in a purchase business combination are included in the value assigned to the leveraged leases and are not shown on the balance sheet as part of an institution's deferred taxes. This artificially increases the amount of deferred tax assets for those institutions that acquire leveraged leases. Thus, this commenter continued, the future taxes payable included in the valuation of a leveraged lease portfolio in a purchase business combination should be treated as a taxable temporary difference whose reversal would support the recognition of deferred tax assets, if applicable. The FDIC agrees with this commenter and, therefore, banks may use the deferred tax liabilities that are embedded in the carrying value of a leveraged lease to reduce the amount of deferred tax assets subject to the capital limit.

V. Regulatory Flexibility Act Analysis

The FDIC does not believe that the adoption of this final rule will have a significant economic impact on a substantial number of small business entities (in this case, small banks), in accordance with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In this regard, the vast majority of small banks currently have very limited amounts of net deferred tax assets, which are the subject of this proposal, as a component of their capital structures. Furthermore, adoption of this final rule, in combination with the adoption of FASB 109 for regulatory reporting purposes, will allow many banks to increase the amount of deferred tax assets they include in regulatory capital.

VI. Paperwork Reduction Act

The FDIC has previously received approval from the Office of Management and Budget (OMB) to collect in the Reports of Condition and Income (Call Reports) information on the amount of deferred tax assets disallowed for regulatory capital purposes. (OMB Control Number 3064–0052.) Therefore, this final rule will not increase banks' existing regulatory paperwork burden.

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State nonmember banks.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 325 of title 12 of the Code of Federal Regulations as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for Part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 3907, 3909; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, 2386 (12 U.S.C. 1828 note).

§ 325.2 [Amended]

2. Section 325.2 is amended in paragraphs (t) and (v) by adding ''minus deferred tax assets in excess of the limit set forth in § 325.5(g),'' after ''12 CFR part 567),''.

3. Section 325.5 is amended:

a. In paragraphs (f)(3)(i) and (f)(4)(i), by removing the word ''and'', by adding a comma after ''rights'', and by adding '', and any disallowed deferred tax assets'' after ''relationships''; and

b. By adding a new paragraph (g) to read as follows:

§ 325.5 Miscellaneous.

* * * * *

(g) *Treatment of deferred tax assets.* For purposes of calculating Tier 1 capital under this part (but not for financial statement purposes), deferred tax assets are subject to the conditions, limitations, and restrictions described in this section.

(1) *Deferred tax assets that are dependent upon future taxable income.* These assets are:

(i) Deferred tax assets arising from deductible temporary differences that exceed the amount of taxes previously paid that could be recovered through loss carrybacks if existing temporary differences (both deductible and taxable and regardless of where the related deferred tax effects are reported on the balance sheet) fully reverse at the calendar quarter-end date; and

(ii) Deferred tax assets arising from operating loss and tax credit carryforwards.

(2) *Tier 1 capital limitations.* (i) The maximum allowable amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, will be limited to the lesser of:

(A) The amount of deferred tax assets that are dependent upon future taxable income that is expected to be realized within one year of the calendar quarter-end date, based on projected future taxable income for that year; or

(B) Ten percent of the amount of Tier 1 capital that exists before the deduction of any disallowed purchased mortgage servicing rights, any disallowed purchased credit card relationships, and any disallowed deferred tax assets.

(ii) For purposes of this limitation, all existing temporary differences should be assumed to fully reverse at the calendar quarter-end date. The recorded amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, in excess of this limitation will be deducted from assets and from equity capital for purposes of determining Tier 1 capital under this part. The amount of deferred tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences generally would not be deducted from assets and from equity capital. However, notwithstanding the above, the amount of carryback potential that may be considered in calculating the amount of deferred tax assets that a member of a consolidated group (for tax purposes) may include in Tier 1 capital may not exceed the amount which the member could reasonably expect to have refunded by its parent.

(3) *Projected future taxable income.* Projected future taxable income should not include net operating loss carryforwards to be used within one year of the most recent calendar quarter-end date or the amount of existing temporary differences expected to reverse within that year. Projected future taxable income should include the estimated effect of tax planning strategies that are expected to be implemented to realize tax carryforwards that will otherwise expire during that year. Future taxable income projections for the current fiscal year (adjusted for any significant changes that have occurred or are expected to occur) may be used when applying the capital limit at an interim calendar quarter-end date rather then preparing a new projection each quarter.

(4) *Unrealized holding gains and losses on available-for-sale debt securities.* The deferred tax effects of any unrealized holding gains and losses on available-for-sale debt securities may be excluded from the determination of the amount of deferred tax assets that are dependent upon future taxable income and the calculation of the maximum allowable amount of such assets. If these deferred tax effects are excluded, this treatment must be followed consistently over time.

(5) *Intangible assets acquired in nontaxable purchase business combinations.* A deferred tax liability that is specifically related to an intangible asset (other than purchased mortgage servicing rights and purchased credit card relationships) acquired in a nontaxable purchase business combination may be netted against this intangible asset. Only the net amount of the intangible asset must be deducted from Tier 1 capital. When a deferred tax liability is netted in this manner, the taxable temporary difference that gives rise to this deferred tax liability must be excluded from existing taxable temporary differences when determining the amount of deferred tax assets that are dependent upon future taxable income and calculating the maximum allowable amount of such assets.

4. Section I.A.1. of appendix A to part 325 is amended by revising the first paragraph following the definitions of Core capital elements to read as follows:

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

I. * * *

A. * * *

1. * * *

At least 50 percent of the qualifying total capital base should consist of Tier 1 capital. *Core (Tier 1) capital* is defined as the sum of core capital elements[3] minus all intangible assets other than mortgage servicing rights and purchased credit card relationships[4] and minus any disallowed deferred tax assets.

* * * * *

5. Section I.B. of Appendix A to part 325 is amended by adding a new paragraph (5) immediately after paragraph (4) and preceding the final undesignated paragraph of Section I.B. to read as follows:

* * * * *

I. * * *

B. * * *

(5) *Deferred tax assets* in excess of the limit set forth in § 325.5(g). These disallowed deferred tax assets are deducted from the core capital (Tier 1) elements.

* * * * *

Appendix A to Part 325 [Amended]

6. Table I in Appendix A to part 325 is amended by redesignating footnote 3 as footnote 4, by adding a new entry at the end under ''Core Capital (Tier 1)'' and by adding a new footnote 3 to read as follows:

TABLE I.—DEFINITION OF QUALIFYING CAPITAL

[Note: See footnotes at end of table]

Components	Minimum requirements and limitations after transition period
Core Capital (Tier 1) * * *	
* * * * *	
Less: Certain deferred tax assers.[3]	
* * * * *	

[3] Deferred tax assets are subject to the capital limitations set forth in § 325.5(g).

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 31st day of January 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

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BILLING CODE 6714–01–P

[3] In addition to the core capital elements, Tier 1 may also include certain supplementary capital elements during the transition period subject to certain limitations set forth in section III of this statement of policy.

[4] An exception is allowed for intangible assets that are explicitly approved by the FDIC as part of the bank's regulatory capital on a specific case basis. These intangibles will be included in capital for risk-based capital purposes under the terms and conditions that are specifically approved by the FDIC.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Statement of Policy or Interpretation; Enforcement Policy for Art Materials

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; statement of enforcement policy.

SUMMARY: In 1988, Congress enacted the Labeling of Hazardous Art Materials Act which mandated a labeling standard and certain other requirements for art materials. Based on its experience enforcing these requirements, the Commission is issuing a statement of enforcement policy to more clearly apprise the public of its intended enforcement focus.

DATES: Effective Date; February 13, 1995.

Applicability Dates: For items for which this policy relieves a restriction, this policy is applicable for products introduced into interstate commerce on or after February 13, 1995. For items against which the Commission previously stated it would not enforce under LHAMA, the policy becomes applicable for products introduced into interstate commerce on or after August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Toro, Division of Regulatory Management, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0400.

SUPPLEMENTARY INFORMATION:

A. Background

In 1988, Congress enacted the Labeling of Hazardous Art Materials Act (''LHAMA''), 15 U.S.C. 1277. Through LHAMA, Congress expressed its desire that art materials should be labeled to warn consumers of potential chronic hazards. LHAMA mandated a voluntary standard, ASTM D 4236, with certain modifications, as a mandatory Commission rule under section 3(b) of the Federal Hazardous Substances Act (''FHSA'').

On October 9, 1992, the Commission issued a notice in the **Federal Register** that codified the standard as mandated by Congress. 57 FR 46626. (At that time, the Commission also issued guidelines for determining when a product presents a chronic hazard, and a supplemental regulatory definition of the term ''toxic'' that explicitly includes chronic toxicity.) The standard is codified at 16 CFR 1500.14(b)(8).

LHAMA and the standard it mandated provide certain requirements for art materials. Under these requirements, the producer or repackager of an art material must submit the product's formulation to a toxicologist to determine whether the art material has potential to produce chronic adverse health effects through customary or reasonably foreseeable use. If the toxicologist determines that the art material has this potential, the producer or repackager must use suitable labeling on the product. The producer or manufacturer of the art material must submit to the Commission (1) the criteria the toxicologist uses to determine whether the producer/repackager's product presents a chronic hazard and (2) a list of art materials that require chronic hazard labeling. The standard also requires that the product bear or be displayed with a conformance statement indicating that it has been reviewed in accordance with the standard. The standard, which is set forth at 16 CFR 1500.14(b)(8), and section 2(p) of the FHSA, 15 U.S.C. 1261(p), provide additional information on the required content of labels and the conformance statement.

B. The Scope of ''Art Materials''

1. The Statute and Previous Commission Interpretation

The requirements described above apply to ''art materials'' as broadly defined in LHAMA. The term art material is defined in the statute as ''any substance marketed or represented by the producer or repackager as suitable for use in any phase of the creation of any work of visual or graphic art of any medium.'' 15 U.S.C. 1277(b)(1). The definition applies to art materials intended for users of any age, but excludes pesticides, drugs, devices, and cosmetics subject to other federal statutes, *Id.* 1277(b) (1) and (2).

When the Commission issued the final rule implementing the LHAMA provisions on October 9, 1992, it recognized that the statutory definition of art material could be interpreted to reach far beyond the common perception of the meaning of that term. Accordingly, the Commission identified three categories of products that it would not enforce the LHAMA requirements against, although they arguably fall within the statutory definition of art materials. Specifically, the Commission stated that it would not enforce the LHAMA requirements against tools, implements, and furniture that were used in the process of creating a work of art but do not become part of the work of art (called ''category 3 products'' in the October 9, 1992 notice). Examples provided of items that might fall into this category were drafting tables and chairs, easels, picture frames, canvas stretchers, potter's wheels, hammers, chisels, and air pumps for air brushes.

The Commission also delineated two general categories of products which could fall within the statutory definition and against which the Commission would enforce the LHAMA requirements. The October 9, 1992 notice identified these items as products which actually become a component of the work of art (e.g., paint, canvas, inks) (previously ''category 1 products'') and products closely and intimately associated with the creation of an art work (e.g., brush cleaners, solvents, photo developing chemicals) (previously ''category 2 products'').

2. The Statement of Enforcement Policy

The distinctions made in the October 9, 1992 notice have proved unsatisfactory in the practical enforcement of the LHAMA requirements. The staff has found that these categories, and enforcement policies based on the categories, may lead to inconsistent determinations. Thus, the Commission began to reconsider its enforcement of the LHAMA requirements against certain products. On March 8, 1994, the Commission published a proposed Enforcement Policy for Art Materials. 59 FR 10761. Today, the Commission is finalizing its enforcement policy essentially as it was proposed. This notice restates the enforcement policy, clarifies several issues, and responds to public comments received on the proposal. This interpretation will supersede the enforcement policy stated in the October 9, 1992 notice and other related interpretations.

The Commission will focus its enforcement efforts on items that have traditionally been considered art materials, such as paints, inks, solvents, pastes, ceramic glazes, and crayons, and on other items that may present a risk of chronic injury. This enforcement policy will not compromise public safety because there is virtually no risk of chronic health effects with the types of products and materials—such as paper or hard plastic—that the Commission will not enforce against. Also, even if such products presented such a risk, the Federal Hazardous Substances Act, 15 U.S.C. 1261(p), requires cautionary labeling for any article intended or packaged for household use if it contains a hazardous substance. This includes, but is not limited to, art materials that, under reasonably foreseeable conditions of purchase, storage, or use, may be used in or around the household. Unless expressly exempted, children's articles are banned under the FHSA if they are or contain a hazardous substance. The Commission believes that the public interest will be better served by this exercise of enforcement discretion because the staff can use its limited resources more efficiently to pursue enforcement actions against those art materials that present the greatest risk of chronic health effects.

The Commission will not enforce against the following types of products under LHAMA.

(1) General use products. The Commission will not take enforcement action under LHAMA against general use products which might incidentally be used to create art, unless a particular

product is specifically packaged, promoted, or marketed in a manner that would lead a reasonable person to conclude that it is intended for use as an art material. Examples of such general use products are common wood pencils, pens, markers, and chalk. For enforcement purposes, the Commission presumes that these types of items are not art materials. The presumption can be overcome, however, by evidence that such an item is intended for specific use in creating art. Factors the Commission will consider to determine the status of such items include how the items are packaged (e.g., packages of multiple colored pencils, chalks, or markers unless promoted for non-art material uses are likely to be art materials), how they are marketed and promoted (e.g., pencils and pens intended specifically for sketching and drawing are likely to be art materials), and where they are sold (e.g., products sold in an art supply store are likely to be art materials).

(2) Tools, implements, and furniture. The Commission will not take enforcement action under LHAMA against tools, implements, and furniture used in the creation of a work of art, such as brushes, chisels, easels, picture frames, drafting tables and chairs, canvas stretchers, potter's wheels, hammers, and air pumps for air brushes. In this policy statement the Commission expands the scope of what were referred to as ''category 3'' art materials in the October 9, 1992 notice. Based on the Commission's enforcement experience, the Commission will consider some items that it previously categorized as closely and intimately associated with creation of a work of art (previously ''category 2'' products) to be tools, implements and furniture. The Commission believes that these items (brushes, kilns, and molds) are better characterized as tools and implements against which the Commission will not enforce the LHAMA requirements. The Commission believes this revised interpretation is more consistent with the purposes of LHAMA. They are not like the more traditional art materials mentioned in LHAMA floor debates, and they are unlikely to pose a chronic hazard to the user.

(3) Surface materials. The Commission will not take enforcement action under LHAMA against the surface materials to which an art material is applied. Examples are coloring books and canvas. In many instances, an art material is applied to a surface such as paper, plastic, wood, or cloth. These surfaces continue to be components of the work of art and thus art materials, but are now characterized as products against which the Commission will not enforce the LHAMA requirements.

(4) Specific Materials. The Commission will also not take enforcement action under LHAMA against the following specifically enumerated materials: paper, cloth, plastic, film, yarn, threads, rubber, sand, wood, stone, tile, masonry, and metal. Several of these materials are often used as a surface for art work while others are used to create the work of art itself. Regardless of whether such items are used as a surface or not, the Commission will not enforce the LHAMA requirements against them.

The guidance given in (3) and (4) above does not apply if the processing or handling of a material exposes users to chemicals in or on the material in a manner which makes those chemicals susceptible to being ingested, absorbed through the skin, or inhaled. The Commission believes that in most cases, the surfaces and specific materials listed do not present a chronic risk. These types of materials are unlikely to allow exposure. However, if it is likely that reasonably foreseeable handling or use of the material would expose the consumer to chemicals, the Commission will enforce all LHAMA requirements with respect to that product. This is a question of potential exposure, not the manufacturer's assessment of hazard. Thus, even if the chemical to which the consumer might be exposed is potentially non-hazardous, the Commission would enforce the LHAMA requirements, including review by a toxicologist. This is consistent with Congress's intention that a toxicologist, not the manufacturer, should assess the potential chronic hazard.

For example, paper stickers marketed or promoted as art materials often have an adhesive backing that users lick. The act of licking the backing can result in the ingestion of chemicals, and the LHAMA requirements will therefore be enforced. For self-adhesive stickers, on the other hand, which present little risk of exposure, the staff will generally refrain from enforcement unless there is reason to believe that the nature of a particular sticker and its intended use presents a genuine risk of exposure to a potential chemical hazard either by ingestion or absorption.

Another example involves plastic. If the artistic use for which the plastic is intended requires heating or melting it in a manner that results in the emission of chemical vapors, the LHAMA requirements will be enforced.

C. Craft and Hobby Kits and Supplies

1. Kits

a. Previous Interpretation

In enforcing LHAMA, the Commission has encountered the question of the applicability of LHAMA requirements to certain craft or hobby kits. The basic issue centers on the meaning of the term ''work of art.'' In previous letters to industry, the staff has advised that the determination depends on whether the end product produced from the kit would be primarily functional or aesthetic. If the former were true, the staff has said that the end product would not be a work of art and none of the components would be art materials. If the latter were true, the end product would be a work of art and all of the components of the kit would be art materials. This distinction proved difficult for practical enforcement, and has raised the possibility of inconsistent enforcement results. For example, if the same paints that were included in a kit to make a working model airplane were also included in a paint-by-number set, under the staff's previous interpretation, the Commission would enforce the LHAMA requirements against the paints in the second kit, but not in the first.

b. Statement of Enforcement Policy

After considering the above, as well as the purpose of LHAMA to alert consumers to the potential dangers associated with products used in the creation of art, the Commission published its proposed policy to clarify its enforcement of LHAMA concerning craft and hobby kits. The Commission is finalizing that aspect of the policy as proposed. As explained below, the Commission believes that its LHAMA enforcement should include both (1) kits to make items for display and (2) kits which involve decorating an item, regardless of the end use of the item created. Models and similar kits to make hobby or art/craft items can have dual purposes, both functional and for display. In addition, when a consumer creatively decorates a functional object, it arguably becomes a work of art just as decorated canvas or paper would. Therefore, the Commission believes that materials for decorating and assembling models and art/craft items come within the reach of LHAMA. The Commission believes that the following interpretation is more workable than the previous one and is consistent with the intent of Congress.

For kits that include materials to decorate products whether the products are functional, for display, or both, the Commission will enforce the LHAMA

requirements against materials in the kit that are intended to decorate or assemble an item in the kit—i.e., traditional art materials, such as, paints, crayons, colored pencils, adhesives, and putties—even if the finished product is a toy or other item whose primary use may be functional. Thus, for a kit that contains a plastic toy or a paint-by number board, along with paints or adhesives to decorate or assemble the item, the Commission will expect the paints and adhesives in each case to meet all the LHAMA requirements. However, as explained in section B.2.(3) & (4) above pertaining to surfaces and specific materials, the Commission would not enforce the requirements against the plastic toy or the board.

For kits that package an item that would be subject to enforcement under this policy together with an item that would not, any necessary chronic hazard statements or labeling, including any required conformance statement, must appear on the outer container or wrapping of the kit, or must be visible through it, and must specify the item to which the statement or labeling refers. Any conformance statement must be visible at the point of sale. In addition to being visible at the point of sale, any required chronic hazard warning label must be on the immediate package of the item that is subject to LHAMA as well as on accompanying literature where there are instructions for use. See 16 CFR 1500.125.

2. Enforcement Policy for Separate Supplies

As stated in the March 8, 1994 proposal, the Commission will enforce LHAMA requirements against materials intended to decorate art and craft, model and hobby items, such as paints, even if they are sold separately and not part of a kit. Similarly, paints or markers intended for decorating clothes will be considered art materials for enforcement purposes since they are intended for decorating clothing, even though the resulting item, the garment, has a functional purpose. Note that as explained in section B above, the Commission would not enforce the requirements against the surface upon which the art material is applied, regardless of the primary use of the finished product.

The status of glues, adhesives, and putties will depend on their intended use. Some illustrative examples follow. Glues which are marketed for general repair use only would not be art materials, and the Commission will not enforce the LHAMA requirements against them. Glue sticks for glue guns which are for art or craft use would be considered art materials. Spray adhesives and rubber cements will normally be considered art materials unless they are marketed for some specialty non-art use. School pastes and glues will also be considered art materials.

D. Conformance Statement

Section 1500.14(b)(8)(i)(C)(7) of the LHAMA rule requires that a conformance statement appear with an art material. In the preamble to the original LHAMA rule, the Commission stated that every art material must display either a conformance statement or a hazard warning, but not both. *See* 57 FR 46629, October 9, 1992.

The Commission has reviewed this matter in light of one comment it received opposing the Commission's policy on this issue and its experience enforcing the LHAMA requirements. The Commission agrees with the commenter and is now modifying its policy concerning the conformance statement.

The language of the standard that was mandated by LHAMA is not entirely clear on this question. 16 CFR 1500.14(b)(8)(i)(C). However, based on its experience enforcing LHAMA, the Commission agrees with the commenter that there is the potential for confusion if some products that have been reviewed according to the standard display a conformance statement but others do not. Thus, the Commission's policy is that a conformance statement must appear with all toxicologist-reviewed art materials subject to LHAMA regardless of whether they also have a hazard warning statement. A subsection has been added to the enforcement policy, § 1500.14(b)(8)(iv)(C), stating this policy. Since the conformance statement constitutes ''other cautionary labeling'' as defined in 16 CFR 1500.121(a)(2)(viii), it must comply with the conspicuousness requirements of 16 CFR 1500.121 (c) and (d), including the type-size requirement laid out in Table 1 of 1500.121(c)(2).

E. Response to Comments

1. General

The Commission heard from six commenters on its proposed enforcement policy. For the most part, commenters supported the Commission's effort to clarify its enforcement intentions in this area. For example, one commenter stated that the proposed enforcement policy alleviates practical problems, follows common sense, is consistent with Congressional intent, and appropriately focuses on intended use. However, commenters did raise several specific criticisms of certain aspects of the proposed policy. These comments and the Commission's responses are discussed below.

2. Scope of ''Art Materials''

One commenter suggested changing 16 CFR 1500.14(b)(8)(iv)(A)(1) to state that markers sold in art supply stores *are* art materials, rather than *likely* to be art materials.

The Commission declines to make this change. For general use products, the Commission will look at a variety of factors, including packaging, marketing, and where the item is sold. Often a single factor will not be determinative. For example, along with other markers, an art supply store might sell high-lighters which are clearly promoted for use by students in marking textbooks. These are probably general use products, and the enforcement policy should be flexible enough to allow this determination.

The Writing Instrument Manufacturer's Association (''WIMA''), a trade association for the writing instrument industry, commented that it generally supported the proposed enforcement policy but suggested that cased pencils (referred to as common wood pencils in the proposed policy) should generally be considered art materials. WIMA asserted that these pencils are generally considered in the industry to be art materials and are used for drawing and sketching. Another commenter argued that if the enforcement policy considers these general use pencils not to be art materials, products from China and other countries without consumer protection laws will flood the market.

The Commission declines to make this change in the enforcement policy. The Commission believes that common pencils, much like pens or markers, are generally used as writing materials. Under the policy, specific pencils that are intended primarily for drawing or sketching (such as colored pencils) will be considered art materials for enforcement purposes. Of course, pencil makers who wish to submit their formulations to a toxicologist for evaluation and label them accordingly may do so. However, the Commission will not enforce the LHAMA requirements against common pencils unless they are specifically intended or marketed as art materials. Whether products are produced domestically or imported, they are all subject to the consumer protection laws and regulations of this country if they are sold here. With respect to the comment concerning imports from countries

without consumer protection laws, CPSC reminds the commenter that imports are subject to the same requirements as products made in this country.

One commenter stated support for the proposed enforcement policy's treatment of brushes, kilns, and molds, finding it to be consistent with other CPSC policy interpretations. CPSC agrees.

3. Actual Toxicity Hazards

One commenter argued that the proposed enforcement policy would allow products which present chronic toxicity hazards to consumers to evade the review required by LHAMA. The commenter stated that items ''such as pencils, paper, fabric, paint brushes, and sand have all been found to present chronic toxicity hazards in the past * * *.''

The Commission's scientific staff examined this comment, and does not agree. Neither the Commission nor the staff have concluded that any of the listed items typically present chronic toxicity hazards. The staff has in the past examined some uses of some of these materials outside of the context of art materials. For example, children's playsand was evaluated to see if the sand posed a hazard through tremolite asbestos or non-asbestos tremolite. No such hazard was established. Paper has been found to contain extremely small amounts of dioxin, but the amount is so small that the risk is negligible. Through its enforcement policy, the Commission is attempting to focus enforcement efforts on items that may actually harm consumers. The Commission believes this policy furthers that goal. It is worth noting that in the unlikely event that any of these items were found to be dangerous, the labeling and banning provisions of the Federal Hazardous Substances Act (15 U.S.C. 1261 (f), (p), and (q)(1), and 15 U.S.C. 1263) still apply.

Another commenter agreed with the Commission's focus on potential for genuine risk of exposure but suggested that the language of the proposed policy be changed in 16 CFR 1500.14(b)(8)(iv)(A) (3) and (4) to state that the user's exposure must be to a *hazardous* chemical before the Commission will enforce LHAMA against the materials listed in those subsections. In the sections referred to, the enforcement policy provides that the Commission will not enforce the LHAMA requirements against surface materials and certain specifically enumerated materials unless it is likely that handling or processing the material may expose the user to chemicals in or on the material.

The Commission declines to make the commenter's suggested change. As explained in section B.2 above, although the Commission believes that generally there will not be a chronic hazard with use of these materials, the Commission is concerned that a situation could arise in which a unique manner of handling or using these materials could pose a risk of exposure. An example is paper stickers with adhesive that is licked. The commenter's suggestion would put the manufacturer in the position of deciding whether a particular chemical is hazardous. However, Congress intended that this determination be made by the toxicologist reviewing a product's formulation. The enforcement policy concerns the initial question of whether exposure is likely, not whether a chemical is hazardous. Thus, under the Commission's enforcement policy, if there is the potential for exposure to a chemical from a surface or specifically enumerated material, the LHAMA requirements will be enforced.

4. Enforcing LHAMA Against Non-Hazardous Products

Comments suggested that all art materials should have to comply with LHAMA regardless of actual risk, and that the items listed in the proposed enforcement policy should not be excluded from enforcement efforts. They noted that the conformance statement on a non-hazardous product tells the consumer that the product has been cleared by a toxicologist. An unlabeled product, on the other hand, could either have been evaluated as non-toxic, or not evaluated at all. Thus the commenters argue that the Commission should enforce against all art materials, whether hazardous or not.

In response, the Commission notes that focusing its enforcement efforts is important to ensure that the enforcement program is as effective as possible through the effective use of the Commission's limited resources. The Commission believes that the categories of products against which it will no longer enforce present virtually no risk of exposing consumers to chronic toxicity hazards. No evidence of consumer confusion was presented with the comments, and we think any such confusion should be minimal.

5. Conformance Statement and Warnings

As explained above, one commenter argued that the conformance statement should accompany all art materials, including those that also require a hazard warning. The preamble to the original LHAMA rule stated that every art material must display either a conformance statement or a hazard warning, but not both. *See* 57 FR 46629, October 9, 1992.

The Commission has reviewed this issue in light of this comment and its experience. For reasons explained in greater detail above, the Commission agrees with the commenter and has added a subsection to the enforcement policy making this change.

6. Other Labeling Issues

One commenter noted that some labels bear adequate safe handling instructions, but do not list the chronic hazards that necessitate these precautions. LHAMA and the ASTM standard clearly require that both the chronic hazard and the safety instructions be on the label.

Another commenter noted that facially adequate labels should be examined for accuracy. The Commission considers this a very important issue. If labels are inaccurate, the labels and the standard itself become meaningless to the consumer. It is clearly unacceptable for labels to indicate that they have been reviewed by a toxicologist (by display of the conformance statement) if they in fact have not.

7. Kits and Supplies

One commenter stated specific support for the proposed enforcement policy concerning kits and separate supplies.

8. Status of Enforcement Policy

One commenter argued that the Commission is actually exempting certain products from the FHSA, and it is therefore improper to issue an enforcement policy rather than a regulation under section 3(c) of the FHSA (15 U.S.C. 1262(c)). The commenter argued that the enforcement policy would create confusion.

The Commission disagrees with this comment. This policy does not exempt any items from the FHSA. First, the policy does not grant exemptions from the LHAMA provisions, but rather clarifies the Commission's interpretation of the statutory term ''art material'' and informs the public that the Commission's enforcement efforts under LHAMA will be directed against those products that present the greatest risk. Through this policy, the Commission is explaining what that means in practice. The policy explains how the Commission will interpret the statutory definition of ''art material'' for purposes of enforcement and that it does not intend to enforce LHAMA

requirements against certain items or materials which are unlikely to present a chronic hazard. The Commission believes that the policy, with its general guidance and specific examples, will help to clarify existing confusion. The enforcement policy will be published in the CFR with the LHAMA regulations so that all will be aware of Commission policy. In addition, the policy has no impact on the enforcement of other provisions of the FHSA, such as recall or notice actions under section 15 of the FHSA, as to art materials.

Focusing enforcement efforts to make them maximally effective is an appropriate use of an enforcement policy. The commenter stated that enforcement policies should clarify where an agency will take action, rather than where it will not. No authority was cited for this proposition, and the Commission is not aware of any such authority.

However, the Commission is modifying the language of section 1500.14(b)(8)(iv)(A)(1) slightly to clarify its interpretation with respect to that one category of products. The Commission does not consider the products described in that subsection (products intended for general use) to be art materials under the statutory definition. This is now stated explicitly in that subsection.

9. Effective Date

One commenter requested that manufacturers have one year to comply with this enforcement policy, rather than six months. No data were submitted as to why compliance in six months would be unduly burdensome. The Commission believes that six months is adequate time to submit formulae to toxicologists and comply with relevant labeling requirements. The Commission will, however, apply the policy to those products initially introduced into interstate commerce after six months, rather than those manufactured or imported after that date.

10. Prohibition of Lead in Children's Products

One commenter suggested that the Commission should prohibit the use of lead in products intended or marketed for the use of children. This comment is beyond the scope of this enforcement policy. However, we remind the commenter that the hazard of lead in consumer products intended for children is dealt with by regulations under the CPSA, 16 CFR 1303.4, and provisions of the FHSA, 15 U.S.C. 1261 (f)(1)(A) & (q)(1)(A).

F. Environmental Considerations

The Commission has considered whether issuance of this enforcement statement will produce any environmental effects and has determined that it will not. The Commission's regulations at 16 CFR 1021.5(c)(1) state that rules and safety standards ordinarily have little or no potential to affect the human environment, and therefore, do not require an environmental impact statement or environmental assessment. The Commission believes that, as with such standards, this enforcement policy would have no adverse impact on the environment.

G. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act generally requires agencies to prepare proposed and final regulatory analyses describing the impact of a rule on small businesses and other small entities. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Commission believes that this enforcement statement will have little effect on businesses in general or on small businesses in particular. Accordingly, the Commission concludes that its enforcement statement concerning the labeling of hazardous art materials would not have any significant economic effect on a substantial number of small entities.

H. Authority

Section 10 of the FHSA gives the Commission authority to issue regulations for the efficient enforcement of the FHSA. 15 U.S.C. 1269(a). This provision authorizes the Commission to issue statements of enforcement policy in which the Commission explains how it intends to enforce a Commission requirement.

I. Applicability Date

Since this notice issues an interpretative rule/statement of policy, no particular applicability date is required by the Administrative Procedure Act. 5 U.S.C. 553(d)(2). The Commission recognizes, however, that as to items against which the Commission previously stated that it would not enforce LHAMA, manufacturers will need time to bring their products into compliance. Thus, this policy regarding such items applies to products introduced into interstate commerce on or after 6 months from the date this policy is published in the **Federal Register**. The Commission believes that this is adequate time to submit formulae to toxicologists and comply with relevant labeling requirements. As to those items where this policy relieves a restriction, the policy becomes applicable for such products introduced into interstate commerce on or after the date of publication of this notice.

List of Subjects in 16 CFR Part 1500

Arts and crafts, Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Toys.

For the reasons given above, the Commission amends 16 CFR 1500.14 as follows:

PART 1500—[AMENDED]

1. The authority citation for part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1277.

2. Section 1500.14 is amended by adding a new paragraph (b)(8)(iv) to read as follows:

§ 1500.14 Products requiring special labeling under section 3(b) of the Act.

* * * * *

(b) * * *

(8) * * *

(iv) *Policies and interpretations.*

(A) For purposes of enforcement policy, the Commission will not consider as sufficient grounds for bringing an enforcement action under the Labeling of Hazardous Art Materials Act (''LHAMA'') the failure of the following types of products to meet the requirements of § 1500.14(b)(8) (i) through (iii).

(*1*) Products whose intended general use is not to create art (e.g., common wood pencils, and single colored pens, markers, and chalk), unless the particular product is specifically packaged, promoted, or marketed in a manner that would lead a reasonable person to conclude that it is intended for use as an art material. Factors the Commission would consider in making this determination are how an item is packaged (e.g., packages of multiple colored pencils, chalks, or markers unless promoted for non-art materials uses are likely to be art materials), how it is marketed and promoted (e.g., pencils and pens intended specifically for sketching and drawing are likely to be art materials), and where it is sold (e.g., products sold in an art supply store are likely to be art materials). The products described in this paragraph do not meet the statutory definition of ''art material.''

(2) Tools, implements, and furniture used in the creation of a work of art such as brushes, chisels, easels, picture frames, drafting tables and chairs, canvas stretchers, potter's wheels, hammers, air pumps for air brushes, kilns, and molds.

(3) Surface materials upon which an art material is applied, such as coloring books and canvas, unless, as a result of processing or handling, the consumer is likely to be exposed to a chemical in or on the surface material in a manner which makes that chemical susceptible to being ingested, absorbed, or inhaled.

(4) The following materials whether used as a surface or applied to one, unless, as a result of processing or handling, the consumer is likely to be exposed to a chemical in or on the surface material in a manner which makes that chemical susceptible to being ingested, absorbed, or inhaled: paper, cloth, plastics, films, yarn, threads, rubber, sand, wood, stone, tile, masonry, and metal.

(B) For purposes of LHAMA enforcement policy, the Commission will enforce against materials including, but not limited to, paints, crayons, colored pencils, glues, adhesives, and putties, if such materials are sold as part of an art, craft, model, or hobby kit. The Commission will enforce the LHAMA requirements against paints or other materials sold separately which are intended to decorate art, craft, model, and hobby items. Adhesives, glues, and putties intended for general repair or construction uses are not subject to LHAMA. However, the Commission will enforce the LHAMA requirements against adhesives, glues, and putties sold separately (not part of a kit) if they are intended for art and craft and model construction uses. This paragraph (b)(8)(iv)(B) applies to products introduced into interstate commerce on or after August 14, 1995.

(C) Commission regulations at § 1500.14(b)(8)(i)(C)(7) require that a statement of conformance appear with art materials that have been reviewed in accordance with the Commission standard. The Commission interprets this provision to require a conformance statement regardless of the presence of any chronic hazard warnings.

(D) Nothing in this enforcement statement should be deemed to alter any of the requirements of the Federal Hazardous Substances Act (''FHSA''), such as, but not limited to, the requirement that any hazardous substance intended or packaged in a form suitable for household use must be labeled in accordance with section 2(p) of the FHSA.

Dated: February 6, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–3450 Filed 2–10–95; 8:45 am]

BILLING CODE 6355–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Delegation of Authority to the Director of the Division of Trading and Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is delegating to the Director of the Division of Trading and Markets, and to such members of the Commission staff acting under the Director's direction as the Director may designate from time to time, the authority to perform all functions reserved to the Commission under the recently adopted risk assessment requirements for holding company systems in §§ 1.14 and 1.15 of the Commission's regulations. The delegation should result in more expeditious treatment of exemption requests, which will benefit futures commission merchants (''FCMs'') and the Commission.

EFFECTIVE DATE: February 13, 1995.

FOR FURTHER INFORMATION CONTACT: Lawrence T. Eckert, Attorney Adviser, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington D.C. 20581. Telephone (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Delegation

On December 21, 1994, the Commission adopted Rules 1.14 and 1.15 to implement the risk assessment authority set forth in Section 4f(c) of the Commodity Exchange Act.[1] These rules generally require FCMs that are subject to the rules to maintain and file with the Commission certain information concerning their financial activities and the activities of their material affiliates.

In promulgating the risk assessment rules, and at the suggestion of commenters on the proposed rules, the Commission reserved, in Rules 1.14(d)(3) and 1.15(c)(3), the authority to exempt any FCM from any of the provisions of either Rule 1.14 or Rule 1.15 if the Commission finds that the exemption is not contrary to the public interest and the purposes of the provisions from which the exemption is sought. Additionally, the rules permit the Commission to exempt an FCM affiliated with a ''Reporting Futures Commission Merchant'' from the recordkeeping and reporting requirements of the rules, and permit the Commission to request information to supplement an FCM's filings with the Commission if the Commission determines that additional information is necessary for a complete understanding of a particular affiliate's financial impact on the FCM's organizational structure.[2]

The Commission has determined to codify in Part 140 the delegation of its authority under the risk assessment rules to the Director of the Division of Trading and Markets.[3] Accordingly, the Commission is hereby amending its delegation of authority to the Director of the Division of Trading and Markets set forth in Rule 140.91, which currently governs authority to perform functions on behalf of the Commission with respect to the minimum financial and related reporting requirements for FCMs and introducing brokers under Rules 1.10, 1.12, 1.16 and 1.17, by adding to it the authority to act on behalf of the Commission with respect to all functions reserved to the Commission under Rules 1.14 and 1.15. The Commission further notes that paragraph (b) of Rule 140.91 will continue to provide that the Director may submit any matter delegated under the rule to the Commission for its consideration.

II. Related Matters

A. Administrative Procedure Act

The Commission has determined that this delegation of authority relates solely to agency organization, procedure and practice. Therefore, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, which generally require notice of proposed rule making and which provide other opportunities for public participation, are not applicable. The Commission further finds that, because the rule has no adverse effect upon a member of the public, there is good cause to make it effective immediately upon publication in the **Federal Register**.

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[1] 59 FR 66674 (December 28, 1994).

[2] Rules 1.14(d)(2), 1.15(c)(2) and 1.15(a)(2)(iii). For a complete discussion of the recently adopted risk assessment rules, see 59 FR 66674.

[3] See 59 FR 66674, at 66682, n.35 (Director of Division of Trading and Markets is generally delegated the authority to act on behalf of the Commission with respect to the risk assessment rules).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–611 (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rules discussed herein are only an administrative delegation and will have no impact on registered entities. Even if these rules were deemed to affect FCMs, the Commission already has established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA and FCMs have been determined not to be small entities under the RFA.[4] Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these rule amendments will not have a significant impact on a substantial number of smaller entities.

List of Subjects in 17 CFR Part 140

Authority delegations (Government agencies).

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and, in particular, sections 2a and 8a, 7 U.S.C. 4a and 12a, the Commission is amending part 140 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

1. The authority citation for Part 140 continues to read as follows:

Authority: 7 U.S.C. 4a and 12a.

2. Section 140.91 is amended by redesignating paragraphs (a)(3) and (a)(4) as (a)(5) and (a)(6) and by adding new paragraphs (a)(3) and (a)(4) to read as follows:

§ 140.91 Delegation of authority to the Director of the Division of Trading and Markets.

(a) * * *

(3) All functions reserved to the Commission in § 1.14 of this chapter;

(4) All functions reserved to the Commission in § 1.15 of this chapter;

* * * * *

Issued in Washington, D.C. on February 7, 1995, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 95–3455 Filed 2–10–95; 8:45 am]

BILLING CODE 6351–01–U

[4] 47 FR 18618–18621 (April 30, 1982).

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1310

Administrative Cost Recovery

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: This final rule amends TVA's administrative cost recovery regulations by adding a provision requiring payment to TVA of nonrefundable application processing fees to recover the costs of reviewing plans for the construction, operation, or maintenance of dams, appurtenant works, or other obstructions affecting navigation, flood control, or public lands or reservations in the Tennessee River system under Section 26a of the TVA Act; eliminating cost recovery exemptions for agricultural licenses, firewood cutting permits, permits for the nonexclusive short-term use of TVA land, conveyance or abandonment of TVA land or landrights to States, municipalities, and political subdivisions and agencies thereof, and use of TVA land for utility line crossings; authorizing the responsible land manager to establish a standard charge for each category of action rather than determining the actual administrative costs for each individual action; and increasing the range of fees for certain actions. These amendments will allow TVA to recover more of its administrative costs incurred in processing certain actions from those persons who directly benefit from the actions.

EFFECTIVE DATE: March 17, 1995.

FOR FURTHER INFORMATION CONTACT: David L. Pack, Manager of Reservoir Land Management, Tennessee Valley Authority, 17 Ridgeway Road, Norris, Tennessee 37828, (615) 632–1602.

SUPPLEMENTARY INFORMATION: TVA published the proposed rulemaking in the **Federal Register** on October 27 (59 FR 53948–49) and invited comments for 30 days ending November 28, 1994. No comments were received. Accordingly, TVA is promulgating this final rule as proposed.

In order to help ensure that TVA land management and permitting activities are self-sustaining to the fullest extent possible, the agency has determined that its administrative cost recovery regulations should be expanded to include a broader range of use, disposal, and permitting activities. This determination is consistent with national objectives to increase government efficiency and to recover the costs of government services from those who most directly benefit from the services.

Persons who wish to construct dams, appurtenant works, or other obstructions in or along the Tennessee River system are required by Section 26a of the TVA Act of 1933, as amended, to obtain TVA's approval of plans for the proposed activity prior to construction. TVA's administrative cost recovery regulations previously provided for recovery of costs of actions taken by TVA to approve obstructions constructed without prior approval of plans. In order to help ensure that the agency's entire Section 26a permitting program is self-sustaining to the fullest extent possible, the amended regulations now provide for recovery of costs of processing permits for proposed obstructions as well as after-the-fact permit processing. The responsible TVA land manager has established standard permit processing fees that will be payable upon submission of a permit application and will be nonrefundable regardless of whether or not the plans are approved by TVA.

Initially, the standard application processing fee for private noncommercial Section 26a permit proposals will be $100, and the standard fee for commercial, industrial, and public Section 26a permit application processing will be $500. These fees are based in part upon a review of costs incurred by TVA in processing these permits. In addition, TVA examined prevailing permit application fees by conducting a comparative analysis survey of several other agencies and utilities. In adjusting application processing fees and in establishing standard fees for other applicable activities, the responsible land manager will examine average costs incurred in conducting the various activities.

The amended regulations also provide for increasing TVA's administrative fee for quota deer hunts and quota turkey hunts at Land Between The Lakes. The purpose of this fee is to recover the cost of processing applications, conducting a computerized drawing, and mailing notification of selection status. The hunting fee will increase from $2 to a range of $5 to $25. This range will allow TVA to recover increasing costs of conducting the drawings and hunts, and allow a range of pricing for special hunts and drawings.

Applications received prior to March 17, 1995, will be processed under the regulations in effect at the time of receipt of the application.

List of Subjects in 18 CFR Part 1310

Government property, Hunting.

For the reasons set out in the preamble, 18 CFR Part 1310 is revised to read as follows:

PART 1310—ADMINISTRATIVE COST RECOVERY

Sec.
1310.1 Purpose.
1310.2 Application.
1310.3 Assessment of administrative charge.

Authority: 16 U.S.C. 831–831dd; 31 U.S.C. 9701.

§ 1310.1 Purpose.

The purpose of the regulations in this part is to establish a schedule of fees to be charged in connection with the disposition and uses of, and activities affecting, real property in TVA's custody or control; approval of plans under Section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y–1); and certain other activities in order to help ensure that such activities are self-sustaining to the full extent possible.

§ 1310.2 Application.

(a) *General.* TVA will undertake the following actions only upon the condition that the applicant pay to TVA such administrative charge as the Vice-President of Land Management or the Manager of Power Properties (hereinafter ''responsible land manager''), as appropriate, shall assess in accordance with § 1310.3; provided, however, that the responsible land manager may waive payment where he/she determines that there is a corresponding benefit to TVA or that such waiver is otherwise in the public interest:

(1) Conveyances and abandonment of TVA land or landrights.

(2) Licenses and other uses of TVA land not involving the disposition of TVA real property or interests in real property.

(3) Actions taken to suffer the presence of unauthorized fills and structures over, on, or across TVA land or landrights, and including actions not involving the abandonment or disposal of TVA land or landrights.

(4) Actions taken to approve fills, structures, or other obstructions under Section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y–1), and TVA's regulations issued thereunder at part 1304 of this chapter.

(b) *Exemption.* An administrative charge shall not be made for the following actions:

(1) Conveyances pursuant to section 4(k)(d) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831c(k)(d)).

(2) Releases of unneeded mineral right options.

(3) TVA phosphate land and mineral transactions.

(4) Permits and licenses for use of TVA land by distributors of TVA power.

(c) *Quota deer hunt and turkey hunt applications.* Quota deer hunt and turkey hunt permit applications will be processed by TVA if accompanied by the fee prescribed in § 1310.3(d).

§ 1310.3 Assessment of administrative charge.

(a) *Range of charges.* Except as otherwise provided herein, the responsible land manager shall assess a charge which he/she determines in his/her sole judgment to be approximately equal to the administrative costs incurred by TVA for each action including both the direct cost to TVA and applicable overheads. In determining the amount of such charge, the responsible land manager may establish a standard charge for each category of action rather than determining the actual administrative costs for each individual action. The standard charge shall be an amount approximately equal to TVA's actual average administrative costs for the category of action. Charges shall be not less than the minimum or greater than the maximum amount specified herein, except as otherwise provided in paragraph (c) of this section.

(1) Land transfers—$500–$10,000.

(2) Use permits or licenses–$50–$5,000.

(3) Actions taken to approve plans for fills, structures, or other obstructions under Section 26a of the TVA Act—$100–$5,000.

(4) Abandonment of transmission line easements and rights-of-way—$100–$1,500.

(5) Quota deer hunt or turkey hunt applications—$5–$25.

(b) *Basis of charge.* The administrative charge assessed by the responsible land manager shall, to the extent applicable, include the following costs:

(1) Appraisal of the land or landrights affected;

(2) Assessing applicable rental fees;

(3) Compliance inspections and other field investigations;

(4) Title and record searches;

(5) Preparation for and conducting public auction and negotiated sales;

(6) Mapping and surveying;

(7) Preparation of conveyance instrument, permit, or other authorization or approval instrument;

(8) Coordination of the proposed action within TVA and with other Federal, State, and local agencies;

(9) Legal review; and

(10) Administrative overheads associated with the transaction.

(c) *Assessment of charge when actual administrative costs significantly exceed established range.* When the responsible land manager determines that the actual administrative costs are expected to significantly exceed the range of costs established in paragraph (a) of this section, such manager shall not proceed with the TVA action until agreement is reached on payment of a charge calculated to cover TVA's actual administrative costs.

(d) *Quota deer hunt and turkey hunt application fees.* A fee for each person in the amount prescribed by the responsible land manager must accompany the complete application form for a quota deer hunt and turkey hunt permit. Applications will not be processed unless accompanied by the correct fee amount. No refunds will be made to unsuccessful applicants, except that fees received after the application due date will be refunded.

(e) *Additional charges.* In addition to the charges assessed under these regulations, TVA may impose a charge in connection with environmental reviews or other environmental investigations it conducts under its policies or procedures implementing the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Kathryn J. Jackson,

Senior Vice President, Resource Group.

[FR Doc. 95–3451 Filed 2–10–95; 8:45 am]

BILLING CODE 8120–01–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 251, 252, 253, 254, 255, 256, 257, 258, and 259

[Docket No. RM 93–12 and RM 94–1A]

Copyright Arbitration Royalty Panels; Correction

AGENCY: Copyright Office, Library of Congress.

ACTION: Correction to regulations.

SUMMARY: This document contains corrections to the former Copyright Royalty Tribunal (CRT) regulations that were reissued by the Library of Congress and the Copyright Office on December 22, 1993, and to the interim copyright arbitration rules that were published on May 9, 1994.

EFFECTIVE DATE: These corrections are effective February 13, 1995.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Attorney,

Copyright Arbitration Royalty Panels, P.O. Box 70977, Southwest Station, Washington, D.C. 20024 (202–707–8380).

SUPPLEMENTARY INFORMATION: On December 17, 1993, the Copyright Royalty Tribunal was abolished, and its functions were transferred to copyright arbitration royalty panels (CARPs) to be convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993 (CRT Reform Act), Pub.L. No. 103–198, 107 Stat. 2304 (1993). The CRT Reform Act directed the Library and the Office to adopt the rules and regulations of the former CRT until later rules were adopted. Accordingly, the CRT's rules were republished on December 22, 1993. 58 FR 67690 (December 22, 1993).

The Library and the Office adopted interim rules on May 9, 1994, and final rules on December 7, 1994 adapting the former CRT rules to the new copyright arbitration system. 59 FR 23964 (May 9, 1994); 59 FR 63025 (December 7, 1994).

In reviewing the former CRT rules and our new CARP rules, we have discovered a number of substantive and nonsubstantive technical errors.

The first was an error in the interim rules published on May 9, 1994, in which the reference in § 251.32(a) to ''§ 251.30'' should read ''§ 251.31''.

The second error occurred in § 251.52(c), Proposed findings and conclusions. To distinguish between proposed findings of fact and proposed conclusions, the sentence in paragraph (c) which reads, ''Proposed findings shall be stated separately.'', should be removed from paragraph (c) and placed in a new paragraph (d).

The third was an error in the 1992 public broadcasting rate adjustment proceeding at the CRT. In § 253.6(c)(4), the rate listed there is applicable to the years 1993–1997, not 1988–1992, as published.

The fourth error is found in § 254.2 which defines coin-operated phonorecord player. The section references the definition in former section 116 of the Copyright Act, which was repealed by the CRT Reform Act. Section 254.2 is therefore revised by inserting the definitional langauge formerly contained in section 116.

The fifth correction is to the mechanical royalty rates listed in § 255.3. When the CRT adjusted the royalty rate in 1993 to take effect in 1994, it dropped an earlier paragraph that described the rates that were in effect for the period 1992–1993. It left the impression that the rates effective starting in 1990 were in effect for four years, instead of two. We are restoring that paragraph, so that all the rates, beginning in 1981, are listed in the rules.

The sixth correction is removal of the reference, ''(Supp. IV 1992)'', wherever it appears in part 259. The reference, ''(Supp. IV 1992)'', refers to the Audio Home Recording Act of 1992, Pub.L. No. 102–563, 106 Stat. 4237, which amended Title 17, of the U.S. Code, by adding a new Chapter 10. Since the Audio Home Recording Act has been incorporated into title 17 at Chapter 10, there is no need to continue citation to the Supplement.

The seventh correction is to § 259.2, the section on filing a claim for digital audio recording royalties. When we published our interim rules on May 9, 1994, the Office substituted the phrase ''Library of Congress'' or ''Copyright Office'', as appropriate, for ''Copyright Royalty Tribunal'' wherever the phrase was found. However, in reviewing § 259.2, it appears that it would have been more accurate to substitute the phrase ''Copyright Office and/or Copyright Arbitration Panels'' for ''Copyright Royalty Tribunal'' as a recognition of the split nature of the proceedings.

And finally, three terms will be added to the List of Subjects. Under the heading, 37 CFR Part 258, the term ''Cable television'' should be replaced with the term ''Satellite'' to more accurately reflect the content of this section. Additionally, the term ''rate'' shall be added to the headings, 37 CFR Part 255 and 37 CFR Part 258. The addition of this term will harmonize the subject lists for these sections with the headings for 37 CFR 253, 37 CFR Part 254 and 37 CFR Part 256. We are making that change here and correcting any nonsubstantive technical errors.

List of Subjects

37 CFR Part 251

Administrative practice and procedure, Hearing and appeal procedures.

37 CFR Part 252

Cable television, Claims, Copyright.

37 CFR Part 253

Copyright, Music, Radio, Rates, Television.

37 CFR Part 254

Copyright, Jukeboxes, Rates.

37 CFR Part 255

Copyright, Music, Recordings.

37 CFR Part 256

Cable television, Rates.

37 CFR Part 257

Claims, Copyright, Satellites.

37 CFR Part 258

Copyright, Satellites.

37 CFR Part 259

Claims, Copyright, Digital audio recording devices and media.

PART 251—COPYRIGHT ARBITRATION ROYALTY PANEL RULES OF PROCEDURE

Accordingly, 37 CFR chapter II is corrected by making the following corrections and amendments:

1. and 2. The authority citation for part 251 continues to read as follows:

Authority: 17 U.S.C. 801–803.

§ 251.13 [Corrected]

3. Section 251.13(f) is corrected by adding an ''a'' before the word ''clearly''.

§ 251.32 [Corrected]

4. In § 251.32(a), the reference to ''§ 251.30'' is revised to read ''§ 251.31''.

§ 251.33 [Corrected]

5. The first sentence in § 251.33(c) is corrected by replacing the word ''a'' with ''an'' in the phrase ''to serve as a arbitrator''.

§ 251.38 [Corrected]

6. In § 251.38(b), the word ''for'' is added before the word ''travel''.

§ 251.44 [Corrected]

7. In § 251.44(e)(1), the first ''it'' in the last sentence is revised to read ''the document''.

8. Section 251.44(g) is corrected by revising ''telefacsimile'' to read ''facsimile''.

9. Section 251.48(f)(1)(ii) is revised to read as follows:

§ 251.48 Rules of evidence.

* * * * *

(b) * * *

(1) * * *

(ii) An explanation of the method of selecting the sample and of the characteristics which were measured and counted.

* * * * *

§ 251.50 [Corrected]

10. In § 251.50, ''That'' is revised to read ''that''.

§ 251.52 [Amended]

11. In § 251.52 the sentence which reads, ''Proposed conclusions shall be stated separately.'' is removed from paragraph (c) and a new paragraph (d) is added to read as follows:

§ 251.52 Proposed findings and conclusions.

* * * * *

(d) Proposed conclusions shall be stated separately.

PART 252—FILING OF CLAIMS TO CABLE ROYALTY FEES

12. and 13. The authority citation for part 252 continues to read as follows:

Authority: 17 U.S.C. 111(d)(4), 801, 803.

§ 252.1 [Corrected]

14. Section 252.1 is corrected by removing the word ''to'' before the U.S. Code citation.

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

15. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

§ 253.6 [Corrected]

16. In § 253.6(c)(4), the phrase ''1988 through 1992,'' is revised to read ''1993 through 1997,''.

PART 254—ADJUSTMENT OF ROYALTY RATE FOR COIN-OPERATED PHONORECORD PLAYERS

17. The authority citation for part 254 continues to read as follows:

Authority: 17 U.S.C. 116, 801(b)(1).

§ 254.2 [Corrected]

18. Section 254.2 is revised to read as follows:

§ 254.2 Definition of coin-operated phonorecord player.

As used in this part, the term *coin-operated phonorecord player* is a machine or device that:

(a) Is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(b) Is located in an establishment making no direct or indirect charge for admission;

(c) Is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(d) Affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

PART 255—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

19. The authority citation for part 255 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 803.

§ 255.3 [Corrected]

20. In § 255.3, paragraph (a), the phrase ''paragraphs (b), (c), (d), (e), (f) and (g) of this section.'' is revised to read ''paragraphs (b), (c), (d), (e), (f), (g) and (h) of this section.''

21. In § 255.3, paragraph (b), the phrase ''paragraphs (c), (d), (e), (f) and (g) of this section.'' is revised to read ''paragraphs (c), (d), (e), (f), (g) and (h) of this section.''

22. In § 255.3, paragraph (c), the phrase ''paragraphs (d), (e), (f) and (g) of this section.'' is revised to read ''paragraphs (d), (e), (f), (g) and (h) of this section.''

23. In § 255.3, paragraph (d), the phrase ''paragraphs (e), (f) and (g) of this section.'' is revised to read ''paragraphs (e), (f), (g) and (h) of this section.''

24. In § 255.3, paragraph (e), the phrase ''paragraphs (f) and (g) of this section.'' is revised to read ''paragraphs (f), (g) and (h) of this section.''

25. In § 255.3, paragraphs (f) and (g) are redesignated (g) and (h), respectively, the reference in redesignated paragraph (g) to ''paragraph (g)'' is revised to read ''paragraph (h)'', and a new paragraph (f) is added as follows:

§ 255.3 Adjustment of royalty rate.

* * * * *

(f) For every phonorecord made and distributed on or after January 1, 1992, the royalty payable with respect to each work embodied in the phonorecord shall be 6.25 cents, or 1.2 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (g) and (h) of this section.

* * * * *

PART 256—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

26. The authority citation for part 256 continues to read as follows:

Authority: 17 U.S.C. 702, 802.

§ 256.1 [Corrected]

27. The first sentence of § 256.1 is corrected by revising ''or'' to read ''for''.

PART 259—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS

28. The authority citation for part 259 continues to read as follows:

Authority: 17 U.S.C. 1007(a)(1).

§ 259.1 [Amended]

29. Section 259.1 is amended by removing all references to ''(Supp. IV 1992)''.

§ 259.2 [Corrected]

30. In paragraphs (a) and (b) of § 259.2, ''and/or Copyright Arbitration Royalty Panels'' is added after the phrase ''Copyright Office'' and before the phrase ''in royalty filing''.

§ 259.3 [Amended]

31. Paragraph (a) of § 259.3 is amended by removing all references to ''(Supp. IV 1992)''.

§ 259.4 [Amended]

32. Paragraphs (a) and (b) of § 259.4 are amended by removing all references to ''(Supp. IV 1992)''.

Dated: February 7, 1995.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 95–3497 Filed 2–10–95; 8:45 am]

BILLING CODE 1410–33–P

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37 CFR Parts 251 and 259

[Docket No. RM 94–1A]

Copyright Arbitration Royalty Panels; Correction

AGENCY: Copyright Office, Library of Congress.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations that were published Wednesday, December 7, 1994, concerning copyright arbitration royalty panels. The first correction concerns the removal of § 251.72, and the second is a grammatical correction of § 259.3(d).

EFFECTIVE DATE: These regulations are effective February 13, 1995.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024, (202–707–8380).

SUPPLEMENTARY INFORMATION: On December 7, 1994, the final rules governing the copyright arbitration royalty panels (CARP) were published in the **Federal Register**. As published, the final regulations contained two errors. 59 FR 63025 (December 7, 1994).

First, the final regulations removed § 251.72; however, the section was incorrectly cited as § 3251.7.

Second, § 259.3(d) was amended to state that if a joint claim to digital audio recording royalties (DART) is filed, it shall include a concise statement of the authorization for the filing of the joint claim and the name of each claimant to the joint claim. However, as published, § 259.3(d) was grammatically incorrect.

Accordingly, the publication on December 7, 1994, of the final regulations is corrected as follows:

§ 251.72 [Corrected]

On page 63042, in the second column, ''§ 3251.7 [Removed]'' is corrected to read, ''§ 251.72 [Removed]''.

§ 259.3 [Corrected]

On page 63043, in the second column, in § 259.3, paragraph (d), after the phrase ''If the claim is a joint claim,'' and before the phrase ''a concise statement'', the words ''it shall include'' are added.

Dated: February 7, 1995.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 95–3498 Filed 2–10–95; 8:45 am]

BILLING CODE 1410–33–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85–15; Notice 14]

RIN 2127–AE07

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

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

ACTION: Response to petitions for reconsideration; final rule.

SUMMARY: This notice responds to petitions for reconsideration of the final rule published on January 12, 1993, that added minimum photometric values for headlamps at test points above the horizontal. The notice corrects minor errors that appeared in the final rule, and others which have been brought to NHTSA's attention. The notice also deletes photometric requirements that no longer apply to headlighting systems on vehicles manufactured on and after September 1, 1994.

DATES: The final rule is effective March 15, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Rulemaking, NHTSA (202–366–6987).

SUPPLEMENTARY INFORMATION: On January 12, 1993, NHTSA published a final rule adopting 49 CFR part 564, *Replaceable Light Source Information,* as a repository for information on new types of replaceable light sources for headlamps, and amending 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment* to ensure that the light sources in part 564 are designed to meet certain performance requirements of the standard, and to amend the headlighting requirements by adding minimum photometric values at two zones and two test points above the horizontal (58 FR 3856). Petitions for reconsideration of part 564 have been received, and will be responded to separately and at a later date. This notice responds to the portion of the rule that amended Standard No. 108.

No petitions were received asking for reconsideration of the amendments to Standard No. 108. However, Ford Motor Company has called the agency's attention to several errors in the amendments to the standard. The agency has noted additional errors.

Ford commented that SAE J579 DEC84 should not yet be deleted from Figure 26 as compliance with those specifications for certain light sources is permitted through August 31, 1994. The agency concurs, but the passage of time has rendered this comment moot. Because September 1, 1994 has now passed, by this notice NHTSA is removing from Standard No. 108 those provisions that no longer apply to headlighting systems on vehicles manufactured after August 31, 1994. Principally, these amendments remove references to Tables 1 and 2 of SAE J579 DEC84, and Figures 15 and 17, as well as removing the Figures themselves. Figure 26 is revised to reflect these changes. These amendments affect S7.1, and portions of S7.3, and S7.4 of Standard No. 108.

In Ford's view, the amended text of paragraphs S7.5(d) (2) and (3) does not appear to reflect NHTSA's intent stated in the preamble for photometric requirements of headlamp systems using dual filament light sources, i.e., that such headlamps be permitted to meet Table 1 of SAE J579 DEC84 or Figure 27, or alternatively Figures 15/15A or 17/17A. NHTSA concurs that the text should be revised to make clear that the agency is allowing optional compliance with Figure 27 or Figure 15A as well as with Figure 17A (SAE J579, and Figures 15 and 17 now being deleted). To avoid confusion with the deleted Figures, NHTSA is not presently redesignating Figures 15A and 17A as Figures 15 and Figure 17, although it may do so in the future.

The following additional corrections are also made. The operand ''+/−'' is added in S7.7(a) in the last sentence, preceding ''1 degree 00 minutes.'' In paragraph S7.7(j), the reference to subparagraph ''(e)'' is properly to ''(g)''. In Figure 17A, the correct sixth upper beam test point is ''H–9L and 9R.''

Further, in the version of Standard No. 108 appearing in Title 49, Code of Federal Regulations, Parts 400–999 revised as of October 1, 1993, the titles of paragraphs S7.5 and S7.7 are not underlined, and a value is given in paragraph S11 as ''12.8V +/20mV''. This notice provides an underline for the titles and a correction of S11 to ''12.8V +/−20mV.''

Ford noticed that when the final rule removed paragraph S7.4(d) and redesignated the succeeding lettered paragraphs, cross-references in S7.5(i) and S7.6.2.1 to paragraph S7.4(i) were not changed to S7.4(h). NHTSA has noticed that its amendments of S8.7 Humidity of March 11, 1991 (56 FR 10185) removing the necessity for a photometric test following completion of the humidity test were not accompanied by a corresponding amendment removing S8.7 from the list of tests required under S8.1 Photometry. This notice corrects the errors, and several other minor ones that appear in the CFR text of Standard No. 108, such as an erroneous identification in S5.1.1.6 of SAE J222 ''September 1970'' which is correctly December 1970.

Effective Date

Because these amendments are corrective in nature and impose no additional burden upon any person, notice and comment upon are not required under the Administrative Procedure Act, and it is found, for good cause shown, that an effective date earlier than 180 days after issuance is in the public interest. The amendments will become effective 30 days after publication in the **Federal Register**.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Office of Management and Budget has determined that it will not review this rulemaking under Executive Order 12866. It has been determined that the rulemaking is not significant under Department of Transportation regulatory policies and procedures. Since the rule does not have any significant cost or

other impacts, preparation of a full regulatory evaluation is not warranted.

National Environmental Policy Act

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. It is not anticipated that the rule will have a significant effect upon the environment.

Regulatory Flexibility Act

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. Based on the discussion above, I certify that this rule will 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, headlamps, and light sources, those affected by the rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected by these minor amendments.

Executive Order 12612 (Federalism)

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

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103 (formerly section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), 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. Forty-nine U.S.C. 30161 (formerly Section 105 of the Act (15 U.S.C. 1394)) 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 30111, 30162, 30115; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. In paragraph S5.1.1.6 of Section 571.108, the phrase ''September 1970'' is revised to read ''December 1970.''

3. Section 571.108 is amended by revising paragraphs S7.1, S7.3.2(a)(3), S7.3.3(a), S7.3.4, S7.3.5(a), and S7.3.6(a) to read as follows:

§ 571.108 Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment.

* * * * *

S7.1 Each passenger car, multipurpose passenger vehicle, truck, and bus manufactured on or after September 1, 1994, shall be equipped with a headlighting system designed to conform to the requirements of S7.3, S7.4, S7.5, or S7.6.

* * * * *

S7.3.2 *Type A headlighting system.* * * *

(a) * * *

(3) In paragraphs 4.5.2 and 5.1.6, the words ''Figure 28 of Motor Vehicle Safety Standard No. 108'' are substituted for ''Table 3''.

* * * * *

S7.3.3. *Type B headlighting system.* * * *

(a) The requirements of paragraphs S7.3.2(a) through (c), except that Figure 27 is substituted for Table 3 in paragraph S7.3.2(a)(3).

* * * * *

S7.3.4 *Type C headlighting system.* A Type C headlighting system consists of two Type 1C1 and two Type 2C1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.2(a) through (d), except that Figure 28 is substituted for Table 3 in paragraph S7.3.2(a)(3).

S7.3.5 *Type D headlighting system.* (a) A Type D headlighting system consists of two Type 2D1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.2(a) through (c), except that Figure 27 is substituted for Table 3 in paragraph S7.3.2(a)(3).

* * * * *

S7.3.6 *Type E headlighting system.* (a) A Type E headlighting system consists of two Type 2E1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.2(a) through (c), except that Figure 27 is substituted for Table 3 in paragraph S7.3.2(a)(3).

* * * * *

4. In paragraph S7.3.7(b) of Section 571.108 remove the words ''Figure 15 or''.

5. In the heading of paragraph S7.3.7(c) of Section 571.108 the reference to ''Peformance'' is revised to read ''Performance''.

6. In paragraphs S7.3.7(d) and S7.3.7(h)(1) of section 571.108 the reference to ''Figure 15'' is revised to read ''Figure 15A''.

7. Paragraph S7.3.8(b) of Section 571.108 is amended by revising the last sentence to read: ''In paragraph 4.5.2, the words 'Figure 28' are substituted for the words 'Table 3.' ''.

8. Paragraph S7.3.9(a) of Section 571.108 is revised to read: S7.3.9 *Type H Headlighting System.*

* * * * *

(a) Paragraphs S7.3.8(a) through (d) except that in paragraph S7.3.8(b), Figure 27 is substituted for Table 3.

* * * * *

9. Paragraph S7.4 of Section 571.108 is amended by revising paragraphs S7.4(a)(1)(i), (ii), and (iii), (a)(2)(i) and (ii) and the first sentence of (a)(3) to read as follows:

S7.4 *Integral Beam Headlighting System.* * * *

(a) * * *

(1) * * *

(i) Figure 15A; or

(ii) Figure 15A except that the upper beam test value at 2½ D–V and 2½ D–12R and 12L, shall apply to the lower beam headlamp and not to the upper beam headlamp, and the upper beam test point value at 1½D–9R and 9L shall be 1000, or

(iii) Figure 28.

(2) * * *

(i) Figure 17A; or

(ii) Figure 27.

(3) In a system in which there is more than one beam contributor providing a lower beam, and/or more than one beam contributor providing an upper beam, each beam contributor in the system shall be designed to meet only the photometric performance requirements of Figure 15A based upon the following mathematical expression: conforming test point value=2 (Figure 15A test point value)/total number of lower or upper beam contributors for the vehicle, as appropriate. * * *

* * * * *

10. and 11. Section 571.108 is amended by removing the word ''standardized'' from the following paragraphs:

(a) S7.5(a);

(b) S7.5(b);

(c) S7.5(f);

(d) S8.6;

12. Section 571.108 is amended by revising paragraphs S7.5(d)(2)(i)(A)(*1*)

and (*2*), (d)(2)(ii)(A)(*1*) and (*2*), (d)(3)(i)(A) and (B), (d)(3)(ii)(A) and (B), (e)(2)(i)(A) and (B), (e)(2)(ii)(A) and (B), (e)(3)(i) and (ii), and (i) to read as follows:

S7.5 *Replaceable Bulb Headlamp Systems.*

* * * * *

(d) * * *

(2) * * *

(i) * * *

(A) * * *

(*1*) The lower beam requirements of Figure 27 or Figure 17A if the light sources in the headlamp system are any combination of dual filament replaceable light sources other than Type HB2; or

(*2*) The lower beam requirements of Figure 17A if the light sources are Type HB2, or any combination of replaceable light sources that include Type HB2; or

* * * * *

(ii) * * *

(A) * * *

(*1*) the upper beam requirements of Figure 27 or Figure 17A if the light sources in the headlamp system are any combination of dual filament replaceable light sources other than Type HB2; or

(*2*) the upper beam requirements of Figure 17A if the light sources are Type HB2, or any combination of replaceable light sources that include Type HB2; or

* * * * *

(3) * * *

(i) * * *

(A) The lower beam requirements of Figure 27 or Figure 15A if the light sources in the headlamp system are any combination of dual filament light sources other than Type HB2; or

(B) The lower beam requirements of Figure 15A if the light sources are Type HB2, or dual filament light sources other than Type HB1 and Type HB5. The lens of each such headlamp shall be marked with the letter ''L''.

(ii) * * *

(A) The upper beam requirements of Figure 27 or Figure 15A if the light sources in the headlamp system are any combination of dual filament light sources other than Type HB2; or

(B) The upper beam requirements of Figure 15A, if the light sources are Type HB2, or dual filament light sources other than Type HB1 and Type HB5. The lens of each such headlamp shall be marked with the letter ''U''.

(e) * * *

(2) * * *

(i) * * *

(A) By the outboard light source (or the uppermost if arranged vertically) designed to conform to the lower beam requirements of Figure 17A; or

(B) By both light sources, designed to conform to the upper beam requirements of Figure 17A.

(ii) * * *

(A) By the inboard light source (or the lower one if arranged vertically), designed to conform to the upper beam requirements of Figure 17A; or

(B) By both light sources, designed to conform to the upper beam requirements of Figure 17A.

(3) * * *

(i) The lower beam shall be produced by the outboard lamp (or the upper one if arranged vertically), designed to confrom to the lower beam requirements of Figure 15A. The lens of each such headlamp shall be permanently marked with the letter ''L''.

(ii) The upper beam shall be produced by the inboard lamp (or the lower one if arranged vertically), designed to conform to the upper beam requirements of Figure 15A. The lens of each such headlamp shall be marked with the letter ''U''.

* * * * *

(i) Each headlamp shall meet the requirements of paragraphs S7.4(g) and (h), except that the sentence in paragraph (g) to verify sealing according to section S8.9 *Sealing* does not apply.

13. In paragraph S7.6.2 of Section 571.108 the words ''Figure 17'' are revised to read ''Figure 17A''.

14. In paragraph S7.6.2.1 of Section 571.108, the phrase ''through (i)'' is revised to read ''through (h).''

15. In paragraph S7.6.3 of Section 571.108 the words ''Figure 15'' are revised to read ''Figure 15A'' wherever they appear.

16. Paragraph S7.7(a) of Section 571.108 is amended by revising the final sentence to read: ''A general tolerance shall apply to Figure 3 as follows: +/− 0.004 in. (0.10 mm) to all linear dimensions and +/− 1 degree 00 minutes to all angular dimensions except for referenced dimensions and unless otherwise specified.''

17. Paragraph S7.7(j) of Section 571.108 is amended by revising the second sentence to read: ''The diameter of the aperture in Figure 25 on a replaceable light source designed to conform to subparagraph (g) of this paragraph shall be that figure furnished for such light source in compliance with section IV.B of appendix A of part 564 of this chapter.''

18. In paragraph S7.8.5.2(a) of Section 571.108, the word ''verticle'' is revised to read ''*vertical*.''

19. Section 571.108 is amended by revising S8.1 to read as follows:

S8.1 *Photometry.* Each headlamp to which paragraph S8 applies shall be tested according to paragraphs 4.1 and 4.1.4 of SAE Standard J1383 APR85 for meeting the applicable photometric requirements after each test specified in paragraphs S8.2, S8.3, S8.5, S8.6.1, and S8.6.2. A 1/4 degree reaim is permitted in any direction at any test point.

20. In paragraph S11 of Section 571.108, the words in the first sentence ''12.8V +/20mV'' are revised to read ''12.8V +/−20mV''.

21. Figure 15 and Figure 17 of Section 571.108 are removed.

22. Figure 17A of Section 571.108 is revised to read as follows:

FIGURE 17A.—PHOTOMETRIC TEST POINT VALUES, 2-LAMP SYSTEM

Upper beam			Lower beam		
Test points (degrees)	cd max.	cd min.	Test points (degrees)	cd max.	cd min.
2U–V		1,500	10U–90U	125	
1U–3L and 3R		5,000	4U–8L and 8R		64
H–V	75,000	40,000	2U–4L		135
H–3L and 3R		15,000	1–1/2U–1R to 3R		200
H–6L and 6R		5,000	1–1/2U–1R to R	1,400	
H–9L and 9R		3,000	1U–1–1/2L to L	700	
H–12L and 12R		1,500	1/2U–1–1/2L to L	1,000	
1–1/2D–V		5,000	1/2U–1R to 3R	2,700	500
1–1/2D–9L and 9R		2,000	H–4L		135
2–1/2D–V		2,500	H–8L		64
2–1/2D–12L and 12R		1,000	1/2D–1–1/2L to L	3,000	
4D–V	12,000		1/2D–1–1/2R	20,000	10,000

FIGURE 17A.—PHOTOMETRIC TEST POINT VALUES, 2-LAMP SYSTEM—Continued

Upper beam			Lower beam		
Test points (degrees)	cd max.	cd min.	Test points (degrees)	cd max.	cd min.
			1D–6L		1,000
			1–1/2D–2R		15,000
			1–1/2D–9L and 9R		1,000
			2D–15L and 15R		850
			4D–4R	12,500	

23. Figure 26 of Section 571.108 is revised to read as follows:

FIGURE 26.—TABLE OF PHOTOMETRIC REQUIREMENTS

[1. Four-Headlamp Systems (4)]
[2. Two-Headlamp Systems (2)]

Light source type	HB1	HB2	HB3	HB4	HB5
HB1	Fig. 27 (4,2) or Fig. 15A (4) or Fig. 17A (2)	Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)	Fig. 27 (4,2) or Fig. 15A (4) or Fig. 17A (2)
HB2		Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)
HB3			Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)
HB4				Fig. 15A(4) Fig. 17A(2)	Fig. 15A(4) Fig. 17A(2)
HB5					Fig. 27 (4,2) or Fig. 15A (4) or Fig. 17A (2)

24. In Table IV of Section 571.108, the word ''symetrically'' appearing under the heading ''Motorcycles'' in the horizontal column captioned ''Headlamps'' is revised to read ''symmetrically.''

Issued on: February 6, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–3303 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–59–P

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49 CFR Part 571

[Docket No. 94–53, Notice 02]

RIN No. 2127–AF19

Federal Motor Vehicle Safety Standards (FMVSS); New Pneumatic Tires

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

ACTION: Final rule.

SUMMARY: In this final rule, NHTSA amends the labeling requirements of the safety standard for new passenger car pneumatic tires by permitting tires whose maximum inflation pressure is 60 pounds per square inch (psi) to be labeled in metric measurements: ''Inflate to 420 kPa (60 psi).'' This final rule would further international harmonization of standards. NHTSA takes this action in response to a petition for rulemaking from the Japan Automobile Tire Manufacturers' Association.

DATES: This final rule is effective March 15, 1995. Petitions for reconsideration of this final rule must be received not later than March 15, 1995.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice number cited in the heading of this final rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Droneburg, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Room 5307, Washington, DC 20590. Ms. Droneburg's telephone number is: (202) 366–6171.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 109, New Pneumatic Tires (Std. No. 109), requires passenger car tires to be labeled with important safety information, including tire size, construction, and inflation pressure. S4.3.5 of the standard provides that if the maximum inflation pressure of a tire is 60 pounds per square inch (psi), the words ''Inflate to 60 psi'' shall be molded on both sidewalls of the tire.

The Japan Automobile Tire Manufacturers' Association (JATMA) petitioned NHTSA, suggesting that S4.3.5 should be amended to require adding the words ''or 'inflate to 420 kPa (60 psi)' '' after ''Inflate to 60 psi.'' JATMA stated that the maximum inflation pressure of a ''T''-type spare tire is listed as 420 kilopascals (kPa) in the Tire and Rim Association, Inc., Year Book, the JATMA Year Book, and in Japanese Industrial Standard (JIS) D4230. JATMA indicated that, if the suggested amendment were adopted by NHTSA, tire manufacturers would be able to mark tires for both the Japanese and U.S. markets. NHTSA granted the petition by letter dated January 7, 1994.

Notice of Proposed Rulemaking

On July 5, 1994, NHTSA published in the **Federal Register** (59 *FR* 34405) a notice of proposed rulemaking (NPRM) proposing to make JATMA's requested changes to Std. No. 109. NHTSA noted that the changes, if made final, would be consistent with the requirement of section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100–418), which designated the metric system as the preferred system of weights and measures for U.S. trade and commerce. NHTSA stated its belief that allowing metric units on tires would further the international harmonization of standards. Common sizing for international markets would facilitate

the manufacture of products, and could ultimately result in products sold at lower prices. NHTSA tentatively determined that the petitioner's requested metric unit on tires would not confuse consumers or obscure the meaning of the inflation pressure information labeled on tires. Thus, NHTSA tentatively concluded there was no safety reason to preclude permitting JATMA's requested metric labeling.

In the NPRM, NHTSA also proposed to correct a typographical error in S4.3 of Std. No. 109. The first sentence of S4.3 provides that each tire shall have the information ''shown in paragraphs (a) and (g)'' of S4.3. The word ''and'' in that phrase should read ''through,'' and NHTSA proposed to make the correction in the regulatory text.

Final Rule

In response to the NPRM, NHTSA received one comment. That comment came from the Rubber Manufacturers Association (RMA), on behalf of domestic tire manufacturers. The RMA stated that it favored adoption of the proposed changes to Std. No. 109. Since NHTSA received only one comment on the NPRM, and that comment favored adoption of the proposal, NHTSA adopts as final the regulatory text proposed in the NPRM.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' NHTSA has considered the impact of this rulemaking action and has concluded that it is not significant under the DOT's regulatory policies and procedures. This action would not change any of the substantive requirements of Std. No. 109. The effect on labeling costs might be to decrease such costs slightly for tire manufacturers that now convert metric units on their tires to English units, or that now convert English units on tires to metric units for sale overseas. However, NHTSA believes the costs savings, if any, would be minimal. NHTSA has concluded, therefore, that since the costs of complying with the changes in this final rule are minimal, preparation of a full regulatory evaluation is not warranted.

B. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that this final rule would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a final regulatory flexibility analysis. The rationale for this certification is that the agency believes that few, if any, of the tire manufacturers which would be affected by this final rule qualify as small businesses. Small businesses, small organizations and small governmental units could be affected by the final rule to the extent that they may purchase new tires subject to the new requirements. However, NHTSA does not believe the costs of tires would be affected by this rule. Thus, these entities would not be significantly affected.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act and has determined that implementation of this final rule would have no significant impact on the quality of the human environment.

D. E.O. 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612 and has determined that this proposal does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

E. Paperwork Reduction Act

Certain provisions in this final rule that permit manufacturers to mark metric measurements on tires, are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB), in 5 CFR part 1320. The information collection requirements have been submitted to and approved by OMB. This collection of information has been assigned OMB Control Number 2127–0503 (Consolidated labeling requirements for tires and rims) and has been approved for use through November 30, 1995.

F. Civil Justice Reform

This final rule would not have any retroactive effect. Under 49 U.S.C. section 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 that is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance applicable only to vehicles procured for the state's own use. 49 U.S.C. section 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, and Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues 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 571.109 is amended by revising the introductory paragraph of S4.3 and the entire paragraph of S4.3.5 to read as follows:

§ 571.109 Standard No. 109, New Pneumatic Tires.

* * * * *

S4.3 *Labeling Requirements.* Except as provided in S4.3.1 and S4.3.2, each tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 0.078 inches high, the information shown in paragraphs S4.3 (a) through (g). On at least one sidewall, the information shall be positioned in an area between the maximum section width and bead of the tire, unless the maximum section width of the tire falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires where the maximum section width falls in that area, locate all required labeling between the bead and a point one-half the distance from the bead to the shoulder of the tire. However, in no case shall the information be positioned on the tire so that it is obstructed by the flange or any rim designated for use with that tire in Standards Nos. 109 and 110 (§ 571.109 and § 571.110 of this part).

* * * * *

S4.3.5 If the maximum inflation pressure of a tire is 420 kPa (60 psi), the tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 1/2 inch high, the words ''Inflate to 60 psi'' or ''Inflate to 420 kPa (60 psi).'' On both sidewalls, the words shall be positioned in an area between the tire shoulder and the bead of the tire. However, in no case shall the words be positioned on the tire so that they are obstructed by the flange of any rim designated for use with that tire in

this standard or in Standard No. 110 (§ 571.110 of this part).

* * * * *

Issued on: February 3, 1995.

Christopher A. Hart,

Deputy Administrator.

[FR Doc. 95–3487 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 60, No. 29
Monday, February 13, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–SW–19–AD]

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 series helicopters. This proposal would require initial and repetitive inspections of the main rotor (M/R) blade upper and lower surface for bulging. This proposal is prompted by two reported incidents in which a balance weight became detached from inside the M/R blade structure and migrated toward the tip of the M/R blade. The actions specified by the proposed AD are intended to detect movement of a balance weight to prevent severe vibrations and a subsequent precautionary landing.

DATES: Comments must be received by April 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–SW–19–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

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 should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, 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 No. 94–SW–19–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, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–SW–19–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Luftfahrt-Bundesamt, which is the airworthiness authority for the Federal Republic of Germany, recently notified the FAA that an unsafe condition may exist on Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 series helicopters. The Luftfahrt-Bundesamt advises that the M/R blade upper and lower surfaces in the area of the balance weights may bulge or have creep deformations.

Eurocopter Deutschland GmbH (ECD) has issued Alert Service Bulletin ASB–MBB–BK 117–10–108, Revision 1, dated October 14, 1994, which specifies initial and repetitive inspections of the upper and lower surfaces of the main rotor blades for bulging in the area of the outboard lead balance weight. The Luftfahrt-Bundesamt classified this service bulletin as mandatory and issued AD 94–280 in order to assure the continued airworthiness of these helicopters in the Federal Republic of Germany.

This helicopter model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Luftfahrt-Bundesamt has kept the FAA informed of the situation described above. The FAA has examined the findings of the Luftfahrt-Bundesamt, 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 Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 series helicopters of the same type design registered in the United States, the proposed AD would require initial and repetitive inspections of the M/R blade upper and lower surface for bulging. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 125 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately one-half work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,750.

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 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Eurocopter Deutschland GmbH (ECD): Docket No. 94–SW–19–AD.

Applicability: Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect movement of a balance weight, severe vibrations, and a subsequent precautionary landing, accomplish the following:

(a) Within the next 5 hours time-in-service (TIS) after the effective date of this AD, and thereafter, at intervals not to exceed 50 hours TIS, visually inspect the upper and lower surface of the main rotor blades (blades) in the area of the outboard lead balance weight in the marked inspection area for signs of bulging, in accordance with Paragraph 2.A. of the Accomplishment Instructions of Eurocopter Deutschland GmbH (ECD) Alert Service Bulletin ASB–MBB–BK 117–10–108, Revision 1, dated October 14, 1994.

(b) If a marked inspection area is not visible, mark the area in accordance with Paragraph 2.A. of the Accomplishment Instructions of Eurocopter Deutschland GmbH (ECD) Alert Service Bulletin ASB-MBB-BK 117–10–108, Revision 1, dated October 14, 1994, and then inspect in accordance with paragraph (a) of this AD.

(c) If bulging exceeds 1mm in height, remove the blade and replace it with an airworthy blade in accordance with the applicable maintenance manual.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(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 helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on February 6, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–3514 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–219–AD]

Airworthiness Directives; Lockheed Model L–1011–385–1 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Lockheed Model L–1011–385–1 series airplanes. This proposal would require implementation of a Supplemental Inspection Document (SID) program of structural inspections to detect fatigue cracking, and repair, if necessary, to ensure continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. This proposal is prompted by a structural re-evaluation by the manufacturer that identified certain structural details where fatigue damage is likely to occur. The actions specified by the proposed AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

DATES: Comments must be received by April 10, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Aeronautical Systems Support Company, Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Flight Test Branch, ACE–160A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7367; fax (404) 305–7348.

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 93–NM–219–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. 93–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In April 1988, a transport category airplane managed to land after tiny cracks in rivet holes in the upper fuselage linked together, causing structural failure and explosive decompression. An 18-foot section ripped from the fuselage. This accident focused greater attention on the problem of aging aircraft.

In June 1988, the FAA sponsored a conference on aging airplane issues, which was attended by representatives of the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America committed to identifying and implementing procedures to ensure continued structural airworthiness of aging transport category airplanes. An Airworthiness Assurance Working Group (AAWG), with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was originally established in August 1988. The objective of the AAWG was to sponsor ''Task Groups'' to:

1. Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes,

2. Develop corrosion directed inspections and prevention programs,

3. Review the adequacy of each operator's structural maintenance program,

4. Review and update the Supplemental Inspection Documents (SID), and

5. Assess repair quality.

The Task Group assigned to review Lockheed Model L–1011–385 series airplanes completed its work on Item 1 (mandatory structural modifications), above, in June 1990. The Task Group's recommendations are contained in Revision 1 of Lockheed Service Bulletin 093–51–035, ''Structures—Aging Aircraft Structural Modifications and Inspections—Collector Service Bulletin,'' dated December 16, 1991. The FAA issued AD 94–05–01, amendment 39–8839 (59 FR 10275, March 4, 1994), which mandates the installation of the modifications specified in that document.

The Task Group completed its work on Item 2 (corrosion-directed inspections) and developed a baseline program for controlling corrosion problems that may jeopardize the continued airworthiness of the Lockheed Model L–1011 fleet. This program is contained in Lockheed Document Number LR 31889, ''Corrosion Prevention and Control Program, TriStar L–1011,'' dated March 15, 1991. The FAA issued AD 93–20–03, amendment 39–8710 (58 FR 60775, November 18, 1993), which requires the implementation of a corrosion prevention and control program.

The Task Group completed its work on Item 4 (Supplemental Inspection Document) in May 1993 and developed a program for the implementation of a SID program identified in Lockheed Document Number LG92ER0060, ''L–1011–385 Series Supplemental Inspection Document,'' revised January 1994, which recommends structural inspections of older airplanes. The Task Group has identified certain service difficulties that warrant mandatory inspections following mandatory modification of these airplanes. The Task Group considers that these service difficulties can be controlled safely by repetitively inspecting following modification of these airplanes, and that, because of the safety implications, the inspections should be mandatory to assure that all operators perform them. Typically, the addressed unsafe conditions (i.e., fatigue cracking) have occurred infrequently on older airplanes, and the Task Group has a very high degree of confidence in the ability of an inspection program to detect the damage before it impairs safety.

Explanation of Service Information

Lockheed Document Number LG92ER0060, ''L–1011–385 Series Supplemental Inspection Document,'' revised January 1994 (hereafter referred to as ''the Lockheed Document''), is the result of a structural re-evaluation conducted by Lockheed. The criteria that were used for this re-evaluation are contained in FAA Advisory Circular (AC) 91–56, ''Supplemental Structural Inspection Program for Large Transport Category Airplanes,'' and Federal Aviation Regulation 25.571 (14 CFR 25.571), amendment 25–45. During this structural re-evaluation, Lockheed examined Structurally Significant Details (SSD), which are structural parts and components that carry significant ground, flight, cabin pressure, or control loads whose failure could affect the safety of the aiplane. From these SSD's, Lockheed identified candidate locations for supplemental inspections that have been incorporated into the Lockheed Document.

The Model L–1011–385–3 series airplanes were excluded from this re-evaluation. These newer, long-range airplanes fly less frequently and are neither imminently approaching nor have they exceeded the manufacturer's original fatigue design life goal. (However, as these airplanes accumulate more hours time-in-service, and as the critical area selection is developed and identified, the FAA anticipates that these airplanes will be addressed in future rulemaking actions.)

Specifically, the Lockheed Document describes procedures for supplemental inspections of SSD's for Model L–1011–385–1 series airplanes. This Lockheed Document identifies SSD's in 13 fuselage, one stabilizer, and 14 wing critical areas. The Document also specifies that operators submit the results of these inspections to Lockheed.

The Task Group has reviewed the Lockheed Document, and has recommended it to the FAA for mandatory inspection following mandatory modification to ensure the successful long-term operation of Lockheed Model L–1011–385 series airplanes. The FAA has concurred with the Task Group's recommendations and has determined that AD action is warranted to mandate the inspections and modifications to ensure the continued airworthiness of the Model L–1011–385 fleet. Fatigue cracking in the SSD's specified in the Lockheed Document, if not detected and corrected in a timely manner, could compromise the structural integrity of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a revision to the FAA-approved maintenance inspection program to include a SID program of structural inspections. The intent of these inspections is to detect fatigue cracking in order to ensure continued airworthiness as these airplanes approach the manufacturer's original fatigue design life goal.

Specifically, this proposal would require that the initial inspection for each individual SSD be performed within one ''repeat interval'' after the effective date of the AD or prior to the threshold specified in the Lockheed Document, whichever occurs later. This proposal would provide operators with time for planning and scheduling by granting a deviation of 10 percent for the interval specified in the Lockheed Document for subsequent repetitive inspections. This action also would require that the results of the inspections be reported to Lockheed. These actions would be required to be accomplished in accordance with the Lockheed Document described previously.

This proposal also would require that any cracking detected be repaired either in accordance with the appropriate information referenced in the Lockheed Document, in accordance with the Structural Repair Manual, or in accordance with a method approved by the FAA.

Economic Impact Information

There are approximately 186 Lockheed Model L–1011–385–1 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 100 airplanes of U.S. registry would be affected by this proposed AD. Incorporation of the SID into an operator's maintenance program would take approximately 550 work hours, and the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD to incorporate the SID into an operator's maintenance program is estimated to be $33,000 per operator.

Initially, the FAA estimates that it would take 293 work hours to accomplish the 28 inspections specified in the SSID, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD for the first year is estimated to be $1,758,000, or $17,580 per airplane.

However, the FAA has been advised that the terminating modification for SSD 53–2–1, which is described in the Lockheed Document, has been accomplished by the entire L–1011–385–1 fleet. Therefore, the inspections for SSD 53–2–1, which would have required 48 work hours per airplane to accomplish, will not need to be performed. In light of this, the cost impact for the initial inspections contained in this proposal is now only $1,470,000, or $14,700 per airplane.

The recurring inspection cost impact on the affected operators is estimated to be 52 work hours per airplane at an average labor cost of $60 per work hour. Based on these figures, the annual recurring cost of this AD is estimated to not exceed $312,000 for the affected U.S. fleet, or $3,120 per airplane.

Based on the above figures, the total cost impact of this AD for the first year is estimated to not exceed $47,700 per airplane, and $2,820 per airplane for each year thereafter.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

Regulatory Impact

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 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Lockheed: Docket 93–NM–219–AD.

Applicability: Model L–1011–385–1, –385–1–14, and –385–1–15 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking that could compromise the structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection(s) of

the structurally significant details (SSD) defined in Lockheed Document Number LG92ER0060, ''L–1011–385 Series Supplemental Inspection Document,'' revised January 1994.

(1) The initial inspection for each SSD must be performed within one repeat interval after the effective date of this AD, or prior to the threshold specified in the Lockheed Document for that SSD, whichever occurs later.

(2) A 10 percent deviation from the repetitive interval specified in the Lockheed Document for that SSD is acceptable to allow for planning and scheduling time.

(3) If the Lockheed Document specifies that inspection of any SSD be performed at every ''C'' check, those inspections must be performed at intervals not to exceed 5,000 hours time-in-service or 2,500 flight cycles, whichever occurs earlier.

(4) If the Lockheed Document specifies either the initial inspection or the repetitive inspection intervals for any SSD in terms of flight hours or flight cycles, the inspection shall be performed prior to the earlier of the terms (whichever occurs first on the airplane: either accumulated number of flight hours, or accumulated number of flight cycles).

(5) The non-destructive inspection techniques referenced in Appendix VI of the Lockheed Document (Revision A of Lockheed Drawing 1647194) provide acceptable methods for accomplishing the inspections required by this AD.

(b) If any cracking is found in any SSD, prior to further flight, repair in accordance with either paragraph (b)(1), (b)(2), or (b)(3) of this AD:

(1) In accordance with the applicable service bulletin referenced in Lockheed Document Number LG92ER0060, ''L–1011–385 Series Supplemental Inspection Document,'' revised January 1994; or

(2) In accordance with the Structural Repair Manual; or

(3) In accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

(c) Within 30 days after returning the airplane to service, subsequent to accomplishment of the inspection(s) specified in Lockheed Document Number LG92ER0060, ''L–1011–385 Series Supplemental Inspection Document,'' revised January 1994, submit a report of the results (positive or negative) of the inspection(s) to Lockheed in accordance with Section V., Data Reporting System (DRS), of the Lockheed Document. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(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, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(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.

Issued in Renton, Washington, on February 7, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–3515 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 6, 18, 19, 20, 21, 22, 23, 26, 27, 29, 33, and 35

RIN 1219–AA87

Testing and Evaluation by Nationally Recognized Testing Laboratories and Use of Equivalent Testing and Evaluation Requirements

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice to extend period for public comment.

SUMMARY: Due to requests from the public, the Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding its proposed rule for testing and evaluation by nationally recognized testing laboratories and the use of equivalent testing and evaluation requirements.

DATES: Written comments must be received on or before February 21, 1995.

ADDRESSES: All comments should be sent to Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

SUPPLEMENTARY INFORMATION: On November 30, 1994, MSHA published a proposed rule (59 FR 61376) to establish new procedures and requirements for testing and evaluation of certain products MSHA approves for use in underground mines. The comment period was scheduled to end on February 13, 1995.

In response to requests from the public, MSHA is extending the time for commenting on this proposed rule to February 21, 1995. All interested members of the mining community are encouraged to submit comments prior to that date.

Dated: February 8, 1995.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 95–3596 Filed 2–10–95; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–94–093]

RIN 2115–AE47

Drawbridge Operation Regulations; Mullica River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of Burlington County, New Jersey, the Coast Guard is considering a change to the regulations governing operation of the Lower Bank bridge over the Mullica River at mile 15.0 between Atlantic and Burlington Counties, New Jersey. This change will extend the existing winter seasonal restrictions into April and require four hours advance notice of all bridge openings during this period. This change is being proposed because there have been few requests for bridge openings during the winter months. The proposed change, if adopted, will relieve the bridge owner of the responsibility of having a bridgetender constantly on duty during a time of year when there is no demonstrated need for one, and will still provide for the reasonable needs of navigation throughout the year.

DATES: Comments must be received on or before May 15, 1995.

ADDRESSES: Comments may be mailed to Commander (ob), Fifth Coast Guard District, c/o Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, New York 10004–5073. The comments will become part of this docket and will be available for inspection and copying by appointment at Bldg. 135A, Governors Island, New York 10004–5073. Normal office hours are between 7 a.m. and 3:30 p.m., Mondays through Fridays, except Federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Bridge Administrator—NY, Fifth Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05–94–093) and the specific section of this proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons desiring acknowledgement that their comments have been received 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 the Commander (ob) 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 to be announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are Mr. J. Arca, Fifth Coast Guard District, Bridge Branch-NY, Project Officer, and LCDR C.A. Abel, Fifth Coast Guard District Legal Office, Project Attorney.

Background and Purpose

The Lower Bank highway bascule bridge over the Mullica River in Lower Bank, New Jersey was replaced in 1993. It has a vertical clearance of 13 feet above mean high water (MHW) in the closed position, which is 4 feet higher than the previous bridge in the closed position. During the period from December 1993 through April 1994, a period of 151 days, requests for bridge openings occurred on only 34 days. The current operating regulations, which were implemented in January 1988, require the Lower Bank bridge to open on signal, except that it is required to open with four hours advance notice from April 1 through November 30 from 11 p.m. to 7 a.m., and from December 1 through March 31, from 4:30 p.m. to 8 a.m. This proposed change to the regulations would extend the winter seasonal restrictions into April and increase the four hours advance notice requirement to apply to all requests for bridge openings during the winter months. This change, if adopted, will provide the bridge owner relief from the burden of constantly having a person available to open the bridge, when there is no sufficient justification to do so.

Burlington County has requested a change to the present operating regulations in 33 CFR 117.731a which would allow the Lower Bank Bridge to operate as follows: The draw of the Lower Bank Bridge would need not open unless at least four hours advance notice is given during the following periods, May 1 through November 30, from 11 p.m. to 7 a.m. and from December 1 to April 30 at all times. At all other times, the bridge would open on signal. This change to the regulations is being proposed due to infrequent requests for openings. The proposed change to the regulation will relieve the bridge owner of the burden of having personnel at the bridge at night and during the winter months. The bridgetenders will be on call to open the draw when the four hour advance notice is given to the bridge owner by calling the number that will be posted at the bridge; therefore, the reasonable needs of navigation will be met.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require as 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. This conclusion is based on the fact that the regulation will not prevent mariners from transiting the bridge. Rather, it will only require mariners to plan their transits and provide advance notice.

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 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 proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic 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 in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposed regulation does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.E.(32)(e) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement and checklist has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read ad follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In section 117.731a paragraph (a) is revised to read as follows:

§ 117.731a Mullica River.

* * * * *

(a) The draw of the Lower Bank bridge, mile 15.0, need not open unless at least four fours notice is given during the following periods:

(1) From May 1 though November 30, from 11 p.m. to 7 a.m.

(2) From December 1 through April 30, at all times.

* * * * *

Dated: January 20, 1995.

M.K. Cain,

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

[FR Doc. 95–3545 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–14–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM95–3]

Appeals of Postal Service Determinations to Close or Consolidate Post Offices

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its rules of practice governing the filing of postal patrons' appeals of determinations by the United States Postal Service to close or consolidate the post office which serves them. The Commission's current rule requires that petitions to initiate such appeals be received by the Commission within 30 days of the date on which the Postal Service made its determination publicly available. The proposed rule would allow affected postal patrons to initiate a timely appeal by filing a petition which either is received by the Commission within 30 days of the date on which the Postal Service made its determination publicly available, or bears a postmark or other indicia that it was mailed no later than 30 days after that date.

DATES: Comments responding to this notice of proposed rulemaking must be submitted no later than March 30, 1995.

ADDRESSES: Comments and correspondence should be sent to Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street, N.W., Suite 300, Washington, D.C. 20268–0001 (telephone: 202/789–6840).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street, N.W., Suite 300, Washington, D.C. 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: The Postal Reorganization Act Amendments of 1976, Pub. L. No. 94–421, 90 Stat. 1303, provide postal patrons an opportunity to appeal determinations by the United States Postal Service to close or consolidate the post office which serves them. In pertinent part, the statute provides: ''A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Rate Commission within 30 days after such determination is made available to such person * * *.'' 39 U.S.C. 404(b)(5).

In adopting rules to implement the provisions of Pub. L. 94–421, the Postal Rate Commission incorporated the 30-day provision in section 404(b)(5) as follows:

> Petition for review. Review of a determination of the Postal Service to close or consolidate a post office shall be obtained by filing a petition for review with the Secretary of this Commission. Such petition must be received by the Commission within 30 days after the Service has made available to persons served by that post office the written determination to close or consolidate required by 39 U.S.C. 404(b)(3) through (4).

39 CFR 3001.111(a). Thus, under the Commission's current rule, the timeliness of affected postal patrons' appeals depends upon the Commission's actual receipt of their petition within the 30-day statutory period.

The Commission is concerned that the current rule may operate to the detriment of postal patrons served by post offices that are geographically remote from the Commission's offices in Washington, D.C. Because of uncertainties associated with postal processing, transportation, and delivery, a petition's transit time from mailing by the appellants to receipt at the Commission's offices cannot be known in advance, but may constitute a significant portion of the 30-day interval established in the current rule. An internal review of the Commission's records of section 404(b) appeals filed in Fiscal Years 1993 and 1994 discloses that the interval between the mailing of a petition and its receipt by the Commission has frequently approached, and has sometimes exceeded, one week.

In order to assure that members of the public affected by Postal Service determinations to close or consolidate post offices are afforded the full 30 days to pursue an appeal provided by 39 U.S.C. 404(b)(5), the Commission proposes to amend its current rule to incorporate two alternative measures of the timeliness of petitions. Under the proposed revision of 39 CFR 3001.111(a), a petition would be deemed timely if: (1) The Commission actually received it no later than 30 days following publication of the Postal Service's determination, or (2) the petition bears a postmark or other indicia demonstrating that it was mailed no later than 30 days after publication by the Postal Service.

List of Subjects in 39 CFR Part 3001

Administrative practices and procedure, Postal Service.

Accordingly, 39 CFR part 3001 is proposed to be amended as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for 39 CFR Part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662, 84 Stat. 759–762, 764, 90 Stat. 1303; (5 U.S.C. 553), 80 Stat. 383.

2. Section 3001.111(a) would be revised to read as follows:

§ 3001.111 Initiation of review proceedings.

(a) *Petition for review.* (1) Review of a determination of the Postal Service to close or consolidate a post office shall be obtained by filing a petition for review with the Secretary of this Commission. Such petition must either:

(i) Be received by the Commission within 30 days after the Service has made available to persons served by that post office the written determination to close or consolidate required by 39 U.S.C. 404(b) (3) through (4), or

(ii) Bear a postmark or other indicia demonstrating that the petition was mailed no later than the 30th day following the date on which the Postal Service made its written determination available.

(2) The petition shall specify the parties seeking review, all of whom must be persons served by the post office proposed to be closed or consolidated and shall identify the Postal Service as respondent. The Commission encourages parties seeking review to attach a copy of the Postal Service written determination, as the appeal process is thereby expedited. If two or more persons are entitled to petition for review of the same determination and their interests are such as to make joinder practicable, they may file a joint petition for review and may thereafter proceed as a single petitioner.

* * * * *

Issued by the Commission on February 7, 1995.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 95–3457 Filed 2–10–95; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5154–6]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 18

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list.

The Environmental Protection Agency (''EPA'') proposes to add new sites to the NPL. This 18th proposed revision to the NPL includes 7 sites in the General Superfund Section and 2 in the Federal Facilities Section. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL is not intended to define the boundaries of a site or to determine the extent of contamination (see Section II, subsection, ''Facility Boundaries''). This action does not affect the 1,241 sites currently listed on the NPL (1,087 in the General Superfund Section and 154 in the Federal Facilities Section). However, it does increase the number of proposed sites to 55 (47 in the General Superfund Section and 8 in the Federal Facilities Section). Final and proposed sites now total 1,296.

DATES: Comments must be submitted on or before April 14, 1995.

ADDRESSES: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); 401 M Street, SW; Washington, DC 20460; 703/603–8917. Please note this is the mailing address only. If you wish to visit the HQ Docket to view documents, and for additional Docket addresses and further details on their contents, see Section I of the ''Supplementary Information'' portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Purpose and Implementation of the NPL
III. Contents of This Proposed Rule
IV. Executive Order 12866
V. Regulatory Flexibility Act Analysis

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act'') in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law No. 99–499, 100 stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency (''EPA'' or ''the Agency'') promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action. . . and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases. 42 USC 9601(23). ''Remedial'' actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions * * *.'' 42 USC 9601(24).

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR Part 300, is the National Priorities List (''NPL'').

CERCLA section 105(a)(8)(B) defines the NPL as a list of ''releases'' and as a list of the highest priority ''facilities.'' The discussion below may refer to the ''releases or threatened releases'' that are included on the NPL interchangeably as ''releases,'' ''facilities,'' or ''sites.''

CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

Three mechanisms for determining priorities for possible remedial actions are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which is Appendix A of 40 CFR Part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances, pollutants, and contaminants to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be

listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on December 16, 1994 (59 FR 65206).

The NPL includes two sections, one of sites being evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites being addressed by other Federal agencies (the ''Federal Facilities Section''). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining if the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 68 sites from the General Superfund Section of the NPL, most recently Suffolk City Landfill, Suffolk, Virginia (60 FR 4568, January 24, 1995).

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when: (1) any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. Inclusion of a site on the CCL has no legal significance.

In addition to the 67 sites that have been deleted from the NPL because they have been cleaned up (the Waste Research and Reclamation site was deleted based on deferral to another program and is not considered cleaned up), an additional 215 sites are also in the NPL CCL, all but two from the General Superfund Section. Thus, as of January 25, 1995, the CCL consists of 282 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of December 1994, EPA had conducted 649 removal actions at NPL sites, and 2,357 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 9 sites to the NPL. The General Superfund Section currently includes 1,087 sites, and the Federal Facilities Section includes 154 sites, for a total of 1,241 sites on the NPL. An additional 55 sites are proposed, 47 in the General Superfund Section and 8 in the Federal Facilities Section. Final and proposed sites now total 1,296.

Public Comment Period

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, (Mail Code 5201G), Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, 703/603–8917. (Please note this is visiting address only. Mail comments to address listed in **ADDRESSES** section above.)

Ellen Culhane, Region 1, U.S. EPA Waste Management Records Center, HES–CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–5729

Walter Schoepf, Region 2, U.S. EPA, 26 Federal Plaza, New York, NY 10278 212/264–0221

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597–7904

Kathy Piselli, Region 4 U.S. EPA, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347–4216

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7241

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/294–7598

Rachel Loftin, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; information for any site affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the Headquarters or appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an ''as received'' basis. Comments that include complex or voluminous reports, or

materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 849 F.2d 1516 (D.C. Cir. 1988). EPA will make final listing decisions after considering the relevant comments received during the comment period.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently, 57 FR 4824 (February 7, 1992)). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA has a policy of not delaying a final listing decision solely to accommodate consideration of late comments.

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site serves as notice to potentially responsible parties that the Agency may initiate CERCLA-financed remedial action.

Implementation

After initial discovery of a site at which a release or threatened release may exist, EPA begins a series of increasingly complex evaluations. The first step, the Preliminary Assessment (''PA''), is a low-cost review of existing information to determine if the site poses a threat to public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA will generally perform a more extensive study called the Site Inspection (''SI''). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites which warrant placement on the NPL and further study. EPA may perform removal actions at any time during the process. As of December 1994, EPA had completed 36,831 PAs and 17,790 SIs.

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.415(b)(2) (55 FR 8842, March 8, 1990). EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, proceed directly with Trust Fund-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although the ranking of sites by HRS scores is considered, it does not, by itself, determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to determine either the extent of contamination or the appropriate response for a particular site (40 CFR 300.425(b)(2), 55 FR 8845, March 8, 1990). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways; only those that present significant risk or are sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway.

More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study (''RI/FS'') that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990)). It takes into account the amount of hazardous substances, pollutants or contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 (55 FR 8842, March 8, 1990) and 40 CFR 300.430 (55 FR 8846, March 8, 1990). After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after

further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Trust Fund financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for it to do so.

CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known ''releases or threatened releases.'' Thus, the purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data upon which the NPL placement was based will, to some extent, describe which release is at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, described at 48 FR 40663 (September 8, 1983)).

EPA regulations provide that the ''nature and extent of the threat presented by a release'' will be determined by an RI/FS as more information is developed on site contamination (40 CFR 300.68(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it will be impossible to describe the boundaries of a release with certainty.

For these reasons, the NPL need not be amended if further research into the extent of the contamination expands the apparent boundaries of the release. Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983). If a party contests liability for releases on discrete parcels of property, it may do so if and when the Agency brings an action against that party to recover costs or to compel a response action at that property.

At the same time, however, the RI/FS or the Record of Decision (which defines the remedy selected, 40 CFR 300.430(f)) may offer a useful indication to the public of the areas of contamination at which the Agency is considering taking a response action, based on information known at that time. For example, EPA may evaluate (and list) a release over a 400-acre area, but the Record of Decision may select a remedy over 100 acres only. This information may be useful to a landowner seeking to sell the other 300 acres, but it would result in no formal change in the fact that a release is included on the NPL. The landowner (and the public) also should note in such a case that if further study (or the remedial construction itself) reveals that the contamination is located on or has spread to other areas, the Agency may address those areas as well.

This view of the NPL as an initial identification of a release that is not subject to constant re-evaluation is consistent with the Agency's policy of not rescoring NPL sites:

> EPA recognizes that the NPL process cannot be perfect, and it is possible that errors exist or that new data will alter previous assumptions. Once the initial scoring effort is complete, however, the focus of EPA activity must be on investigating sites in detail and determining the appropriate response. New data or errors can be considered in that process * * * [T]he NPL serves as a guide to EPA and does not determine liability or the need for response. (49 FR 37081 (September 21, 1984).

See also *City of Stoughton, Wisc. v. U.S. EPA*, 858 F. 2d 747, 751 (D.C. Cir. 1988):

> Certainly EPA could have permitted further comment or conducted further testing [on proposed NPL sites]. Either course would have consumed further assets of the Agency and would have delayed a determination of the risk priority associated with the site. Yet * * * ''the NPL is simply a rough list of priorities, assembled quickly and inexpensively to comply with Congress' mandate for the Agency to take action straightaway.'' Eagle-Picher [Industries v. EPA] II, 759 F. 2d [921] at 932 [(D.C. Cir. 1985)].

It is the Agency's policy that, in the exercise of its enforcement discretion, EPA will not take enforcement actions against an owner of residential property to require such owner to undertake response actions or pay response costs, unless the residential homeowner's activities lead to a release or threat of release of hazardous substances, resulting in the taking of a response action at the site (OSWER Directive #9834.6, July 3, 1991). This policy includes residential property owners whose property is located above a ground water plume that is proposed to or on the NPL, where the residential property owner did not contribute to the contamination of the site. EPA may, however, require access to that property during the course of implementing a clean up.

III. Contents of This Proposed Rule

Table 1 identifies the 7 sites in the General Superfund Section and Table 2 identifies the 2 sites in the Federal Facilities Section being proposed to the NPL in this rule. Both tables follow this preamble. All sites are proposed based on HRS scores of 28.50 or above. The sites in Table 1 and Table 2 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

Statutory Requirements

CERCLA section 105(a)(8)(B) directs EPA to list priority sites ''among'' the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and ''other appropriate'' factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of

releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this proposed rule cover Federal facility sites. This policy and requirements are explained below and have been explained in greater detail previously (56 FR 5598, February 11, 1991).

Releases From Federal Facility Sites

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA Subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

This rule proposes to add three sites to the Federal Facilities Section of the NPL.

Economic Impacts

The costs of cleanup actions that may be taken at any site are not directly attributable to placement on the NPL. EPA has conducted a preliminary analysis of economic implications of today's proposal to the NPL. EPA believes that the kinds of economic effects associated with this proposal generally are similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to proposing and adding sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis.

Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to the sites included in this rulemaking.

The major events that typically follow the proposed listing of a site on the NPL are a search for potentially responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may bear some or all the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs.

The State cost share for site cleanup activities is controlled by Section 104(c) of CERCLA and the NCP. For privately-operated sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. For publicly-operated sites, the State cost share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

—For restoration of ground water and surface water, EPA will share in startup costs according to the criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.

—For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes full responsibilities for O&M.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average per site and total cost basis. EPA will continue with this approach, using the most recent cost estimates available; the estimates are presented below. However, there is wide variation in costs for individual sites, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site[1]
RI/FS	1,350,000
Remedial Design	1,260,000
Remedial Action	[3] 22,500,000
Present Discounted Value O&M[2]	5,630,000

[1] 1994 U.S. Dollars.
[2] Assumes cost of O&M over 30 years, $400,000 for the first year and 5.8% discount rate.
[3] Includes State cost-share.
Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Costs to the States associated with today's proposed rule are incurred when the sites are finalized and arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites that are publicly-owned but not publicly-operated; (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites; and (3) States will assume the cost for O&M after EPA's period of participation. Using the budget projections presented above, the cost to the States of undertaking Federal remedial planning and actions, but excluding O&M costs, would be approximately $26 million. State O&M costs cannot be accurately determined because EPA, as noted above, will pay O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known if the site will require this treatment and for how long. Assuming EPA involvement for 10 years is needed, State O&M costs would be approximately $35 million.

Placing a site on the proposed or final NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of an amendment to the NPL are aggregations of efforts on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this amendment on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's amendment are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Listing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these sites.

IV. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes to revise the NPL, an NPL revision is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only a firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

NATIONAL PRIORITIES LIST PROPOSED RULE #18 GENERAL SUPERFUND SECTION

State	Site name	City/county	NPL Gr [1]
FL	Normandy Park Apartments	Temple Terrace	6
KS	Ace Services	Colby	5/6
LA	Gulf State Utilities-North Ryan Street	Lake Charles	5
LA	Old Citgo Refinery	Bossier City	5/6
LA	Southern Shipbuilding	Slidell	5/6
ME	West Site/Hows Corners	Plymouth	5/6
MI	Bay City Middlegrounds	Bay City	5/6

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.
Note: Number of Sites Proposed to General Superfund Section: 7.

NATIONAL PRIORITIES LIST PROPOSED RULE #18 FEDERAL FACILITIES SECTION

State	Site name	City/county	NPL Gr [1]
KS	Sunflower Army Ammunition Plant	DeSoto	5/6
MD	Indian Head Naval Surface Warfare Center	Indian Head	5/6

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.
Note: Number of Sites Proposed to Federal Facilities Section: 2.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Authority: 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321(c)(2); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12580, 3 CFR, 1987 Comp., p. 193.

Dated: February 8, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 95–3601 Filed 2–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–158; FCC 94–352]

Operator Services Providers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and notice of inquiry.

SUMMARY: The Commission adopted this Notice of Proposed Rule Making and Notice of Inquiry to solicit comment on proposed changes to its rules and policies governing operator service providers (OSPs) and call aggregators. The proposed rule changes are intended to clarify existing OSP requirements, and the notice of inquiry examines the need for additional protection measures.

DATES: Comments must be submitted on or before March 9, 1995 and reply comments must be submitted on or before March 24, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT: Carolyn Tatum Roddy, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making and Notice of Inquiry* in CC Docket No. 94–158 [FCC 94–352], adopted December 28, 1994 and released February 8, 1995. The full text of the Notice of Proposed Rule Making and Notice of Inquiry is available for inspection and copying during normal business hours in the Dockets Reference Room, Room 239, 1919 M Street, NW, Washington, D.C. The full text of this Notice of Proposed Rule Making and Notice of Inquiry may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

Summary of Notice of Proposed Rule Making and Notice of Inquiry

1. On December 28, 1994, the Commission adopted a Notice of Proposed Rule Making and Notice of Inquiry in CC Docket No. 94–158, FCC 94–352, proposing changes to rules governing the operator service providers (OSPs) and call aggregators and soliciting comments concerning the need to reexamine certain issues relating to OSPs in correctional institutions and the need to establish a time limit for updating consumer information posted on or near aggregator telephones. The proposed rule changes are intended to clarify existing OSP requirements, and the notice of inquiry examines the need for additional consumer protection measures.

2. The Commission adopted comprehensive regulations governing the practices and services of OSPs and the call aggregators with whom they contract to provide operator services pursuant to the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA). TOCSIA established rules concerning consumer information, call blocking, restrictions on certain charges, and equipment capabilities. Further, the Commission established minimum standards for OSPs to use in routing and handling emergency telephone calls. Subsequently, with the Telecommunications Authorization Act of 1992 (TAA), Congress amended Section 226 (d)(4)(A) to require the Commission to establish minimum standards for aggregators, as well as OSPs, to use in routing and handling emergency calls.

3. Section 226(b)(1)(A) of the Communications Act of 1934, as amended (Act), and Section 64.703(a)(1) of the Commission's rules (rules) require an OSP to identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call. This identification is known as ''call branding.'' Section 226(a)(4) of the Act and Section 64.708(d) of the Commission's rules define a ''consumer'' as ''a person initiating any interstate telephone call using operator services.'' The Commission notes that collect calls involve two parties making choices and tentatively concludes that both the calling party, who places the call, and the called party, who must accept the charges in order for the message portion of the call to begin, cooperatively initiate the call as ''consumers'' and should each receive a ''brand'' before they commence their portions of the collect call transaction. Thus, the Commission proposes to amend Section 64.708(d) of the Commission's rules to redefine ''consumer'' to that effect and invites interested parties to comment on this proposed rule change. The Commission specifically solicits data concerning both the cost of compliance with this proposed rule change and the ratio of collect calls to all operator-assisted calls.

4. Section 226(d)(4)(A) of the Act directed the Commission to prescribe regulations establishing minimum standards for OSPs to use in routing and handling emergency telephone calls. In the *Report and Order*, CC Docket No. 90–313, 56 F R 18519 (April 23, 1991), the Commission adopted Section 64.706 of the rules to implement this requirement. This rule currently requires that ''[u]pon receipt of any emergency telephone call, a provider of operator services shall immediately connect the call to the appropriate emergency service of the reported location of the emergency, if known, and, if not known, of the originating location of the call.'' The TAA amended Section 226(d)(4)(A) of the Act and directed the Commission to establish minimum standards for aggregators, as well as OSPs, to use in routing and handling emergency telephone calls. In light of this amendment, the Commission proposes to modify its rules to require that aggregators be subject to the same requirements for routing and handling emergency calls that apply to OSPs. The Commission solicits comment on this proposed rule change and whether the TAA or sound public policy support the adoption of additional requirements in order to ensure the prompt and proper handling of emergency calls from aggregator locations.

5. In the *Report and Order* in CC Docket No. 90–313, the Commission examined the question of whether correctional institutions providing inmate-only telephones should be excluded from the definition of ''aggregator'' and, therefore, exempt from the requirements of TOSCIA and the Commission's implementing regulations. The Commission concluded that providing such telephones to inmates presents an ''exceptional set of circumstances'' that warrant their exclusion from the definition of ''aggregators'' and ruled that inmate-only telephones would not be subject to the requirements specified by TOCSIA or the implementing rules. In light of numerous informal complaints, the Commission hereby initiates a Notice of Inquiry concerning what changes, if any, should be made to the rules applicable to inmate-only telephones in correctional institutions. The Commission specifically seeks comment on the needs of the inmate users, the resources and needs of correctional institutions in providing inmate telephone service, and whether the goals of Section 226 of the Act and the public interest have been met through the current treatment of inmate-only telephones in correctional institutions.

6. The Commission also seeks comment on whether to require a time limit for updating consumer information that is posted on aggregator telephones. Section 226(c)(1)(A) of the Communications Act and Section 64.703(b) of the Commission's rules require that each aggregator post on or near the telephone instrument in plain view of consumers: (1) the name, address, and toll-free telephone number of the provider of operator services; (2) a written disclosure that the rates for all operator-assisted calls are available on

request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and (3) the name and address of the Enforcement Division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services. Neither the statute nor the Commission's rules specifies when this notice must be changed to reflect a change in the presubscribed carrier at the telephone location. In response to reports that some aggregators are not promptly updating this consumer information to reflect a change in the presubscribed OSP, the Commission seeks comment on the extent of this problem, and whether a specific time limit for updating the consumer information is necessary or desirable.

7. The Commission asserts that this is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See generally* 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

8. The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The Commission has also directed the Secretary to send a copy of the Notice of Proposed Rule Making and Notice of Inquiry, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

Ordering Clauses

9. Accordingly, pursuant to Sections 1, 4(i), 4(j). 201–205, 218, 226, and 303(r) of the Communications Act, 47 U.S.C. §§ 151, 154(i), 154(j), 201–205, 218, 226, 303(r), a *Notice of Proposed Rule Making and Notice of Inquiry* is issued, proposing amendment of 47 CFR §§ 64.706 and 64.708(d) as set forth below.

10. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, all interested parties may file comments on the matters discussed in this Notice and on the proposed rules contained below by March 9, 1995. Reply comments are due by March 24, 1995. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 230) of the Federal Communications Commission, 1919 M Street, NW, Washington, D.C. 20554.

List of Subjects in 47 CFR Part 64

Communications Common Carrier, Telephone.

Federal Communications Commission.

William F. Caton,

Secretary.

Proposed Rules

Part 64 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

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

2. The heading of Subpart G is revised to read as follows:

Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Communications Common Carriers; Telephone Operator Services; Pay-Per-Call Services

3. Section 64.706 is revised to read as follows:

§ 64.706 Minimum standards for the routing and handling of emergency telephone calls.

Upon receipt of any emergency telephone call, providers of operator services and aggregators shall ensure immediate connection of the call to the appropriate emergency service of the reported location of the emergency, if known, and, if not known, of the originating location of the call.

4. Section 64.708 is amended by revising paragraph (d) to read as follows:

§ 64.708 Definitions.

* * * * *

(d) *Consumer* means a person initiating any interstate telephone call using operator services. In collect calling arrangements, both the party on the originating end of the call and the party on the terminating end of the call are consumers under this definition;

* * * * *

[FR Doc. 95–3493 Filed 2–10–95; 8:45 am]

BILLING CODE 6712–01–F

Notices

Federal Register
Vol. 60, No. 29
Monday, February 13, 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 Service, intends to grant to Mantrose-Haeuser Company, Inc., of Attleboro, Massachusetts, an exclusive license to U.S. Patent No. 5,019,403, issued May 28, 1991, (Serial No. 07/450,192), ''Coating for Substrates Including High Moisture Edible Substrates.'' Notice of Availability was published in the **Federal Register** on December 13, 1989.

DATES: Comments must be received on or before April 14, 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 patent 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 Mantrose-Haeuser Company, Inc., 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. 95–3470 Filed 2–10–95; 8:45 am]

BILLING CODE 3410–03–M

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 Service, intends to grant to Oryx Resources of Binghamton, New York, an exclusive license to U.S. Patent No. 5,169,666 issued December 8, 1992 (Serial No. 07/791,691), ''Preparation of Simulated Human Milk Protein by Low Temperature Microfiltration.'' Notice of Availability was published in the **Federal Register** on November 14, 1991.

DATES: Comments must be received on or before April 14, 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 patent 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 Oryx Resources 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. 95–3471 Filed 2–10–95; 8:45 am]

BILLING CODE 3410–03–M

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 Agricultural Research Service, intends to grant to Quincy, Illinois, an exclusive license to U.S. Patient No. 5,122,188 issued June 16, 1992, (Serial No. 07/519,197), ''Vegetable Oil Based Printing Ink.'' Notice of Availability was published in the **Federal Register** on May 3, 1990.

DATES: Comments must be received on or before April 14, 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 patent 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 Quincy Soybean Company 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.,

Asistant Administrator.

[FR Doc. 95–3472 Filed 2–10–95; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Bureua of Export Administration

[Docket Nos. 3101–01, 3101–02]

Reza Panjtan Amiri, Also Known as Ray Amiri, Individually and Doing Business as Ray Amiri Computer Consultants (RACC), Now Also Known as CCC Inc., Respondents; Modification of Order of September 25, 1993

Whereas, on September 25, 1993, the then-Acting Under Secretary for Export Administration, Barry Carter, entered an Order [1] denying Reza Panjtan Amiri, also known as Ray Amiri, individually and doing business as Ray Amiri Computer Consultants (RACC), now also know as CCC Inc. (hereinafter collectively referred to as Amiri), all U.S. export privileges for a period of 20 years, based on a finding that Amiri had violated the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991, Supp. 1993, and Pub. L. No. 103–277, July 5,1994)) (the Act),[2] and the Export Administration Regulations (currently codified at 15 CFR Parts 768–799 (1994)) (the Regulations);

Whereas, the September 25, 1993 Order entered against Amiri identified as one of his addresses as ''1411 Fifth Street, Suite 303, Santa Monica, California 90401'';

Whereas, Ulysses International [3] has submitted information that Amiri has ceased doing business at 1411 Fifth Street, Suite 303, Santa Monica, California 90401; and

Whereas, based on the information submitted by Ulysses International, the Office of Export Enforcement, Bureau of Export Administration, U.S. Department of Commerce (Department), has requested that the September 25, 1993 Order be modified by deleting 1411 Fifth Street, Suite 303, Santa Monica, California 90401 as one of the addresses for Amiri.

Accordingly, it is hereby ordered that the September 25, 1993 Order denying all U.S. export privileges to Reza Panjtan Amiri, also known as Ray Amiri, individually and doing business as Ray Amiri Computer Consultants (RACC), now also know as CCC Inc., is modified by deleting ''1411 Fifth Street, Suite 303, Santa Monica, California 90401'' as one of the addresses for Amiri. In all other aspects, the September 25, 1993 Order remains in full force and effect.

This Order, which is effective immediately, shall be published in the **Federal Register**.

Entered this 6th day of February, 1995.

[FR Doc. 95–3475 Filed 2–10–95; 8:45 am]

BILLING CODE 3510–DT–M

[1] 58 FR 51610 (October 4, 1993).

[2] The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

[3] Ulysses International is a California corporation whose offices are located at 1411 Fifth Street, Suite 303, Santa Monica, California 90401.

International Trade Administration

[C–201–001]

Leather Wearing Apparel From Mexico; Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review.

SUMMARY: In response to a request by the Government of Mexico (GOM), the Department of Commerce (the Department) has conducted a changed circumstances countervailing duty administrative review. The review covers the period January 1, 1994 through September 30, 1994 and two companies, Maquiladora Pieles Pitic, S.A. de C.V. (MPP) and Finapiel de Mexico, S.A. de C.V. (Finapiel). The purpose of the review is to reexamine the cash deposit rate for these two exporters that was set in the final results of the last administrative review of the countervailing duty order on leather wearing apparel from Mexico (59 FR 43815; August 25, 1994).

We preliminarily determine the cash deposit rate to be zero for both companies. If the final results remain unchanged from these preliminary results, we will instruct U.S. Customs to require zero cash deposits of estimated countervailing duties on shipments of leather wearing apparel from MPP and Finapiel.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: February 13, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, 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) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1994, the Department published the final results of the last administrative review of the countervailing duty order on leather wearing apparel from Mexico, covering the January 1, 1992 through December 31, 1992 review period (46 FR 21357; April 10, 1981). In that review, 65 companies which the GOM certified did not receive benefits from the programs under review received a cash deposit rate of zero. All other companies, which did not respond to our questionnaire, including MPP and Finapiel, received a cash deposit rate of 13.35 percent based on best information available.

On December 1, 1994, the GOM requested a changed circumstances review to examine the cash deposit rate applicable to MPP and Finapiel. In its request, the GOM stated that MPP and Finapiel were excluded from the list of GOM-certified zero-benefit recipients submitted to the Department in the recently completed administrative review due to an oversight by the GOM. With its request, the GOM provided company and government certifications that MPP and Finapiel did not apply for or receive any net subsidy during the first three quarters of 1994 from the programs that were previously found countervailable or not-used, and will not apply for or receive any such net subsidy in the future, in accordance with 19 CFR 355.22(a)(2)(1994). The GOM also stated that it has taken steps to ensure that the type of oversight which occurred in this case will not be repeated in future administrative reviews.

On December 21, 1994 (59 FR 65755), the Department initiated a changed circumstances review to examine the cash deposit rate for MPP and Finapiel. We conducted verification of the certification statements at both GOM and company offices from January 9 through January 12, 1995. At verification, we confirmed that, during the first three quarters of 1994, MPP and Finapiel did not apply for or receive any benefits from the programs examined by the Department in the last administrative review. These programs were:

(A) BANCOMEXT Loans and Export Financing
(B) Certificates of Fiscal Promotion (CEPROFI)
(C) FOGAIN
(D) FONEI
(E) State Tax Incentives
(F) PITEX
(G) Import Duty Reductions and Exemptions

(H) Article 15 Loans

The Department has conducted this review in accordance with section 751(b)(1) of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of Mexican leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls, and infants, and other leather apparel products including leather vests, pants, and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 4203.10.4030, 4203.10.4060, 4203.10.4085 and 4203.10.4095. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1994 through September 30, 1994 and eight programs.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Preliminary Results of Review

As a result of this review, we preliminarily determine that, during the first three quarters of 1994, MPP and Finapiel did not receive any benefits from the programs examined in the last administrative review of this order. Therefore, if the final results remain the same as these preliminary results, the Department will instruct the Customs Service to collect zero cash deposits of estimated countervailing duties, as provided by the Act, on shipments of Mexican leather wearing apparel from MPP and Finapiel exported on or after the date of publication of the final results of this review .

Interested parties may request a hearing not later than 10 days after the date of publication of this notice (See 19 CFR 355.38(b)). Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with section 355.38(e) of the Commerce regulations.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due (*See* 19 CFR 355.34(b)(1)(iii)).

The Department will publish the final results of this changed circumstances administrative review including the results of its analysis of issues raised in any case or rebuttal brief.

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

Dated: February 7, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–3662 Filed 2–10–95; 8:45 am]

BILLING CODE 3510–DS–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection Request Submitted to the Office of Management and Budget for Review

AGENCY: The Corporation for National and Community Service (CNS).

ACTION: Information Collection Request Submitted to the Office of Management and Budget (OMB) for Review.

SUMMARY: This notice provides information about an information proposal by CNS, currently under review by OMB.

DATES: OMB and CNS will consider comments on the proposed collection of information and record keeping requirements received within 10 days from the date of publication. Copies of the proposed forms and supporting documents may be obtained by contacting CNS.

ADDRESSES: Send comment to both:

Chuck Helfer Study Director, CNS, 1201 New York Ave., NW., Washington DC 20525

Daniel Chenock, Desk Officer, OMB, 3002 NEOB, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Chuck Helfer, (202) 606–5000, extension 248.

SUPPLEMENTARY INFORMATION:

Office of the Corporation for National and Community Service Issuing Proposal: Office of Evaluation

Title of Form: Learn and Serve America—Higher Education Annual Accomplishments Survey and Community Impact Survey

Need and Use: The National and Community Service Trust Act of 1993 (Pub. L. 103–82) requires the Corporation for National Service to evaluate its programs on a regular basis. This information is required for program management, planning, and required record keeping

Type of Request: Submission of a new collection

Respondents Obligation to Reply: Voluntary

Frequency of Collection: Once each year for three years

Estimated Number of Responses: 1,250

Average Burden Hours per Response: .51 hours

Estimated Annual Reporting or Disclosure Burden: 637.5 hours

Regulatory Authority: Public Law 103–82

Dated: February 7, 1995.

Lance Potter,

Director, Office of Evaluation.

[FR Doc. 95–3548 Filed 2–10–95; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Joint Technology Issues

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Joint Technology Issues will meet in closed session on March 2–3, 1995 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will work with the JCS Chairman and Vice Chairman in support of the Expanded JROC activities. The Task Force should place special emphasis on the application of technology to enhance the effectiveness of the evolving force structure within tight fiscal constraints and should also place a special focus on issues dealing with operations other than war.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly

this meeting will be closed to the public.

Dated: February 7, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–3452 Filed 2–10–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Theater Missile Defense (TMD)

ACTION: Change in Date/Location of Advisory Committee Meeting Notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Theater Missile Defense (TMD) scheduled for February 1–2, 1995 at the Pentagon, Arlington, Virginia, as published in the **Federal Register** (Vol. 60, No. 19, Page 5656, Monday, January 30, 1995, FR Doc. 95–2195) will be held on February 13–14, 1995 at Science Applications International Corporation (SAIC), McLean, Virginia.

Dated: February 7, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–3453 Filed 2–10–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Quality of Life

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Quality of Life will meet in open session on February 27–28, 1995 at the Hyatt Arlington at Key Bridge, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call LtCol Dave Witkowski at (703) 697–7192.

Dated: February 7, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–3454 Filed 2–10–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Yakima Training Center Cultural and Natural Resources Committee—Technical Committee

AGENCY: HQ, I CORPS & Fort Lewis, DOD.

ACTION: Notice of 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: Yakima Training Center Cultural and Natural Resources Committee—Technical Committee.

Date of Meeting: March 9, 1995.

Place: Yakima Training Center, Building 266, Yakima, Washington.

Time: 1:00 p.m.

Proposed Agenda: Cultural and Natural Resources Management Plan development.

All proceedings are open. For future information contact Stephen Hart, Chief, Civil Law, (206) 967–4540.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–3552 Filed 2–10–95; 8:45 am]

BILLING CODE 3710–08–M

Yakima Training Center Cultural and Natural Resources Committee—Technical Committee

AGENCY: HQ, I CORPS & Fort Lewis, DOD.

ACTION: Notice of 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: Yakima Training Center Cultural and Natural Resources Committee—Technical Committee.

Date of Meeting: March 16, 1995.

Place: Yakima Training Center, Building 266, Yakima, Washington.

Time: 1:00 p.m.

Proposed Agenda: Cultural and Natural Resources Management Plan development.

All proceedings are open. For further information contact Stephen Hart, Chief, Civil Law, (206) 967–4540.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–3551 Filed 2–10–95; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Dredged Material Placement at Duluth-Superior Harbor, Minnesota and Wisconsin

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Detroit District, is evaluating the environmental impacts of dredged material placement alternatives for maintenance dredging at Duluth-Superior Harbor, Minnesota and Wisconsin. The Federal navigation project includes 17 miles of navigation channels, anchorage areas, and maneuvering basins, with channel depths ranging from 20 to 27 feet. Existing dredged material placement sites have insufficient capacity for future maintenance dredging needs. Alternatives under consideration for future dredged material placement include expansion of the existing Erie Pier Confined Disposal Facility (CDF) by increasing the dike heights, other diked in-water facilities, upland placement, habitat creation, and open water disposal. The no Federal action alternative will also be considered.

ADDRESSES: U.S. Army Corps of Engineers, Army Engineer District, Detroit, Environmental Analysis Branch, P.O. Box 1027; Detroit, Michigan 48231–1027.

FOR FURTHER INFORMATION CONTACT:

Duluth-Superior Harbor is located at the western end of Lake Superior between Duluth, Minnesota, and Superior, Wisconsin. The harbor is formed by the waters of the St. Louis River, the second largest tributary of Lake Superior. Approximately 113 docks or terminals at Duluth-Superior Harbor handle a variety of commodities including iron ore, coal, limestone, petroleum, steel and scrap iron, cement, general cargo, and grain.

Maintenance dredging for the Federal project averages about 150,000 yards per year. Much of the dredged material is placed in the Erie Pier CDF, which is located on approximately 82 acres along the northwest shore of Duluth-Superior Harbor. The CDF was constructed in 1979 to hold up to one million cubic yards of material dredged from the Federal navigation project over a 10 year period. Clean sand dredged from the outer parts of the harbor is generally used for beach nourishment to mitigate the affects of beach erosion along the lake.

Since 1988, a washing operation has been conducted at the Erie Pier CDF to separate out the cleaner, coarse grained fraction of the dredged materials for beneficial use. Through this operation, over a half-million cubic yards of coarse grained material have been removed for various beneficial uses, primarily construction projects. This has helped extend the life of the Erie Pier CDF by several years. Nonetheless, remaining capacity at the Erie Pier CDF is insufficient for future dredged material placement needs.

The U.S. Army Corps of Engineers, Detroit District, is therefore evaluating the environmental impacts of several dredged material placement alternatives for Duluth-Superior Harbor in coordination with the development of a dredged material placement plan for the harbor. Alternatives under consideration include expansion of the existing Erie Pier CDF by increasing the dike heights, diked in-water facilities, upland placement, habitat creation, and open water disposal. To date, no viable sites for upland placement have been identified in the harbor vicinity. The no Federal action alternative will also be considered and will serve as a baseline from which to measure the impacts of the action alternatives.

Possible sites for diked in-water facilities include: (1) A 25 acre site in the embayment on the east side of Erie Pier, (2) an 18-acre embayment and deep ship mooring area on the south side of the Duluth, Missabe and Iron Range Railroad (DMIR) taconite storage facility (about 1 mile northeast from Erie Pier), and (3) 65 acres of the embayment on the east side of the DMIR facility.

The Habitat Creation alternative focuses on the filling of existing deep holes (which were created in the harbor by past mining activities) with dredged material to an appropriate elevation for development of shallow water fishery habitat. Sites under consideration include: (1) The deep hole adjacent to Hearding Island in the outer harbor, and (2) the Cross Channel deep hole, located in the inner harbor between Interstate Island and the Cross Channel. Barrier islands would be constructed to shelter the created fishery habitat from wave action and to provide upland habitat for birds.

Significant issues to be analyzed include potential impacts on wetlands, water quality, fish and wildlife habitat, and cultural resources. Social impacts, including impacts upon recreation, aesthetics, and the local economy, will also be considered.

The proposed actions will be reviewed for compliance with the Fish and Wildlife Act of 1956; the Fish and Wildlife Coordination Act of 1958; the National Historic Preservation Act of 1966; the National Environmental Policy Act (NEPA) of 1969; the Clean Air Act of 1970; the Coastal Zone Management Act of 1972; the Endangered Species Act of 1973; the Water Resources Development Act of 1976; the Clean Water Act of 1977 Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 1971, Executive Order 11988, Flood Plain Management, May 1977; Executive Order 11990, Wetland Protection, May 1977; and Corps of Engineers, Dept. of the Army, 33 CFR Part 230, Environmental Quality: Policy and Procedure for Implementing NEPA.

The proposed dredged material placement is being coordinated with the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources. Coordination will also be initiated with the U.S. Environmental Protection Agency, the Minnesota Pollution Control Agency, the Minnesota State Historic Preservation Office, the Bureau of Indian Affairs, local and regional Indian tribes, and other interested agencies and individuals.

A public information meeting was held on November 19, 1994, sponsored by the Duluth Seaway Port Authority, in conjunction with the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and the Harbor Technical Advisory Committee of the Duluth-Superior Metropolitan Interstate Committee. The purpose of the meeting was to inform the local residents and other interested individuals and environmental groups of the deep hold/habitat creation concept being investigated as a viable dredged material placement alternative.

All Federal, state, and local agencies, Indian tribes, and other private organization and parties are invited to participate in the proposed project review. Questions, concerns, and comments may be directed to the address given in this notice. During the DEIS public comment period, a public meeting will be scheduled, if necessary. It is anticipated that the DEIS would be available for public review in 1996.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–3553 Filed 2–10–95; 8:45 am]

BILLING CODE 3710–GA–M

DEPARTMENT OF ENERGY

Idaho Operations Office; Solicitation for Financial Assistance; Research, Development and Demonstration of New and Advanced Technology for the Glass Industry; Correction

AGENCY: U.S. Department of Energy, Idaho Operations Office.

ACTION: Correction.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, published a complete solicitation in the **Federal Register** on January 24, 1995 (60 F.R. 4608, Notice), requesting cost shared applications for Research, Development and Demonstration of New and Advanced Technology for the Glass Industry (No. DE–PS07–95ID13346). The purpose of this notice is to make the following corrections and add additional text:

1. Page 4609 (1st Column), ''**DATES:** The deadline for receipt of applications is 4:00 p.m. MDT, March 22, 1995.'' is changed to ''**DATES**: The deadline for receipt of applications is 4:00 p.m. MDT, March 29, 1995.''

2. Page 4609 (2nd Column), Add the following paragraph to the end of section B. Project Description, ''The Gas Research Institute (GRI), 8600 West Bryn Mawr Ave., Chicago, IL 60631, has expressed interest in co-funding gas related projects which will benefit the glass industry. GRI has typically supported the research, development and demonstration phases of projects. Applicants wishing to be considered for GRI support should contact Mr. Leslie Donaldson (telephone number 312–399–8295) at GRI before submitting proposals. It is suggested that bidders contact GRI as early in the proposal preparation process as is practical. While the cost share requirements of the solicitation must be met, natural gas industry funding is NOT required to obtain DOE support. Likewise, natural gas industry funding will NOT provide assurance of DOE support.''

3. Page 4610 (2nd Column), under F. Proposal Evaluation, a. Application Deadline: The sentence, ''The deadline for receipt of applications is 4:00 p.m. MST, March 22, 1995.'' is changed to ''The deadline for receipt of applications is 4:00 p.m. MST, March 29, 1995.''

4. Page 4611 (1st Column), under e. Merit Reviews (which began on p. 4610). The sentence, ''Selections for negotiations are expected to be made May 10, 1995, and financial assistance awards are expected to be made beginning July 21, 1995,'' is changed to ''Selections for negotiations are

expected to be made May 17, 1995, and financial assistance awards are expected to be made beginning July 28, 1995.''

5. Page 4612 (1st Column), h. Assurances and Certifications: The sentence, ''It is advised that prospective applicants submit their requests in writing no later than February 21, 1995.'' is changed to ''It is advised that prospective applicants submit their requests in writing no later than February 28, 1995.''

6. Page 4612 (1st Column), i. Questions & Answers: The sentence, ''Questions regarding this solicitation should be submitted in writing to the DOE Contract Specialist no later than February 15, 1995.''is changed to ''Questions regarding this solicitation should be submitted in writing to the DOE Contract Specialist no later than February 22, 1995.''

Dated: February 2, 1995.

J.O. Lee,

Director of Procurement Services Division.

[FR Doc. 95–3531 Filed 2–10–95; 8:45 am]

BILLING CODE 6450–01–M

Environmental Management Site Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES: Tuesday, February 21, 1995, 10:00 a.m. to 12:00 noon.

ADDRESSES: The board meeting will be held at: Barnwell County Museum, Marlboro Avenue, Barnwell, South Carolina.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, (803) 725–8074.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

10:00 a.m.—Budget Issues
12:00 p.m.—Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details.

A final agenda will be available at the meeting Tuesday, February 21, 1995.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday—Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling him at (803) 725–8074.

Issued at Washington, DC on February 8, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–3532 Filed 2–10–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Pantex Plant.

DATES: Wednesday, February 22, 1995 10:00 am–2:00 pm.

ADDRESSES: February 22, 1995 meeting: Carson County Square House Museum, Panhandle, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806) 477–3121.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The Pantex Plant Citizens' Advisory Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

10:00 am—Welcome—Agenda Review—Introductions
Co-Chairs' Comments
- report from participants in Feb. 14–15 SSAB Workshop

10:30 am—Updates
- occurrence report from DOE
- other DOE updates: pit storage and heat buildup in igloos

11:30 am—Working Lunch
- Work plan for next year (and task forces to address issues)
- Consider T&P Subcommittee recommendation; adopt plans

1:00 pm—Subcommittee Reports
- Training and Program Subcommittee
- Community Outreach Subcommittee
- Budget and Finance Subcommittee
- Nominations and Membership
- Policy and Personnel

1:45 pm—Next Meetings (1995)
- Tuesday, March 28, 1:30–5:50 pm
- Tuesday, April 25, 1:30–5:50 pm
- Tuesday, May 23, 1:30–5:50 pm
- Tuesday, June 27, 1:30–5:50 pm

2:00 pm—Adjourn

Public comment will be taken periodically throughout the meeting.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statement pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is

being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on February 8, 1995.

Rachel Murphy Samuel,

Acting Deputy, Advisory Committee Management Officer.

[FR Doc. 95–3529 Filed 2–10–95; 8:45 am]

BILLING CODE 6450–01–M

Secretary of Energy Advisory Board Task Force on Strategic Energy Research and Development

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board Task Force on Strategic Energy Research and Development.

Date and Time: Tuesday, February 28, 1995, 8:45 am–1:00 pm.

Place: Washington, D.C.—Final Location To Be Determined—Please call the SEAB Office on (202) 586–7092 after 2/15/95 for details.

FOR FURTHER INFORMATION CONTACT: Peter F. Didisheim, Executive Director, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7700.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The Secretary of Energy Advisory Board Task Force on Strategic Energy Research and Development assists the Board in its top-level review of the Department's civilian energy research programs. The Board's Task Force will examine the Department's current research and development portfolio against its strategic goals, policy priorities and national needs will examine the Departments' research and development planning and management process and the first research, development, demonstration, and commercialization management plan, required biennially by the Energy Policy Act of 1992.

Tentative Agenda

8:45 am—Opening Remarks
9:00 am—Panel #1: Transportation and Related R&D Needs
10:45—Break
11:00 am—Panel #2: Building & Industry and Related R&D Needs
12:45 pm—General Discussion and Public Comment
1:00 pm—Adjourn Public Meeting

A final agenda will be available at the meeting.

Public Participation: The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C. the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. Written comments may be submitted to Peter F. Didisheim, Executive Director, Secretary of Energy Advisory Board, AB–1, 1000 Independence Avenue, SW, Washington, DC 20585. In order to insure that Task Force members have the opportunity to review written comments prior to the meeting, comments should be received by Friday, February 24, 1995.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays.

Issued at Washington, DC, on February 8, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 94–3528 Filed 2–10–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EG95–29–000, et al.]

Austin Cogeneration Corporation, et al.; Electric Rate and Corporate Regulation Filings

February 6, 1995.

Take notice that the following filings have been made with the Commission:

1. Austin Cogeneration Corporation

[Docket No. EG95–29–000]

On February 1, 1995, Austin Cogeneration Corporation (''Applicant''), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to 18 CFR Part 365.

Applicant is a Delaware corporation formed to acquire an indirect ownership interest in a 255 MW natural gas-fired cogeneration facility to be located in the City of Austin, Texas, and/or operate such facility and engage in project development activities with respect thereto.

Comment date: February 24, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. CINergy Services, Inc.

[Docket No. ER95–501–000]

Take notice that on January 30, 1995, CINergy Services, Inc., on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., made an abbreviated filing to amend each of its coordination schedules to add guidelines for the recovery of emission allowance costs. The rate schedules affected by this filing are the following:

Rate schedule	Other signatory(ies)
CG&E Rate Schedule FERC No. 13	Indiana Michigan Power Co. and Ohio Power Company.
CG&E Rate Schedule FERC No. 38	Columbus Southern Power Co.
CG&E Rate Schedule FERC No. 39	Dayton Power & Light Co.
CG&E Rate Schedule FERC No. 43	East Kentucky Power Cooperative, Inc.

Rate schedule	Other signatory(ies)
CG&E Rate Schedule FERC No. 33	Louisville Gas & Electric Co.
CG&E Rate Schedule FERC No. 45	Ohio Valley Electric Corp.
CG&E Rate Schedule FERC No. 47	Cleveland Public Power.
CG&E Rate Schedule FERC No. 48	City of Piqua, Ohio.
PSI Rate Schedule FERC No. 257	Big Rivers Electric Co.
PSI Rate Schedule FERC No. 260	Blue Ridge Power Agency.
PSI Rate Schedule FERC No. 263	Electric Clearinghouse, Inc.
PSI Rate Schedule FERC No. 262	Enron Power Marketing, Inc.
PSI Rate Schedule FERC No. 222	Hoosier Energy Rural Electric Cooperative, Inc. and Southern Indiana Gas and Electric Co.
PSI Rate Schedule FERC No. 231	Hoosier Energy Rural Electric Cooperative, Inc. and Southern Indiana Gas and Electric Co.
PSI Rate Schedule FERC No. 250	Illinois Municipal Electric Agency.
PSI Rate Schedule FERC No. 49	Indiana Michigan Power Co.
PSI Rate Schedule FERC No. 234	Indiana Municipal Power Agency.
PSI Rate Schedule FERC No. 247	Indianapolis Power & Light Co.
PSI Rate Schedule FERC No. 254	Kentucky Utilities Co.
PSI Rate Schedule FERC No. 266	LG&E Power Marketing, Inc.
PSI Rate Schedule FERC No. 256	City of Logansport, Indiana.
PSI Rate Schedule FERC No. 261	Louis Dreyfus Electric Power, Inc.
PSI Rate Schedule FERC No. 208	Louisville Gas & Electric Co.
PSI Rate Schedule FERC No. 227	Northern Indiana Public Service Co.
PSI Rate Schedule FERC No. 255	City of Piqua.
Ohio PSI Rate Schedule FERC No. 265	Rainbow Energy Marketing Corp.
PSI Rate Schedule FERC No. 264	Tennessee Valley Authority.
PSI Rate Schedule FERC No. 241	Wabash Valley Power Authority, Inc.
PSI Rate Schedule FERC No. 233	Wabash Valley Power Association, Inc.
PSI Rate Schedule FERC No. 242	American Municipal Power-Ohio, Inc.
PSI Rate Schedule FERC No. 205	Central Illinois Public Service Co.
PSI Rate Schedule FERC No. 207	Southern Indiana Gas and Electric Co.
PSI Rate Schedule FERC No. 245	Baltimore Gas & Electric Co.
PSI Rate Schedule FERC No. 258	AES Power, Inc.

Each of the customers under the aforementioned rate schedules were served with a copy of the filing.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Central Illinois Public Service Company

[Docket No. ER95–502–000]

Take notice that on January 30, 1995, Central Illinois Public Service Company (CIPS), submitted an abbreviated filing for the limited purpose of including the cost of SO_2 Emission allowances as an incremental out-of-pocket cost in CIPS' rates for coordination sales. The Commission's December 15, 1994 Policy Statement and Interim Rule Regarding Ratemaking Treatment of the Cost of Emissions Allowances in Coordination Rates (Interim Rule) contemplated that utilities such as CIPS, affected by the 1990 Clean Air Act Amendments as of January 1, 1995, would make such a filing.

As permitted by the Interim Rule, CIPS seeks an effective date of January 1, 1995 for the proposed change in rates and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing were served on all customers under CIPS's Coordination Sales Tariff and on all parties to various bilateral or trilateral agreements with CIPS affected by the proposed change. Copies of the filing are available for public inspection in CIPS' offices in Springfield, Illinois.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company (Minnesota) Northern States Power Company (Wisconsin)

[Docket No. ER95–503–000]

Take notice that on January 30, 1995, Northern States Power Company (Minnesota), and Northern States Power Company (Wisconsin), (hereinafter NSP Companies) are Parties to various Diversity Exchange and Interconnection and Interchange Agreements. This filing contains amendments to coordination agreements to recover the replacement cost of emission allowances in coordination rates. The purpose of this filing is to comply with the Policy Statement and Interim Rule Regarding Ratemaking Treatment of the Cost of Emission Allowances in Coordination Rates, Docket No. PL95–1–000, issued on December 15, 1994.

In this Policy Statement and Interim Rule the Commission stated that in exchange for granting waiver of notice, a utility may implement this emission allowance replacement cost treatment, as of January 1, 1995, if it agrees to refund any allowance-related charges assessed between January 1, 1995, and the date the Commission issues an order accepting the filing without investigation or hearing. NSP Companies request that the Commission grant waiver of its Part 35 notice provisions and accept this filing effective January 1, 1995, subject to refund.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Public Service Corporation

[Docket No. ER95–504–000]

Take notice that on January 31, 1995, the Wisconsin Public Service Corporation (WPSC), tendered for filing Supplement No. 6 to its partial requirements service agreement with Manitowoc Public Utilities (MPU), Manitowoc County, Wisconsin. Supplement No. 6 provides MPU's contract demand nominations for January 1995–December 1999, under WPSC's W–2 partial requirements tariff and MPU's applicable service agreement.

The company states that copies of this filing have been served upon MPU and to the State Commissions where WPSC serves at retail.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER95–505–000]

Take notice that on January 31, 1995, Wisconsin Public Service Corporation (WPSC), tendered for filing Supplement No. 8 to its service agreement with Consolidated Water Power Company (CWPCO). Supplement No. 8 provides CWPCO's contract demand nominations for January 1994–December 1999, under WPSC's W–3 tariff and CWPCO's applicable service agreement.

The company states that copies of this filing have been served upon CWPCO and to the State Commissions where WPSC serves at retail.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER95–506–000]

Take notice that on January 30, 1995, Illinois Power Company (Illinois Power), tendered for filing an Addendum to its coordination agreements. Illinois Power states that the purpose of the Addendum is to explain how the cost of emission allowances are to be calculated.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Ohio Edison Company Pennsylvania Power Company

[Docket No. ER95–507–000]

Take notice that on January 30, 1995, Ohio Edison Company and Pennsylvania Power Company, tendered for filing amendments to the agreements. The purpose of this filing is to amend energy rates contained in the foregoing agreements to reflect the energy-related costs incurred by Ohio Edison Company and Pennsylvania Power Company to ensure compliance with the Phase I sulfur dioxide emissions limitations of the Clean Air Act Amendment of 1990.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER95–508–000]

Take notice that on January 30, 1995, Northern States Power Company (Minnesota), and Northern States Power Company (Wisconsin), (hereinafter NSP Companies) are Parties to various coordination agreements. This filing contains amendments to these coordination agreements to recover the replacement cost of emission allowances in coordination rates. The contents of this filing comply with the Policy Statement and Interim Rule Regarding Ratemaking Treatment of the Cost of Emission Allowances in Coordination Rates, Docket No. PL95–1–000, issued on December 15, 1994.

In accordance with the waiver of notice provisions contained in the Policy Statement and Interim Rule, NSP Companies request that the Commission grant waiver of its Part 35 notice provisions and accept this filing effective January 1, 1995, subject to refund.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–509–000]

Take notice that on January 30, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing proposed supplements to its Rate Schedules FERC No. 92 and FERC No. 96.

The proposed Supplement No. 7 to Rate Schedule FERC No. 96 increases the rates and charges for electric delivery service furnished to public customers of the New York Power Authority (NYPA) by $22,367,000 annually based on the 12-month period ending March 31, 1996.

The proposed Supplement No. 6 to Rate Schedule FERC No. 96, applicable to electric delivery service to NYPA's non-public, economic development customers, and the proposed supplement No. 4 to Rate Schedule FERC No. 92, applicable to electric delivery service to commercial and industrial economic development customers of the county of Westchester Public Agency (COWPUSA) or the New York City Public Utility Service (NYCPUS), increase the rates and charges for the service by $217,000 annually based on the 12-month period ending March 31, 1996.

The proposed increases are a part of a Company-wide general electric rate increase application by the Edison which is pending before the New York Public Service Commission (NYPSC).

Although the proposed supplements bear a nominal effective date of April 1, 1995, Con Edison will not seek permission to make these effective until the effective date, estimated to be April 1, 1995 of the rate changes authorized by the NYPSC.

A copy of this filing has been served on NYPA, COWPUSA, NYCPUS, and the New York Public Service Commission.

Comment date: February 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Iowa-Illinois Gas and Electric Company

[Docket No. ES95–20–000]

Take notice that on January 31, 1995, Iowa-Illinois Gas and Electric Company filed an application under § 204 of the Federal Power Act seeking authorization to issue up to $150 million of unsecured short-term debt during the period commencing June 30, 1995 and ending June 30, 1997, with a final maturity date not later than June 30, 1998.

Comment date: March 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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. 95–3494 Filed 2–10–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–37–000]

Columbia Gas Transmission Corp.; Intent to Prepare an Environmental Assessment for the Proposed Panda-Brandywine Project and Request for Comments on Environmental Issues

February 7, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or the Commission) will prepare an environmental assessment (EA) that will discuss environmental impacts of the construction and operation associated with the jurisdictional facilities proposed in the Panda-Brandywine

Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is required and whether or not to approve the project.

Summary of the Proposed Project

Columbia Gas Transmission Corporation (Columbia) wants Commission authorization to construct and operate 6.3 miles of pipeline to transport up to 24,240 dekatherms of natural gas per day to Panda-Brandywine L.P. (Panda) for its Brandywine, Maryland cogeneration plant. Columbia's facilities would consist of:

—4.1 miles of 36-inch-diameter pipeline loop on Line WB in Hardy County, West Virginia;

—1.6 miles of 36-inch-diameter pipeline (designated as Line WB–5) that would replace approximately 1.5 miles of 26-inch-diameter pipeline in three sections (designated as Line WB) in Braxton County, West Virginia; and

—0.6 mile of 36-inch-diameter pipeline loop on Line SB–5 in Clay County, West Virginia.

In addition, a nonjurisdictional tap, measurement and regulation facilities, and about 0.5 mile of 20-inch-diameter nonjurdisdictional pipeline would be constructed by Washington Gas Light Company (WGL) in Prince George's County, Maryland, to supply gas to Panda's cogeneration plant.

The locations of the project facilities are shown in appendix 1.2 [2]

Land Requirements for Construction

The proposed replacement pipeline and loops would be built within or adjacent to existing pipeline rights-of-way (ROW). The construction ROW would typically be 75 feet wide consisting of a 50-foot-wide permanent ROW and a 25-foot-wide temporary ROW. The construction ROW would overlap existing ROW by about 25 feet. Generally, the old replaced pipeline would be removed except in specific areas such as some road/railroad crossings identified by Columbia. Following construction, the disturbed area would be restored and the 25 feet of temporary ROW and additional workspaces would be allowed to revert to their former land use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are taken into account during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Land use
- Cultural resources
- Vegetation and wildlife
- Endangered and threatened species
- hazardous waste

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, State, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. Keep in mind that this is a preliminary list; the list of issues will be added to, subtracted from, or changed based on your comments and our own analysis. Issues are:

- The proposed project would cross two perennial streams, three intermittent streams, and eight nonforested wetlands.
- Access roads would cross the two perennial streams at five locations and intermittent streams at seven locations.
- There are three private wells within 50 feet of the proposed construction ROW.
- There are six residences within 50 feet of the proposed ROW.

Also, we have made a preliminary decision to not address the impacts of the nonjurdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426;
- Reference Docket No. CP95–37–000;
- Send a *copy* of your letter to: Mr. John Wisniewski, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Room 7312, Washington, D.C. 20426; and
- Mail your comments so that they will be received in Washington, D.C. on or before March 10, 1995.

If you wish to receive a copy of the EA, you should request one from Mr. Wisniewski at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a Motion to Intervene according to Rule 214 of the Commission's Rules of

[1] Columbia Gas Transmission Corporation's application was filed with the Commission under section 7 of the Natural Gas Act.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public References and Files Maintenance Branch, Room 3104, at 941 North Capitol Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Practice and Procedure (18 CFR 385.214) attached as appendix 2.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by § 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. John Wisniewski, EA Project Manager, at (202) 208–1073.

Lois D. Cashell,

Secretary.

[FR Doc. 95–3466 Filed 2–10–95; 845 am]

BILLING CODE 6717–01–M

[Docket No. CP95–118–000]

East Tennessee Natural Gas Co.; Intent To Prepare an Environmental Assessment for the Proposed Roanoke Expansion Project and Request for Comments on Environmental Issues

February 7, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or the Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Roanoke Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is required and whether or not to approve the project.

Summary of the Proposed Project

East Tennessee Natural Gas Company (East Tennessee) wants Commission authorization to construct and operate 5.2 miles of pipeline loop to provide Roanoke Gas Company, in Roanoke, Virginia, with up to 9,789 decatherms per day of continued firm transportation service. East Tennessee's proposed facilities would consist of:

- 5.2 miles of 12-inch-diameter loops in Washington county, Virginia (3.06 miles of loop between milepost (MP) 3311–1+0.04 and MP 3311–1+3.10 and 2.14 miles of loop between MP 3310–1+8.82 and MP 3310–1+10.96); and
- A 980-horsepower uprate of existing compressor units at East Tennessee's Compressor Station 3110 in Wartburg, Morgan County, Tennessee.

The locations of these facilities are shown in appendix 1.[2]

Land Requirements for Construction

The proposed loops would be built adjacent to existing pipeline rights-of-way (ROW). The construction ROW would typically be 75 feet wide consisting of a 50-foot-wide permanent ROW and a 25-foot-wide temporary ROW. Following construction, the disturbed area would be restored and the 25 feet of temporary ROW would be allowed to revert to its former land use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are taken into account during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that *could* occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Land use
- Cultural resources
- Hazardous waste
- Air quality and noise

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, State, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by East Tennessee. Keep in mind that this is a preliminary list; the list of issues will be added to, subtracted from, or changed based on your comments and our own analysis. Issues are:

- One wetland (palustrine forested/scrub-shrub/emergent) and six small perennial streams would be affected.
- There is one residence and one cemetery located within 50 feet of the construction ROW.
- There may be additional noise impact on nearby noise-sensitive areas from the uprate in compression at Compressor Station 3110.

Public Participation

You can make a difference by sending a letter with your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426;
- Reference Docket No. CP95–118–000;
- Send a *copy* of your letter to:

Mr. John Wisniewski, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E. Room 7312, Washington, D.C. 20426; and

- Mail your comments so that they will be received in Washington, D.C. on or before March 10, 1995.

If you wish to receive a copy of the EA, you should request one from Mr. Wisniewski at the above address.

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[1] East Tennessee Natural Gas Company's application was filed with the Commission under section 7 of the Natural Gas Act.

[2] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available from the Commission's Public Reference and Files Maintenance Branch, Room 3104, 941 North Capitol Street, N.W., Washington, D.C. 20426, or call (202) 208–1371). Copies of the appendices were sent to all those receiving this notice in the mail.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a Motion to Intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) attached as appendix 2.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by § 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. John Wisniewski, EA Project Manager, at (202) 208–1073.

Lois D. Cashell,

Secretary.

[FR Doc. 95–3467 Filed 2–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–130–000]

Northern Natural Gas Co.; Intent To Prepare an Environmental Assessment for the Proposed East Leg Expansion Project and Request for Comments on Environmental Issues

February 7, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or the Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the East Leg Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Northern Natural Gas Company (Northern) wants to expand the capacity of its facilities in Iowa, Illinois and Wisconsin to transport an additional 107,600 million British thermal units per day of natural gas to four local distribution companies and one electric cogeneration plant. Northern requests Commission authorization, in Docket No. CP95–130–000, to construct and operate the following facilities needed to transport those volumes:

Phase I Facilities (1995)

- 6,000 horsepower (hp) of electric motor-driven compression at the new Hubbard Compressor Station in Hardin County, Iowa;
- Modification and repiping of the existing Waterloo Compressor Station in Black Hawk County, Iowa;
- 14,000 hp of gas turbine-driven compression at the new Earlville Compressor Station in Delaware County, Iowa;
- A new Quad Cities town border station (TBS) in Dubuque County, Iowa for deliveries to the Iowa-Illinois Gas and Electric Company;
- Modification of the existing Galena Compressor Station in Jo Daviess County, Illinois;
- Modification of the existing Beloit TBS near Beloit, Rock County, Wisconsin for deliveries to the Wisconsin Power and Light Company; and
- A new LS Power TBS in Walworth County, Wisconsin for Deliveries to the LS Power-Whitewater Limited Partnership (LS Power).

Phase II Facilities (1996)

- 3,200 hp of compression (two 1,600-hp gas turbine-driven compressors) at the new Belleville Compressor Station in Green County, Wisconsin.

The general location of the project facilities and specific locations for facilities on new sites are shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 26.9 acres of land. Following construction about 8.6 acres would be maintained as new above-ground facility sites. The remaining 18.3 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands[3]
- Vegetation and wildlife
- Endangered and threatened species
- Land use
- Cultural resources
- Air quality and noise
- Hazardous waste

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issue will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Northern. Keep in mind that this is a

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[1] Northern Natural Gas Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] According to the applicant, the project will not affect any waters of the United States. We will repot any potential impacts, or their absence, under this heading.

preliminary list. The list of issues may be added to, subtracted from, or changed based on your comments and our analysis. Issues are:

- Eight federally listed endangered or threatened species may occur in the proposed project area.
- A total of 8.6 acres of agricultural land, including a total of 3.2 acres of prime farmland soils, would convert to industrial use.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426;
- Reference Docket No. CP95–130–000;
- Send a *copy* of your letter to: Mr. Jeff Gerber, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Room 7312, Washington, D.C. 20426; and
- Mail your comments so that they will be received in Washington, D.C. on or before March 13, 1995.

If you wish to receive a copy of the EA, you should request one from Mr. Gerber at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) attached as appendix 2.

The date for filing of timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by § 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. Jeff Gerber, EA Project Manager, at (202) 208–1121.

Lois D. Cashell,

Secretary.

[FR Doc. 95–3468 Filed 2–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–361–000 CP93–361–001]

SunShine Interstate Transmission Co.; Suspension of Environmental Review Process for the Sitco/Sunshine Project

February 7, 1995.

The Preliminary Determination issued May 25, 1994, states that the Federal Energy Regulatory Commission (Commission) intends to prepare one Environmental Impact Statement (EIS) which examines the environmental impacts of both SunShine Interstate Transmission Company's (SITCO) and SunShine Pipeline Company's (SunShine) facilities. The Commission staff now notifies all parties that we are suspending environmental review. In a December 9, 1994 filing SITCO:

- States that it is studying a proposed amendment to its application which would reduce the length of the SITCO portion of the project. SITCO states that any amendment would be filed by May 1, 1995;
- Proposes a preferred schedule which contemplates start up of the EIS in November 1995; and
- Indicates that because of the needs of its customers, SITCO and SunShine now propose a pipeline in-service date of January 1998, rather than in 1996.

The Commission staff will issue a Notice of Intent to Prepare an EIS at an appropriate time in the future.

Lois D. Cashell,

Secretary.

[FR Doc. 95–3463 Filed 2–10–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

High Energy Physics Advisory Panel; Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act and in accordance with title 41 of the Code of Federal Regulations, Section 101–6.1015(a)(1), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel has been renewed for a two-year period beginning in January 1995. The Panel will continue to provide advice to the Director of Energy Research, on long-range planning and priorities in the national high energy physics program.

The Secretary of Energy has determined that renewal of the Panel is essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Panel will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Public Law 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this Panel may be obtained from Marsha Marsden at (301) 903–4140.

Issued in Washington, D.C. on February 8, 1995.

JoAnne Whitman,

Deputy Advisory Committee Management Officer.

[FR Doc. 95–3530 Filed 2–10–95; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[FRL–5153–5]

Gulf of Mexico Program Management Committee Meeting

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Meeting of the Management Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Management Committee will hold a meeting at the Ramada Inn, 798 E. 1–10 Service Road, Slidell, Louisiana.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Lipka, Acting Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A meeting of the Management Committee of the Gulf of Mexico Program will be held March 7, 1995, at the Ramada Inn, 798 E. I–10 Service Road, Slidell, LA. The committee will meet from 8:30 to 4:30 p.m. Agenda items will include: Federal Participation Agreement Follow-up Planning; 1995 Symposium Preparation; FY 96 Funding Process; Measures of Environmental Success; and International Partnerships.

The meeting is open to the public.

Douglas A. Lipka,

Acting Director, Gulf of Mexico Program.

[FR Doc. 95–3518 Filed 2–10–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5153–6]

Science Advisory Board

Environmental Health Committee; Preliminary Announcement—Dioxin Reassessment Review

Under Public Law 92–463, notice is hereby given that the Environmental Health Committee (EHC) and the Indoor Air Quality/Human Exposure Committee (IAQC) of the Science Advisory Board (SAB) will meet jointly during the time period of late March to mid-April 1955 (specific date to be announced later) to review EPA's reassessment of 2,3,7,8-TCDD, dioxin. Information on the relevant documents may be found in FRL5070–7 (**Federal Register**, Vol. 59, 176, page 46980, September 13, 1994) which announced the documents and provided ordering information.

The purpose of this announcement is to identify members of the public wishing to make oral comments at the meeting and allow the SAB to plan sufficient time to accommodate these comments. This will be the only opportunity to register to make such comments at the meeting. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Anyone wishing to make a presentation at the meeting should forward a written statement (50 copies) to Mr. Samuel Rondberg, Designated Federal Official, at the Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 by March 10, 1995. Persons desiring to submit written materials for consideration by the Committees, but who do not wish to make an oral presentation may do so (provide 50 copies) at any time prior to the meeting.

Mr. Rondberg may be reached via telephone at (202) 260–2559, via Internet to rondberg.samuel@epamail.epa.gov, by facsimile to (202) 260–7118. Those persons submitting statements for oral presentation will be notified of the specific meeting date by the SAB as soon as possible.

Dated: January 31, 1995.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 95–3517 Filed 2–10–95; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 22]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Eximbank has submitted a proposed collection of information in the form of a survey to the Office of Management and Budget for review.

PURPOSE: The proposed Survey of Eximbank Competitiveness (1995) to Exporters and Banks as authorized by 12 U.S.C. 635(b), Export-Import Bank of the United States Act of 1945, as amended, is to be completed by U.S. banks and exporters familiar with Eximbank's programs as a means of evaluating the private sector's view on the extent to which Eximbank has provided export credit programs competitive with the export credit programs offered by the major foreign OECD governments.

The collection of the information will enable Eximbank to assess and report to the U.S. Congress the private sector's view of its programs' competitiveness, as required by law.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) Type of request: revised
(2) Number of forms submitted: one
(3) Form Number: EIB 85–3 (Rev. 12/92)
(4) Title of information collection: Survey of Eximbank Competitiveness (1994) to Exporters and Banks
(5) Frequency of use: annual
(6) Respondents: Commercial banks and exporters in the United States
(7) Estimated total number of annual responses: 25
(8) Estimated total number of hours needed to fill out the form: 25

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Tamzen C. Reitan, Agency Clearance Officer, (202) 565–3333. Comments and questions should be directed to Mr. Jeff Hill, Office of Management and Budget, Information and Regulatory Affairs, Room 10102, Washington, DC 20503, (202) 395–3176. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise by telephone that comments will be submitted late.

Dated: February 6, 1995.

Tamzen C. Reitan,

Agency Clearance Officer.

[FR Doc. 95–3448 Filed 2–10–95; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL MARITIME COMMISSION

[Docket No 94–20]

Cancellation of Tariffs for Failure To Comply With Automated Tariff Filing and Information System (''ATFI'') Filing Requirements

By Order published in the **Federal Register** (59 F.R. 52165) on October 14, 1994, (''October Order''), the Commission directed 243 carriers, conferences and marine terminal operators to show cause why the Commission should not cancel their tariffs or essential terms publications on file in paper format. The parties named as respondents to his proceeding had failed to cancel their essential terms publication and/or failed to convert their tariffs to ATFI format. This action was taken pursuant to section 8 of the Shipping Act of 1984, 46 U.S.C. app § 1707, the Commission's regulations implementing ATFI at 46 C.F.R. Part 514, and Supplemental Reports Nos. 2, 3 and 4[1] issued in Docket No. 90–23, *Notice of Inquiry on Ocean Freight Tariffs in Foreign and Domestic Offshore Commerce (Automated Tariff Filing and Information System).*

Written responses were received from or on behalf of 45 parties. The responses of 24 carriers, conferences or marine terminal operators requested that the tariffs or essential terms publications subject to the October Order be cancelled or stated that cancellations had been issued.[2] The responses of 13

[1] *Supplemental Report No. 2,* served August 4, 1992; *Supplemental Report No. 3* (57 *Fed. Reg.* 59,999) and *Supplemental Report No. 4* (58 *Fed. Reg.* 31,522) advised carriers that failure to convert tariffs to ATFI format by the scheduled filing dates would subject them to show cause proceedings.

Moreover, section 502(b)(1) of Public Law 102–582 (''P.L. 102–582'') requires all tariffs and essential terms of service contracts filed with the Commission to be in electronic format.

[2] These are: ADM/Growmark River System, Inc.; American Africa Europe Line GmBH; Australia-Eastern U.S.A. Shipping Conference; Baltimore Forest Products Terminals, Concorde Line Central American Service; Continental North Atlantic Westbound Freight Conference; Cool Carriers (Svenska) AB; D.B. Turkish Cargo Lines; Dole fresh Fruit Company which has been renamed Dole

Continued

carriers and marine terminal operators stated that ATFI tariffs had been filed prior to the issuance of the October Order.[3] Commission records conform that ATFI tariffs are now on file for these parties. Nine other carriers and marine terminal operators filed ATFI tariffs subsequent to the issuance of the October Order.[4] Five respondents cancelled their tariffs without otherwise submitting written responses in this proceeding.[5] One carrier's tariff was cancelled for failure to maintain active evidence of non-vessel-operating common carrier financial responsibility.[6] These carriers, conferences and marine terminal operators will be dismissed from this proceeding.

Other responses to the October Order merely provided further information but did not cancel their paper-format tariffs or essential terms. Distribution Publications, Inc. responded on behalf of Parr Terminal Railroad and stated that this firm is not a marine terminal operator subject to the Commission's tariff filing requirements and that the tariff had been filed for informational purposes only.

South Europe American Conference Responded on behalf of the Greece Westbound Conference stating that it believed the October Order referred to the Greece/USA Rate Agreement which had been disbanded. This does not appear to be correct. The Commission has on file an essential terms publication published on behalf of Agreement No. 202–009238, the assigned agreement number for the Greece Westbound Conference.

Transportaton Services, Inc. named four carriers that it previously represented and stated that it believed that these firms are out of business.[7] The name carriers did not otherwise respond to the October order.

One response was received from a person maintaining the post office box of one of the respondents, Osborne Truck Line, Inc. and stated that the respondent is no longer at that address and could not be located. Another response was received from a firm stating that it had unsuccessfully attempted to forward the October Order to Container Express Lines Inc., but was unable to locate its current address.

None of the carriers, conferences and marine terminal operators referred to above have shown good cause why their paper-format tariffs or essential terms publications should not be cancelled. Accordingly the tariffs published by these carriers will be cancelled.

The 191 carriers, conferences and marine terminals listed in Appendix A that did not respond to the October Order and that did not comply with ATFI tariff filing requirements also will have their paper tariffs or essential terms publications cancelled.

The 52 carriers, conferences and maine terminal operators listed in Appendix B that have complied with the filing requirements or that have cancelled their tariffs will be dismissed from this proceeding.

Therefore, it is ordered that the paper tariffs or essential terms publications for the carriers, conferences or marine terminal operators identified in Appendix A to this Order are cancelled effective five days from publication of this Order in the **Federal Register.**

It is further ordered, that the parties listed in Appendix B to this Order are dismissed from this proceeding.

By the Commission.

Joseph C. Polking,

Secretary.

Appendix A

A/S Dampskibsselskabet Torm
Able Warehousing
Aegis Logistic System, Inc.
Agrex Incorporated
Airport Brokers Corporation
Alliance Navigation Line Inc.
Allied Pickfords U.S.A., Inc.
Amazon Lines Limited
America Russia Turkey Ocean Navigation Shipping Lines
American Automar, Inc.
American Container Transport, Inc.
American Contract Freight Line, Ltd.
American Transport Line, Ltd.
American Transport Lines, Inc.
Anchor Container Services Company
Aremar C.I.F.S.A.
Arpin International Group
Arrowpac, Inc.
Associated Container Transportation (Australia) Limited
Atlantic Land and Improvement Company, The Atlantik Express Linie Thien & Heyenga Schiffaharts GmbH & Co.
Australia-Pacific Coast Rate Agreement
B.C.R. Line
Bangladesh Shipping Corporation
CBSL-U.S. Med Line Limited
Bernuth Lines Ltd.
Bim Enterprises, Ltd.
Binkley Company, the
Blue Caribe Line, Ltd.
Blue Star Line Ltd.
Bluefields Marine Ltd.
Boston Docks Services Association
Bulkstar Shipping Corporation
Capital Maritime Terminal
Central America Shippers, Inc.
Central American Container Line
Char Ching Marine Company, Ltd.
Charles, Willmore A.
Chicksaw Terminal Corporation
Chipman Corporation
City Marine Terminal, Inc.
Coastal Stevedoring Company
Columbus River Transportation Center
Companhia De Navegacao Lloyd Brasileiro
Compania Trasatlantica Espanola, S.A.
Connecticut Terminal Company, Inc.
Consorcio Naviero Del Occidente, C.A.
Container Express Lines Inc.
Container Services of Washington, Inc.
Container Services, Inc.
Contract Marine Carriers, Inc.
Convoy Intercontinental Container Transport GmbH & Co., KG
Costa Container Lines
Cottman Company, the
Crescent Western Warehouse Company
CSX/Sea-Land Logistics, Inc.
Distribution-Warehousing, Inc.
Empresa Maritima, S.A.—Chile
Empresa Naviera Santa, S.A.
Energy Resources—Imports & Exports, Inc.
Euro-Gulf International, Inc.
Family Islands Shipping Company Ltd.
FEDNAV (USA) Inc.
FEDNAV Lakes Services, Inc.
Flagship Container Line, Inc.
Forward Marine Inc.
Fourchon Int'l Shipping Inc.
Gateway Service Center, Inc.
Gearbulk Container Services
Gearbulk Ltd.
Georgia-Pacific Corporation
Godchaux-Henderson Terminal
Great Lakes Transcaribbean Line Limited
Great Western Unifreight System
Greece Westbound Conference
Guarani Line Limited
Gulf & Mexico Shipping Lines, Inc.
Gulf European Freight Association
Gulf Florida Terminal Company
Gulf Motorships, Inc.
H & A Trading Company, Inc.
Hale Shipping Corporation
Heide Warehouse Company
Horizons Shipping and Trading Ltd. Inc.
Hugo Stinnes Schiffahrt GmbH
IML Freight, Inc.

Ocean Liner Express; Gateways International, Inc.; Hapag-Lloyd, A.G.; Lauritzen Reefers A./S; Mares Transport; Navieros Interamericanos, S.A.; Mobile River Terminal Company; Nissui Shipping Corporation; North Atlantic Westbound Freight Association; Pacific Ocean Express, Inc; Scandinavia Baltic U.S. North Atlantic Freight Conference; South and East Africa/USA Conference; Southern Freight Tariff Bureau; Traffic Executive Assoc.—Eastern Railroad; United Arab Shipping Company (S.A.G.); and Wolfgang Jobmann GmBH.

[3] These are: Air & Sea Inc.; Ben Federico Freight Consolidator, Inc.; Container Management, Inc.; Dorick Navigation, S.A.; Inter-Shipping Chartering Co.; Island Shipping and Trading Ltd.; Jackson Shipping, Inc.; Portuguese American Export Line, Inc.; Sea-Barge Inc.; Sunshine Express Line Inc.; Top Freight Systems, Inc,.; Universal Alco Ltd.; and Y II Shipping Company Limited.

[4] These are: Alaska Cargo Transport, Inc.; Centroline, Inc.; Imex Shipping Group, Inc.; Jacksonville Caribbean Broker Services, Inc.; Omega Shipping (CA), Inc.; Savannah Sound Maritime Company Limited; Sesko Marine Trailers, Inc.; Tientsin Marine Shipping Company and Westvaco Corporation.

[5] These are: Midwest Machinery Movers, Inc.; Trans-Atlantic American Flag Liner Operators; Seth Shipping Corp.; Southern Oceans Container Line Limited; and Compagnie Maritime Marfret.

[6] This is: Frata Container Lines Pte. Ltd.

[7] These are: Empresa Naviera Santa, S.A.; Guarani Line Limited; Principal Lines, Ltd. and Vencaribe, C.A.

Inagua Lines Inc.
Incotrans BV
The Inter-American Freight Conference—Pacific Coast Area
Iowa Trader L.P.
Jebsen New Zealand Line
Jet Pac Corporation
Johnson Scanstar
Johnson Shipping Agency, Inc.
Kimberly Navigation Company Ltd.
KKL (Kangaroo Line) Pty., Ltd.
Knik Construction Co., Inc.
Land Link, Ltd.
Lineas Navieras Bolivianas S.A.M. (LINABOL)
Little Rock Terminal Company
Malaysia Pacific Rate Agreement
Manufacturers Export Service, Inc.
Marcella Shipping Company
Maritima Aragua, S.A.
MB Canadian Tropic Line
Mediterranean Shipping Company S.A.
MFP St. Elmo and Myrtle Grove Terminal Elevators
Miami International Container Freight Station
Miami Marine Terminal Corporation
Naviera Del Pacifico C.A.
Naviera Lavinel C.A.
Naviera Mercante C.A.
Naviera Neptuno, S.A.
Naviera Universal, S.A. (Uniline)
Naviera Venline C.A.
Nedlloyd Lijnen B.V.
Nexos Line, Inc.
Nichiro Corporation
Northern Shipping Company
Ocean Express Lines, Inc.
Ocean Steamship (Nigeria) Ltd.
Ocean Trading & Marine Terminals S.A.
Osborne Truck Line, Inc.
P.T. Moges Shipping Co. Ltd.
Pacific Commerce Lines Inc.
Pacific Europe Express
Pacific Great Lakes Transport
Pan Caribbean Freight Consolidators, Inc.
Parker Warehouse, Inc.
Parr Terminal Railroad
Pegasus (N.Y.) Inc.
Pier Haulage, Inc.
Pioneer Shipping, Inc.
Port Covington Grain Elevator
Port of Galena Park Corporation
Prairie Maritime Corporation
Principal Lines, Ltd.
Prudential Lines, Inc.
Rainier Overseas Movers, Inc.
Ranvar Corporation
Reserve Elevator Corporation
Rokuchu Marine Corporation
Ryder/PE Nationwide Inc.
S.T.S. Inc.
Salem Marine Terminal Corporation
Salt Lake Container Freight Station
Sea Terminal Inc.
Sea-Alaska Terminal, Inc.
Seaboard Caribe Ltd.
Seaport of Chicago
Sentry Household Shipping, Inc.
Shawneetown, Illinois, Port of
Societe Ivoirienne De Transport Maritime (SITRAM)
Societe Navale Et Commerciale Delmas-Vieljeux and America-Africa Europe Line GmbH, Joint Service
South River Terminal Company
Southwest Forest Industries
Southwestern Freight Bureau, Agent
St. Joe Stevedoring Company
St. Lucie Terminal Company, Inc.
Staten Island Operating, Inc.
Stockton Elevators
Stolt Terminals (Chicago) Inc.
Strachan Shipping Company
Sunshine Express Line, Inc.
Superior Assembly & Distribution Center, Inc.
Surinam Navigation Co.
SWF Gulf Coast, Inc.
Sylvan Shipping Company, Inc.
Tampa Bay Shipping Ltd.
Tangi Trans-port, Inc.
Tecomar, S.A.
Thames Shipping, Ltd.
Thriftcargo Florida, Inc.
Trailer Marine Transport Corporation
Trans Caribbean Terminal, Co.
Trans Pacific Freight Conference of Hong Kong
Transocean Marine, Inc.
Tri-Seas Marine Terminal, Inc.
U.S. Atlantic/Italy, France & Spain Freight Conference
United States/Colombia Conference
Unico Shipping Company
United Grain Corporation
Universal Shipping Terminal, Inc.
V.I. Ferries Incorporated
Vencaribe C.A.
Venezuela Transport Line, Incorporated
Victoria Shipping Line, Inc.
Volkswagen of America, Inc.
Westlake Harbor Terminals, Inc.
Zim Isreal Navigation Co., Ltd.

Appendix B

ADM/Growmark River System, Inc.
Air & Sea Inc.
Alaska Cargo Transport, Inc.
America Africa Europe Line GmbH
Australia-Eastern U.S.A. Shipping Conference
Baltimore Forest Products Terminals
Ben Federico Freight Consolidator, Inc.
Gentroline, Inc.
Compagnie Maritime Marfret
Concorde Line Central American Service
Container Management, Inc.
Continental North Atlantic Westbound Freight Conference
Cool Carriers (Svenska) AB
D.B. Turkish Cargo Lines
Dole Fresh Fruit Company
Dorick Navigation, S.A.
Frata Container Liner PTE. LTD.
Gateways International, Inc.
Hapag-Lloyd, A.G.
Imex Shipping Group, Inc.
Inter-Shipping Chartering Co.
Island Shipping and Trading, Inc.
Jackson Shipping, Inc.
Jacksonville Caribbean Broker Services, Inc.
Lauritzen Reefers A/S
Mares Transport
Midwest Machinery Movers, Inc.
Mobile River Terminal Company
Navieros Interamericanos, S.A.
Nissui Shipping Corporation
North Atlantic Westbound Freight Association
Omega Shipping (CA), Inc.
Pacific Ocean Express, Inc.
Portuguese American Export Line, Inc.
Savannah Sound Maritime Company Limited
Scandinavia Baltic U.S. North Atlantic Freight Conference
Sea-Barge, Inc.
Sesko Marine Trailers, Inc.
Seth Shipping Corp.
South and East Africa/USA Conference
Southern Freight Tariff Bureau
Southern Oceans Container Line Limited
Sunshine Express, Inc.
Tientsin Marine Shipping Company
Top Freight Systems, Inc.
Traffic Executive Assoc.—Eastern Railroads
Trans-Atlantic American Flag Liner Operators
United ARAB Shipping Company (S.A.G.)
Universal ALCO LTD.
Westvaco Corporation
Wolfgang Jobmann GmbH
Y II Shipping Company Limited

[FR Doc. 95–3444 Filed 2–10–95; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Firstar Corporation; 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 March 9, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstar Corporation, Milwaukee, Wisconsin; and Firstar Corporation of Wisconsin, Milwaukee, Wisconsin, to acquire 100 percent of the voting shares

of Firstar Credit Card Bank, N.A., Gurnee, Illinois, a *de novo* bank.

Board of Governors of the Federal Reserve System, February 7, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–3491 Filed 2–10–95; 8:45 am]

BILLING CODE 6210–01–F

Jamestown Union Bancshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 27, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Jamestown Union Bancshares, Inc., Jamestown, Tennessee; to engage *de novo* through its finance company subsidiary, Jamestown Loan & Thrift Co., Jamestown, Tennessee, in credit-related insurance agency activities, pursuant to Sections 225.25(b)(8)(i) and (ii) of the Board's Regulation Y. The proposed activity woll be conducted throughout the State of Tennessee.

Board of Governors of the Federal Reserve System, February 7, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–3492 Filed 2–10–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Dkt. C–2858]

California and Hawaiian Sugar Company, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens a 1977 consent order that settled allegations that the respondents deceptively advertised that sugar derived from Hawaiian sugar cane is different from or superior to other sugars, particularly those derived from beets. This order modifies the consent order so that the respondents may make claims about objective differences in granulated white sugars with respect to health, safety, nutritional quality, or purity, as long as it has competent and reliable evidence to substantiate such claims. The Commission found that the public interest warranted reopening and modifying the 1977 order.

DATES: Consent order issued January 6, 1977. Modifying order issued January 17, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Justin Dingfelder or Robert Frisby, FTC/S–4631, Washington, DC 20580. (202) 326–3017 or 326–2098.

SUPPLEMENTARY INFORMATION: In the Matter of California and Hawaiian Sugar Company, et al. The prohibited trade practices and/or corrective actions as set forth at 42 FR 6800, are changed, in part, as indicated in the summary.

[1] Copies of the Modifying Order and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 95–3539 Filed 2–10–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 9081]

Levi Strauss & Co.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens a 1978 consent order that settled allegations that the respondent had engaged in a number of anticompetitive practices, including fixing the resale prices at which retailers sold its products, and modifies the consent order by adding a provision to clarify that the order does not prohibit conduct by the respondent that is necessary to form and operate wholly-owned retail stores, or retail stores partially owned by the respondent in lawful joint ventures. The Commission found that the respondent had satisfactorily met its burden of showing that changed conditions of fact required the modification.

DATES: Consent order issued July 12, 1978. Modifying order issued December 20, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Daniel Ducore, FTC/S–2115, Washington, DC 20580. (202) 326–2526.

SUPPLEMENTARY INFORMATION: In the Matter of Levi Strauss & Co. The prohibited trade practices and/or corrective actions as set forth at 43 FR 35262, are changed, in part, as indicated in the summary.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 95–3540 Filed 2–10–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3551]

Notations, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

[1] Copies of the Modifying Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Pennsylvania company and its president from misbranding any textile product by mentioning or implying that the product contains a fiber without using the generic fiber name required by the Textile Fiber Products Identification Act and the Federal Trade Commission rules, or by mentioning or implying that it contains a fiber when it, in fact, does not. The respondents also are required to file with the Commission a continuing guaranty applicable to all textile products they handle in the future.

DATES: Complaint and Order issued January 18, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Katharine Alphin, Atlanta Regional Office, 1718 Peachtree Street NW., Room 1000, Atlanta, GA. 30367. (404) 347–4837.

SUPPLEMENTARY INFORMATION: On Monday, October 31, 1994, there was published in the **Federal Register**, 59 FR 54462, a proposed consent agreement with analysis In the Matter of Notations, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70)

Donald S. Clark,

Secretary.

[FR Doc. 95–3541 Filed 2–10–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 942 3029]

Orchid Technology; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a California-based company from falsely representing that any of its computer peripheral products had been rated, reviewed or endorsed by any person or publication, and from misrepresenting the results of any test, study or evaluation in connection with marketing its computer peripheral equipment. The consent agreement also would require the respondent to possess competent and reliable evidence to substantiate performance claims.

DATES: Comments must be received on or before April 14, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Matthew Gold or Jeffrey Klurfeld, San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, CA 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comment or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Orchid Technology, a corporation, (''proposed respondent''), and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Orchid Technology, a corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Orchid Technology is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 45365 Northport Loop West, Fremont, California 94538.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (a) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. The proposed respondent

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th street & Pennsylvania Avenue NW., Washington, D.C. 20580.

waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. The proposed respondent has read the proposed complaint and order contemplated hereby. The proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. The proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definition

For purposes of this Order, the term ''computer peripheral equipment'' shall mean graphics cards, sound cards, adaptor cards, memory expansion cards, or other hardware products that enhance the capability and performance of personal computers.

I

It is ordered that respondent Orchid Technology, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale or distribution of the Celsius Windows Accelerator, or other computer peripheral equipment, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product has been rated, endorsed, recommended, reviewed or evaluated by any person or publication, unless such is the case.

II

It is further ordered that respondent Orchid Technology, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising promotion, offering for sale, sale, or distribution of the Celsius Windows Accelerator, or other computer peripheral equipment, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, interpretations or purpose of any test or study.

III

It is further ordered that respondent Orchid Technology, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of the Celsius Windows Accelerator, or other computer peripheral equipment, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, about the performance or attributes of any such product, unless such representation is true and, at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation. For purposes of this provision, ''competent and reliable scientific evidence'' shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

IV

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

V

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising under this Order.

VI

It is further ordered that respondent shall, within ten (10) days from the date of service of this Order upon it, distribute a copy of this Order to each of its officers, agents, licensees, representatives, independent contractors, and employees involved in the preparation and placement of advertisements or promotional materials, or who is in communication with customers or prospective customers, or who has any responsibilities with respect to the subject matter of this Order.

VII

It is further ordered that respondent shall, within sixty (60) days from the date of service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Orchid Technology, a California corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns the advertising of the ''Celsius/VLB Windows Accelerator,'' a circuit board that both increases the speed at which a personal computer displays complex graphical images, and improves the quality of the graphical images. The Commission's complaint charges that respondent's advertising represented that excerpts from computer periodical reviews referred to the Celsius, when, in fact, they referred to products manufactured by Orchid's competitors.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits respondent from falsely representing that any computer peripheral equipment, as defined in the order, has been rated, endorsed, recommended, reviewed or evaluated by any person or publication.

As fencing-in relief, Part II of the proposed order prohibits respondent, when advertising computer peripheral equipment, from misrepresenting the existence, contents, validity, results, conclusions, interpretations or purpose of any test or study. Part III provides that, if respondent makes any representation about the performance or attributes of any computer peripheral equipment, the representation must be true and respondent must possess competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, to substantiate the representation.

The proposed order also requires respondent to maintain materials relied upon to substantiate claims covered by the order; to provide a copy of the consent agreement to its employees involved in the preparation and placement of respondent's advertisements, or in communication with respondent's customers or prospective customers; to notify the Commission of any change in the corporate structure that might affect compliance with the order; and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 95–3542 Filed 2–10–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 951 0009]

The Penn Traffic Company; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit, among other things, the Penn Traffic Company to acquire a number of Acme supermarkets from American Stores Company, but would require it to divest, to a Commission approved acquirer or acquirers within twelve months, one supermarket in each of the three Pennsylvania areas designated (Towanda, Mount Carmel, and Pittston). If the divestitures were not completed on time, the consent agreement would permit the Commission to appoint a trustee to complete the transactions. In addition, the consent agreement would require the respondent, for ten years, to obtain Commission approval before acquiring any interest in any entity that owns or operates a supermarket in any of the three areas designated.

DATES: Comments must be received on or before April 14, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ronald Rowe or Marimichael Skubel, FTC/S–2105, Washington, D.C. 20580. (202) 326–2610 or 326–2611.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 45 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''Commission'') having initiated an investigation of The Penn Traffic Company's (''Penn Traffic'') proposed acquisition of certain assets of American Stores Company (American), and it now appearing that Penn Traffic hereinafter sometimes referred to as ''proposed respondent,'' is willing to enter into an agreement containing an order to divest certain assets and to cease and desist from certain acts, and providing for other relief,

It is hereby agreed by and among proposed respondent, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed respondent The Penn Traffic Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1200 State Fair Boulevard, Syracuse, New York 13221–4737.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of the complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same time provided by statute for other orders. The

order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this Agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the Agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file verified written reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. ''Respondent'' or ''Penn Traffic'' means The Penn Traffic Company, its predecessors, subsidiaries, divisions, and groups and affiliates controlled by The Penn Traffic Company, their successors and assigns, and their directors, officers, employees, agents, and representatives.

B. ''Assets to be divested'' means the assets described in Paragraph II. A. of this order.

C. ''Commission'' means the Federal Trade Commission.

D. ''Supermarket'' means a full-line retail grocery store that carries a wide variety of food and grocery items in particular product categories, including bread and dairy products; refrigerated and frozen food and beverage products; fresh and prepared meats and poultry; produce, including fresh fruits and vegetables; shelf-stable food and beverage products, including canned and other types of packaged products; staple foodstuffs, which may include salt, sugar, flour, sauces, spices, coffee, and tea; and other grocery products, including nonfood items such as soaps, detergents, paper goods, other household products, and health and beauty aids.

II

It is further ordered that:

A. Respondent shall divest, absolutely and in good faith, within twelve months from the date this order becomes final:

1. The ''Acme'' supermarket located at River and Park Streets, Borough of Towanda, Pennsylvania;

2. The ''Acme'' supermarket located on Kennedy Boulevard in Pittston, Pennsylvania; and

3. An ''Acme'' or a Penn Traffic supermarket located in the Township of Mount Carmel, Pennsylvania.

The assets to be divested shall include the grocery business operated, and all assets, leases, properties, business and goodwill, tangible and intangible, utilized in the distribution or sale of groceries at the locations that are divested.

B. Respondent shall divest the assets to be divested only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture is to ensure the continuation of the assets to be divested as ongoing, viable enterprises engaged in the supermarket business and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint.

C. Pending divestiture of such assets to be divested, respondent shall take such actions as are necessary to maintain the viability and marketability of such assets to be divested and to prevent the destruction, removal, wasting, deterioration, or impairment of such assets to be divested except in the ordinary course of business and except for ordinary wear and tear.

D. Respondent shall comply with all the terms of the Asset Maintenance Agreement attached to this Order and made a part hereof as Appendix I. The Asset Maintenance Agreement shall continue in effect until such time as respondent has divested all of the assets to be divested.

III

It is further ordered that:

A. If respondent has not divested, absolutely and in good faith and with the Commission's prior approval, such assets to be divested within twelve months from the date this order becomes final, the Commission may appoint a trustee to divest any of the remaining assets to be divested. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the respondent to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III. A. of this order, respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after written notice by the staff of the Commission to respondent of the identity of any proposed trustee, respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest any of the remaining assets to be divested.

3. Within ten (10) days after appointment of the trustee, respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all right and powers necessary to permit the trustee to effect the divestitures required by this order.

4. The trustee shall have twelve (12) months from the date the Commission or court approves the trust agreement described in Paragraph III.B.3. to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this 12-month period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to any of the remaining assets to be divested or to

any other relevant information, as the trustee may request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to respondent's absolute and unconditional obligation to divest at no minimum price. The divestitures shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II. of this order; provided, however, if the trustee receives bona fide offers in any of the areas specified in this order for a supermarket to be divested from more than one acquiring entity, and if the Commission determines to approve more than one acquiring entity, the trustee shall divest to the acquiring entity or entities selected by respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the respondent, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the assets to be divested to satisfy Paragraph II.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III. A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the assets to be divested.

12. The trustee shall report in writing to respondent and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is furthered ordered that, for a period of ten (10) years from the date this order becomes final, respondent shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any supermarket or leasehold interest in any supermarket, including any facility that has operated as a supermarket within six (6) months of the date of the proposed acquisition, located in (a) the Towanda, Pennsylvania area, which includes the Borough of Towanda and the townships of Wysox, North Towanda, and Monroeton; (b) the Mount Carmel, Pennsylvania area, which includes the Borough of Mount Carmel and the Township of Mount Carmel; and (c) the Pittston, Pennsylvania area, which includes the city of Pittston, the townships of Pittston and Jenkins, and the boroughs of Dupont, Avoca, Hughestown, Duryea, Yatesville, and Laflin, Pennsylvania.

B. Acquire any stock, share capital, equity, or other interest in any entity that owns any interest in or operates any supermarket or owned any interest in or operated any supermarket within six (6) months of the date of the proposed acquisition in (a) the Towanda, Pennsylvania area, which includes the Borough of Towanda and the townships of Wysox, North Towanda, and Monroeton; (b) the Mount Carmel, Pennsylvania area, which includes the Borough of Mount Carmel, and the Township of Mount Carmel; and (c) the Pittston, Pennsylvania area, which includes the city of Pittston, the townships of Pittston and Jenkins, and the boroughs of Dupont, Avoca, Hughestown, Duryea, Yatesville, and Laflin, Pennsylvania.

Provided, however, that these prohibitions shall not apply to the construction of new facilities or the leasing of facilitates that have not operated as supermarkets within six months of the date of the offer to lease.

V

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until respondent has fully complied with the provisions of Paragraphs II. or III. of this order, respondent shall submit to the Commission verified written reports setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II. and III. of this order. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraph II. and III. of the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One year (1) from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, respondent shall file verified written reports with the Commission setting forth in detail the manner and form in which it has complied and is complying with this order.

VI

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in respondent that may affect compliance obligations arising out of the order.

VII

It is further ordered that, for the purpose of determining or securing compliance with this order, respondent shall permit any duly authorized representative of the Commission:

A. Upon reasonable notice to respondent, access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this order; and

B. Upon reasonable notice to respondent and without restraint or interference from it, to interview respondent or officers, directors, or employees of respondent in the presence of counsel.

VIII

It is further ordered that this order shall terminate twenty (20) years from the date this order becomes final.

Appendix I

Asset Maintenance Agreement

This Asset Maintenance Agreement (''Agreement'') is by and between The Penn Traffic Company (''Penn Traffic''), a corporation organized under the laws of the State of Delaware, with its principal offices located at 1200 State Fair Boulevard, Syracuse, New York 13221–4737, and the Federal Trade Commission (''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* (collectively ''the Parties'').

Premises

Whereas, Penn Traffic, pursuant to an agreement dated September 30, 1994, agreed to purchase certain assets of American Stores Company (hereinafter ''Acquisition''); and

Whereas, the Commission is now investigating the Acquisition to determine if it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the attached Agreement Containing Consent Order, the Commission is required to place it on the public record for a period of sixty (60) days for public comment and may subsequently withdraw such acceptance pursuant to the provisions of § 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an agreement is not reached preserving the *status quo ante* of the assets to be divested as described in II. A. of the attached Agreement Containing Consent Order (''Assets'') during the period prior to their divestiture, when those Assets will be in the hands of Penn Traffic, that any divestiture resulting from any administrative proceeding challenging the legality of the Acquisition might not be possible, or might produce a less than effective remedy; and

Whereas, the Commission is concerned that prior to divestiture to the acquirer, it may be necessary to preserve the continued viability and competitiveness of the Assets; and

Whereas, the purpose of this Agreement and of the Consent Order is to preserve the Assets pending the divestiture to the acquirer approved by the Federal Trade Commission under the terms of the Order, in order to remedy any anticompetitive effects of the Acquisition; and

Whereas, Penn Traffic entering into this Agreement shall in no way be construed as an admission by Penn Traffic that the Acquisition is illegal; and

Whereas, Penn Traffic understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws, or the Federal Trade Commission Act by reason of anything contained in this Agreement;

Now, Therefore, in consideration of the Commission's agreement that, unless the Commission determines to reject the Consent Order, it will not seek further relief from the parties with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order annexed hereto and made a part thereof, and, in the event the required divestiture is not accomplished, to appoint a trustee to seek divestiture of the Assets, the Parties agree as follows:

Terms of Agreement

1. Penn Traffic agrees to execute, and upon its issuance to be bound by, the attached Consent Order. The Parties further agree that each term defined in the attached Consent Order shall have the same meaning in this Agreement.

2. Unless the Commission brings an action to seek to enjoin the proposed acquisition pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b), and obtains a temporary restraining order or preliminary injunction blocking the proposed acquisition, Penn Traffic will be free to close the Acquisition after 11:59 p.m., January 17, 1995.

3. Penn Traffic agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 3.a–3.b it will comply with the provisions of this Agreement:

a. Three business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules; or

b. On the day the divestiture set out in the Consent Order has been completed.

4. From the time Penn Traffic acquires the Assets until the divestiture set out in the Consent Order has been completed, Penn Traffic shall maintain the viability, competitiveness and marketability of the Assets, and shall not cause the wasting or deterioration of the Assets, nor shall it sell, transfer, encumber or otherwise impair their marketability or viability.

5. Should the Commission seek in any proceeding to compel Penn Traffic to divest itself of the Assets or to seek any other injunctive or equitable relief, Penn Traffic shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has not sought to enjoin the Acquisition. Penn Traffic also waives all rights to contest the validity of this Agreement.

6. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to Penn Traffic to its principal offices, Penn Traffic shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Penn Traffic, in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Penn Traffic relating to compliance with this Agreement; and

Upon five (5) days' notice to Penn Traffic and without restraint or interference from them, to interview officers or employees of Penn Traffic, who may have counsel present, regarding any such matters.

7. This agreement shall not be binding until approved by the Commission.

Analysis To Aid Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission (''the Commission'') has accepted for public comment from The Penn Traffic Company (''Penn Traffic'') an agreement containing consent order to divest certain assets. The agreement is designed to remedy any anticompetitive effect stemming from Penn Traffic's acquisition of a number of Acme supermarkets from American Stores Company.

The agreement has been placed on the public record for sixty days for reception of comments from interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the order contained in the agreement.

The Commission's draft complaint charges that on or about September 30, 1994, Penn Traffic agreed to acquire certain assets of Acme Markets, Inc., wholly-owned subsidiary of American Stores Company, for $94 million. The Commission has reason to believe that the acquisition, as well as the agreement to enter into the acquisition, may have anticompetitive effects and be in violation of Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

According to the draft complaint, Penn Traffic and Acme are direct competitors for the retail sale of food and grocery items in the market areas of (1) the Towanda, Pennsylvania area, which includes the Borough of

Towanda and the townships of Wysox, North Towanda, and Monroeton; (2) the Mount Carmel, Pennsylvania area, which includes the Borough of Mount Carmel and the Township of Mount Carmel; and (3) the Pittston, Pennsylvania area, which includes the city of Pittston, the townships of Pittston and Jenkins, and the boroughs of Dupont, Avoca, Hughestown, Duryea, Yatesville, and Laflin, Pennsylvania. According to the draft complaint, these markets are highly concentrated and entry is difficult or unlikely. Penn Traffic's acquisition of Acme may reduce competition in these markets by eliminating the direct competition between Penn Traffic and Acme, by increasing the likelihood that Penn Traffic will become a dominant firm, and by increasing the likelihood of collusive behavior among the few remaining competitors.

The agreement containing consent order attempts to remedy the Commission's competitive concerns about the acquisition. Under the terms of the proposed order, Penn Traffic must divest three supermarkets within twelve-months, to a purchaser approved by the Commission. The three stores to be divested include the ''Acme'' supermarket located in Towanda, Pennsylvania, the ''Acme'' supermarket located in Pittston, Pennsylvania, and either the ''Acme'' or the Penn Traffic store located in Mount Carmel, Pennsylvania.

For a period of ten years from the date the order becomes final, the order also prohibits Penn Traffic from acquiring, without prior Commission approval, stock, or any other interest in any supermarket, or entity that owns or operates a supermarket, located in the areas of Towanda, Pittston, or Mount Carmel, Pennsylvania. This prohibition will not apply to the construction of new facilities or the leasing of facilities not operated as supermarkets within six months of the offer to lease.

The purpose of this analysis is to invite public comment concerning the consent order and any other aspect of this matter. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify its terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 95–3543 Filed 2–10–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95F–0016]

Johnson Matthey Chemicals; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Johnson Matthey Chemicals has filed a petition proposing that the food additive regulations be amended to provide for the safe use of silver chloride coated titanium dioxide.

DATES: Written comments on the petitioner's environmental assessment by March 15, 1995.

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

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4442) has been filed by Johnson Matthey Chemicals, c/o 1000 Potomac St. NW., Washington, DC 20007. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of silver chloride coated titanium dioxide.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act, (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 15, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: February 3, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–3557 Filed 2–10–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95F–0017]

Robinson Brothers Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Robinson Brothers Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of diisopropyl xanthogen polysulfide as a component of rubber articles intended for repeated use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by March 15, 1995.

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

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4437) has been filed by Robinson Brothers Ltd., Phoenix St., West Bromwich, West Midland, B70 OAH, England. The petition proposes to amend the food additive regulations in

§ 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) to provide for the safe use of diisopropyl xanthogen polysulfide as a component of rubber articles intended for repeated use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act, (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 15, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: February 3, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–3556 Filed 2–10–95; 8:45 am]

BILLING CODE 4160–01–F

HEALTH RESOURCES AND SERVICES ADMINISTRATION

Special Project Grants and Cooperative Agreements; Maternal and Child Health Services; Federal Set-Aside Program; Genetic Services and Maternal and Child Health Improvement Projects

AGENCY: Health Resources and Services Administration (HRSA), PHS.

ACTION: Notice of availability of funds.

SUMMARY: The Maternal and Child Health Bureau (MCHB), HRSA, announces that fiscal year (FY) 1995 funds are available for grants and cooperative agreements for the following activities: Maternal and Child Health (MCH) Special Projects of Regional and National Significance (SPRANS), including special MCH improvement projects (MCHIP) which contribute to the health of mothers, children, and children with special health care needs (CSHCN); and genetic disease testing, counseling and information services. All awards will be made under the program authority of section 502(a) of the Social Security Act, the MCH Federal Set-Aside Program. No new hemophilia SPRANS grants will be funded in FY 1995. Grants for MCH research and training are being announced in a separate notice.

Of the approximately $44 million available for SPRANS activities in FY 1995 in categories covered by this announcement, about $9.7 million will be available to support approximately 65 new and competing renewal projects at an average of $150,000 per award for one year. The remaining funds will be used to support continuation of existing SPRANS activities. The actual amounts available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. Awards are made for grant periods which may run from 1 to 5 years in duration. Funds for the MCH Federal Set-Aside Program are appropriated by Public Law 103–333. Revised regulations implementing the Federal Set-Aside Program (42 CFR part 51a) were published in the July 19, 1994, issue of the **Federal Register** at 59 FR 36703.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The MCH Block Grant Federal Set-Aside Program addresses issues related to the Healthy People 2000 objectives of improving maternal, infant, child and adolescent health and developing service systems for children with special health care needs.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone: 202 783–3238).

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people. In addition, Public Law 103–227, The Pro-Children Act Of 1994, prohibits smoking in certain facilities in which education, library, day care, regular and routine health care and early childhood development services are provided to children. Smoking must also be prohibited in indoor facilities that are constructed, operated or maintained with Federal funds.

ADDRESSES: Grant applications for the MCH SPRANS Federal Set-Aside Program must be obtained from and submitted to: Acting Chief, Grants Management Branch, Office of Program Support, Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440. Applicants for all projects covered by this announcement will use application Form PHS 5161–1 with revised face page DHHS Form 424, approved by OMB under control number 0937–0189. Requests should specify the category or categories of activities for which an application is requested so that the appropriate forms, information and materials may be provided.

DATES: Deadlines for receipt of applications differ for the several categories of grants and cooperative agreements. These deadlines are as follows:

MCH FEDERAL SET-ASIDE COMPETITIVE GRANT AND COOPERATIVE AGREEMENTS ANTICIPATED DEADLINES, AWARDS, FUNDING, AND PROJECT PERIODS, BY CATEGORY

[FY 1995]

Funding source category	Application deadline	Estimated number of awards	Estimated amounts available	Project period
(1) Grants in the following areas:				
1.1 Genetic services	4/25/95	Up to 20	$3.5 million	Up to 3 years.
1.2 Special MCH Improvement Projects (MCHIP) of regional and national significance in the following areas:.				
1.2.1 Maternal, infant, child, and adolescent health	4/25/95	10–12	1 million	Up to 5 years.
1.2.2 School health program	5/10/95	8	1.5 million	3–5 years.
1.2.3 Data utilization	6/15/95	5	500,000	3 years.
1.2.4 Healthy tomorrows partnership for children	4/14/95	Up to 10	500,000	5 years.
(2) Cooperative agreements (MCHIPs) in the following areas:				
2.1 CSHCN cultural competency systems implementation	4/28/95	1	250,000	5 years.
2.2 Partnership for information and communication (PIC)	5/10/95	4	1.2 million	Up to 5 years.
2.3 Childhood injury prevention	3/31/95	4	600,000	3–5 years.
2.4 Out-of-home child care health and safety	4/27/95	1	350,000	Up to 5 years.

Applications will be considered to have met the deadline if they are either: (1) Received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated receipt from a commercial carrier or the U.S. Postal Service, or obtain a legibly dated U.S. Postal Service postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications or those sent to an address other than specified in the **ADDRESSES** section will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to: Audrey H. Nora, M.D., M.P.H., Director, Maternal and Child Health Bureau, HRSA, Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Requests for category-specific technical information should be directed to the contact persons identified below for each category covered by this notice. Requests for information concerning business management issues should be directed to: Acting Grants Management Officer (GMO), Maternal and Child Health Bureau, at the address specified in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION: To facilitate the use of this announcement, information in this section has been organized, as outlined in the Table of Contents below, into a discussion of: Program Background, Special Concerns, Overall Review Criteria, SPRANS Program, and Eligible Applicants. In addition, for each specific SPRANS funding category and subcategory covered by this notice, information is presented under the following headings:

- Application Deadline
- Purpose
- Priorities
- Grants/Amounts
- Contact

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1. Program Background and Objectives

Under Section 502 of the Social Security Act, as amended by the Omnibus Budget Reconciliation Act (OBRA) of 1989, 12.75 percent of amounts appropriated for the Maternal and Child Health Services Block Grant in excess of $600 million are set aside by the Secretary of Health and Human Services (HHS) for special Community Integrated Service Systems projects under Section 501(a)(3) of the Act. Of the remainder of the total appropriation, 15 percent of the funds are to be retained by the Secretary to support (through grants, contracts, or otherwise) special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs (including early intervention training and services development); for genetic disease testing, counseling, and information development and dissemination programs; for grants (including funding for comprehensive hemophilia diagnostic treatment centers) relating to hemophilia without regard to age; and for the screening of newborns for sickle cell anemia, and other genetic disorders and follow-up services. The MCH SPRANS set-aside was established in 1981. Support for projects covered by this announcement will come from the SPRANS set-aside. To reduce confusion to potential applicants from announcement of grants in very large numbers of SPRANS categories and subcategories, announcement of availability of FY 1995 funds for MCH research and training categories is being published separately this year.

2. Special Concerns

In its administration of the MCH Services Block Grant, the MCHB places special emphasis on improving service delivery to women and children from racial and ethnic minority populations who have had limited access to accessible care. This means that SPRANS projects are expected to serve and appropriately involve in project activities individuals from the populations to be served, unless there are compelling programmatic or other justifications for not doing so. The MCHB's intent is to ensure that project interventions are responsive to the

cultural and linguistic needs of special populations, that services are accessible to consumers, and that the broadest possible representation of culturally distinct and historically underrepresented groups is supported through programs and projects sponsored by the MCHB.

In keeping with our special concern for broadening participation in MCHB programs of institutions that reflect the Nation's cultural and linguistic diversity, a funding priority will be placed on projects from Historically Black Colleges and Universities (HBCU) or Hispanic Serving Institutions (HSI) in all categories and subcategories in this notice for which applications from academic institutions are encouraged. An approved proposal from a HBCU or HSI will receive a 0.5 point favorable adjustment of the priority score in a 4 point range before funding decisions are made.

Projects supported under SPRANS are expected to be part of community-wide, comprehensive initiatives, to reflect appropriate coordination of primary care and public health activities, and to target HRSA resources effectively to fill gaps in the Nation's health system for at-risk mothers and children. This applies especially to projects in the 22 communities in the Nation which have received grants from HRSA under the Healthy Start initiative. Grantees in these communities providing services related to activities of a Healthy Start program are expected to coordinate their projects with the Healthy Start program efforts. Healthy Start communities include: Aberdeen Area Indian Nations, NE/ND/SD; Baltimore, MD; Birmingham, AL; Boston, MA; Chicago, IL; Cleveland, OH; Dallas, TX; Detroit, MI; Essex County, NJ; Florida Panhandle, FL; Lake County, IN; Milwaukee, WI; Mississippi Delta, MS; New Orleans, LA; New York, NY; Oakland, CA; Philadelphia, PA; Pittsburgh, PA; PeeDee Region, SC; Richmond, VA; Savannah, GA; Washington, DC.

3. Project Review and Funding

Within the limit of funds determined by the Secretary to be available for the activities described in this announcement, the Secretary will review applications for funds under the specific project categories in section 4 below as competing applications and may award Federal funding for projects which will, in her judgment, best promote the purpose of title V of the Social Security Act, with special emphasis on improving service delivery to women and children from culturally distinct populations; best address achievement of *Healthy Children 2000* objectives related to maternal, infant, child and adolescent health and service systems for children at risk of chronic and disabling conditions; and otherwise best promote improvements in maternal and child health.

3.1 Criteria for Review

The criteria which follow are used, as pertinent, to review and evaluate applications for awards under all SPRANS grants and cooperative agreement project categories announced in this notice. Further guidance in this regard is supplied in application guidance materials, which elaborate upon how these criteria apply to specific grant categories and subcategories.

—The extent to which the project will contribute to the advancement of maternal and child health and/or improvement of the health of children with special health care needs;

—The extent to which the project is responsive to policy concerns applicable to MCH grants and to program objectives, requirements, priorities and/or review criteria for specific project categories, as published in program announcements or guidance materials.

—The extent to which the estimated cost to the Government of the project is reasonable, considering the anticipated results;

—The extent to which the project personnel are well qualified by training and/or experience for their roles in the project and the applicant organization has adequate facilities and personnel; and

—The extent to which, insofar as practicable, the proposed activities, if well executed, are capable of attaining project objectives.

—The strength of the project's plans for evaluation.

—The extent to which the project will be integrated with the administration of the Maternal and Child Health Services block grants, State primary care plans, public health, and prevention programs, and other related programs in the respective State(s).

—The extent to which the application is responsive to the special concerns and program priorities specified in this notice.

3.2 Funding of Approved Applications

Final funding decisions for SPRANS grants are the responsibility of the Director, MCHB. The following mechanisms, as defined below, may be applied in determining scores for ranking the funding of approved applications:

—Funding Preferences—Funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuation projects ahead of new projects.

—Funding Priorities—Merit reviewers will assign scores based on the extent to which applicants address program priorities specified in this notice for the category in which the application is made.

—Special Considerations—Merit reviewers will assign scores based on the extent to which applicants address areas that are identified in this notice as meriting special consideration.

4. Special Projects of Regional and National Significance

Project categories for SPRANS awards are grouped in this notice under two sections: Grants and Cooperative Agreements.

4.1. Grants

Two major categories of SPRANS grants are discussed below: Genetic Services; and Maternal and Child Health Improvement Projects (in 4 subcategories):

4.1.1. Genetic Services

Application Deadline: April 25, 1995.

Purpose: To support projects that demonstrate increased access to effective genetic information, education, testing and counseling services.

Priorities: Applicants to the genetic services program are invited to submit proposals in the areas of:

—Genetics in primary care. To aid in incorporating genetics into maternal and child health and federally-qualified health centers' (FQHC) primary care programs.

—Ethnocultural barriers. To improve services for populations for whom language and/or culture are barriers.

—Regional genetic services networks. To maintain genetic services networks in the Pacific Northwest, Pacific Southwest, Mountain States, and areas encompassing New York, Puerto Rico, and the Virgin Islands.

—Cooley's Anemia/Thalassemia. To demonstrate comprehensive care for those affected by Cooley's Anemia/Thalassemia.

—Comprehensive care for infants with Sickle Cell Disease identified through State newborn screening programs.

—Transition from pediatric to adult care. To demonstrate models of care for individuals with genetic disorders

moving from pediatric care to adult, family practice, and specialty care.

Grants/Amounts: About $3.5 million will be available to support up to 20 projects. Approximately 7 of these are expected to be competing renewals of existing projects, and approximately 13 will be new. An average of about $175,000 per award per year is anticipated. Project periods are up to 3 years.

Contact: For programmatic or technical information, contact: Jane S. Lin-Fu, M.D., telephone: 301 443–1080.

4.1.2. Maternal and Child Health Improvement Projects

Maternal and Child Health Improvement Projects (MCHIP) are divided into 4 subcategories: Maternal, Infant, Child, and Adolescent Health; School Health Program; Data Utilization and Enhancement; and Healthy Tomorrows Partnerships for Children;

4.1.2.1. Maternal, Infant, Child, and Adolescent Health.

Application Deadline: April 25, 1995.

Purpose: To improve the health of all mothers, infants, children, and adolescents.

Priorities: Applicants in this MCHIP category are invited to submit proposals in the following program areas:

—Content And Organization Of Care For Women Of Child Bearing Age, Infants, Children, Adolescents And Their Families. Grants will be provided for projects which assist in developing mechanisms to define appropriate personal health care services, creating or enhancing collaborative systems to deliver such services, and identifying measures to determine the quality of the content and mechanism of services delivered.

—Adolescent Health Resource Development. Grants will be awarded for the purpose of continuing the capacity-building of State health agencies/maternal and child health programs to meet the diverse health needs of adolescents in a period of health care reform and the myriad of changes in States and communities. Adolescent Health Resource Center grants are intended to advance the knowledge and skills of State MCH staff and local providers of adolescent health services through training and technical assistance, information development and dissemination, and promotion of integrated systems development that impact on adolescent access to prevention and health services.

Grants/Amounts: A total of 10–12 grants, totalling $1 million will be awarded in this category in FY 1995. For grants dealing with the content and organization of care, funding for 2 grants is anticipated in the range of $150,000 per year for periods of up to 5 years. For adolescent health resource development, approximately 4–6 grants of $150,000-$200,000 each per year will be supported for up to 5 years.

Contact: For programmatic or technical information, contact David Heppel, M.D., telephone: 301 443–2250.

4.1.2.2. School Health Program

Application Deadline: May 10, 1995.

Purpose: To strengthen the capacity of school-based and school-linked health programs to address psychosocial issues and mental health problems by enhancing primary mental health resources and services for school-age children and youth, including those with special health care needs. Primary mental health resources and services include primary prevention, such as prevention of violent and health damaging behaviors; early problem identification and intervention, including indicated referral and followup; and collaboration with ongoing care for chronic conditions.

Priorities: Grants will be awarded in the following two areas:

—Development of infrastructure and resources to build capacity for primary mental health services in school-based and school-linked health programs. Applicants are expected to represent State-level partnerships among health, mental health and education agencies that are designed to assure accessibility to primary mental health services for school-age children and youth. Project emphasis is on coordinating school-based and school-linked programs with multiple community resources in the public health, mental health, substance abuse prevention and treatment, social service and other relevant systems to facilitate comprehensive approaches.

—Development of ''state of the art'' instructional materials and resources to strengthen the mental health service capacity of primary care providers for school-age children and youth. The emphasis is on enhancing primary mental health resources and services in school-based and school-linked health programs; in addition, such staff development materials and resources will be available to community-based centers that furnish primary health care to those in the school-age population who cannot be accessed through the schools.

Grants/Amounts: A total of $1.5 million dollars will be available for projects in this subcategory; about $750,000 for up to 5 State primary mental health partnership grants for 3 to 5 years, and about $750,000 for up to 3 mental health resource grants for up to 5 years.

Contact: For programmatic information, contact Linda Johnston, telephone 301 443–4026.

4.1.2.3. Data Utilization and Enhancement

Application Deadline: June 15, 1995.

Purpose: To enable Federal, State, and local MCH/CSHCN agencies, in collaboration with State primary care planning, to develop data and data systems required under Title V and analyze data to facilitate needs assessment, planning, monitoring or evaluation of maternal and child agencies and comprehensive health services.

Priorities: Proposals in this MCHIP subcategory are invited in the following program areas:

—Enhancement of data collection and analysis capabilities of national, state and local health agencies.

—Compilation and analysis of new data, and development and application of analytic techniques regarding the health status of and delivery of comprehensive health care to mothers and children.

—Networking, coordination, and integration of existing and proposed resources and data and analysis systems developed in other states, national organizations or organizations.

—Increasing national, state and local entities' capacity to respond to and implement changes in the organization of health care resources.

Grants/Amounts: An estimated $500,000 will be available for 5 grants in this subcategory at $100,000 per award per year. Project periods are up to 3 years.

Contact: For programmatic or technical information, contact Russ Scarato, telephone: 301 443–2340.

4.1.2.4. Healthy Tomorrows Partnerships for Children.

Application Deadline: April 14, 1995.

Purpose: To support projects for children that improve access to health services and utilize preventive strategies. The initiative encourages additional support from the private sector and from foundations to form community-based partnerships to coordinate health resources for pregnant women, infants and children.

Priorities: Proposals in this MCHIP category are invited in the following program areas:

—Local initiatives that are community-based, family-centered, comprehensive and culturally relevant and improve access to health services for infants, children, adolescents, or CSHCN.
—Initiatives which show evidence of a capability to meet cost participation goals by securing funds for the second and sequential years of the project.

In the interest of equitable geographic distribution, special consideration for funding will be given to projects from States without a currently funded project in this category. These States are cited in the application guidance.

• Grants/Amounts: About $500,000 will be available to support up to 10 new Healthy Tomorrows projects, at an average of $50,000 per award per year. The project period is 5 years.

• Contact: For programmatic or technical information, contact Latricia Robertson, M.S.N., M.P.H., telephone: 301 443–3163.

4.2. Cooperative Agreements

Cooperative agreements will be awarded in 4 categories: Children with Special Health Care Needs (CSHCN) Cultural Competency Systems Implementation; Partnership for Information and Communication; Childhood Injury Prevention; and Out-Of-Home Child Care Health And Safety.

It is anticipated that substantial Federal programmatic involvement will be required in these cooperative agreements. This means that after award, awarding office staff provide technical assistance and guidance to, or coordinate and participate in, certain programmatic activities of award recipients beyond their normal stewardship responsibilities in the administration of grants. Federal involvement may include, but is not limited to, planning, guidance, coordination and participation in programmatic activities. Periodic meetings, conferences, and/or communications with the award recipient are held to review mutually agreed upon goals and objectives and to assess progress. Additional details on the scope of Federal programmatic involvement in cooperative agreements, consistent with HRSA grants administration policy, will be included in the application guidance for these cooperative agreements.

4.2.1. Children with Special Health Care Needs (CSHCN) Cultural Competency Systems Implementation

• Application Deadline: April 28, 1995.

• Purpose: To promote the design, implementation, and testing of culturally competent service systems to assist State and local Title V and other related programs to furnish services for culturally diverse CSHCN and their families. Specifically, to:

—Promote networking and information exchange among CSHCN/MCH programs at all levels that advances their ability to assure that services to culturally diverse families having children with special health needs are integrated into such programs in a culturally competent manner.
—Foster linkages between such programs and: (a) culturally diverse consumers and families of children with special health care needs; and (b) other public/private agencies or groups at the Federal, State and local levels, including those providing primary health care and services, that will enhance the development of culturally competent systems of care which are family-centered and at the community level.
—Provide training, technical assistance, and consultation to the above mentioned programs to advance the ''state of the art'' in the areas of: (a) staff/agency assessment and training; (b) development and implementation of culturally competent policies, procedures and practices; and (c) identification of resources for training and program implementation.
—Support evaluation of existing training materials and evaluation tools, develop and test new materials for adoption by CSHCN programs, and identify model approaches.
—Disseminate training materials, principles, and model approaches for CSHCN and related programs.

Preference for funding will be given to public or private non-profit organizations having prior experience with CSHCN/MCH systems of care at the Federal, State and local levels, and in the areas described above, especially those which can demonstrate:

—Measurable, positive outcomes in operationalizing cultural competence in programs.
—Expertise in providing appropriate training and technical assistance packages in a timely manner.
—Establishment of linkages with related programs having cultural competency initiatives and expertise.

• Cooperative Agreement/Amounts: Up to $250,000 will be available to support one new cultural competency systems implementation cooperative agreement focusing on the provision of comprehensive care to CSHCN and their families. The project period is 5 years.

• Contact: For programmatic and technical information contact Ms. Diana Denboba, telephone 301–443–2370.

4.2.2. Partnership for Information and Communication

• Application Deadline: May 10, 1995.

Purpose: To facilitate dissemination of new maternal and child health-related information to policy and decision makers in a format most useful to them and provide those individuals with a means of communicating issues directly to each other and to MCHB.

This is a continuous Bureau activity with a single priority—to enhance communication between the MCHB and governmental, professional and private organizations representing leaders and policy makers concerned with issues related to maternal and child health. Organizations currently receiving support as part of this cooperative agreement represent State governors and their staffs; county health policymakers, municipal health policymakers, as well as national membership organizations representing groups or constituencies listed below.

To ensure continuity, membership for the organizations participating in PIC is rotated so that not all project periods coincide. For this year, only national membership organizations representing the following groups will be considered for funding:

—State Title V programs.
—State legislators.
—Private business, particularly self-insured businesses.
—Philanthropic organizations.
—Parent organizations.

• Cooperative Agreement/Amounts: Up to 5 cooperative agreements totalling $1.2 million in FY 1995 will be awarded in this category. Award amounts will vary with the level of proposed grantee participation, as described in the application guidance. Awards will be made for a project period of up to 5 years.

• Contact: For programmatic or technical information, contact David Heppel, M.D., telephone: 301 443–2250.

4.2.3. Childhood Injury Prevention

• Application Deadline: March 31, 1995.

• Purpose: The Children's Safety Network was established in FY 1990 to provide technical assistance to States and communities in injury prevention and to consult with States and localities, develop and distribute publications, organize conferences, and conduct training. MCHB is interested in continuing this capacity.

• Priorities: During FY 1995, awards will be made for a resource center focused on each of the following four special injury prevention topics:

—Rural Child and Adolescent Injury.
—Adolescent Violence and Suicide.
—Injury Data.
—Economics and Insurance Issues.

All funded centers, together with the Children's Safety Network site at the Education Development Center, will constitute the Children's Safety Network.

• Cooperative Agreement/Amounts: Up to 4 agreements, totaling $600,000, will be awarded in this category in FY 1995.

• Contact: For programmatic or technical information, contact Jean Athey, Ph.D., telephone: 301 443–4026.

4.2.4. Out-Of-Home Child Care Health And Safety

• Application deadline: April 27, 1995.

• Purpose: To continue support for a national resource center which will:

—Maintain a reference collection relating to health and safety in out-of-home child care settings.
—Maintain computerized databases, including states' current health and safety standards; health consultants registry; and directory of conferences and organizations.
—Provide training and technical assistance on health and safety in child care programs.
—Develop and distribute resource materials and maintain communications links with the child care community.

• Cooperative Agreement/Amounts: Approximately $350,000 will be available annually for up to 5 years to support a resource center to assist in maintaining links with child care providers and consumers regarding health and safety in out-of-home child care settings.

• Contact: For programmatic or technical information, contact Denise Sofka, telephone: (301) 443–6600.

The categories, priorities, special considerations and preferences described above are not being proposed for public comment this year. In July 1993, following publication of the Department's Notice of Proposed Rulemaking to revise the MCH special project grant regulations at 42 CFR 51a, the public was invited for a 60-day period to submit comments regarding all aspects of the SPRANS application and review process. Public comments regarding SPRANS priorities received during the comment period were considered in developing this announcement. In responding to those comments, the Department noted the practical limits on Secretarial discretion in establishing SPRANS categories and priorities owing to the extensive prescription in both the statute and annual Congressional directives.

Comments on this SPRANS notice which members of the public wish to make are welcome at any time and may be submitted to: Director, Maternal and Child Health Bureau, at the address listed in the **ADDRESSES** section. Suggestions will be considered when priorities are developed for the next solicitation.

5. Eligible Applicants

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), is eligible to apply for grants or cooperative agreements for project categories covered in this announcement.

6. Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

7. Executive Order 12372

The MCH Federal set-aside program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: February 8, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–3555 Filed 2–10–95; 8:45 am]

BILLING CODE 4160–15–U

National Institutes of Health

Division of Research Grants; Notice of Closed Meeting

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) meeting:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: February 17, 1995.

Time: 11:00 a.m.

Place: Georgetown Inn, Washington, DC.

Contact Person: Dr. Carole Jelsema, Scientific Review Administrator, 5333 Westbard Ave., Room 319B, Bethesda, MD 20892; (301) 594–7311.

The meeting 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 Programs 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)

Dated: February 6, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–3461 Filed 2–10–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–95–1082; FR–3877–D–01]

Delegation of Concurrent Authority to the President, Government National Mortgage Association

AGENCY: Office of the Secretary, HUD.

ACTION: Delegation of concurrent authority to the President, Government National Mortgage Association.

SUMMARY: The Secretary of Housing and Urban Development is delegating to the President, Government National Mortgage Association, Dwight P. Robinson, all power and authority vested in or delegated or assigned to the Secretary of Housing and Urban Development, to be exercised concurrently with the Secretary, with the exception of the power to sue and be sued.

EFFECTIVE DATE: February 7, 1995.

FOR FURTHER INFORMATION CONTACT: Sam E. Hutchinson, Associate General Counsel for Human Resources Law, Office of General Counsel, Department of Housing and Urban Development, Room 10242, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2947. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), the Secretary of Housing and Urban Development may delegate any of the Secretary's functions, powers and duties to such officers and employees of the Department as the Secretary may designate, and may authorize successive redelegations of such functions, powers and duties as determined to be necessary or appropriate. In the delegation of authority issued today, the Secretary is delegating to the President, Government National Mortgage Association, Dwight P. Robinson, all power and authority vested in or delegated or assigned to the Secretary, to be exercised concurrently with the Secretary, with the exception of the power to sue and be sued. The Government National Mortgage Association is part of the Department of Housing and Urban Development (42 U.S.C. 3534(b)).

Accordingly, the Secretary delegates as follows:

Section A. Authority Delegated

The President, Government National Mortgage Association, Dwight P. Robinson, is hereby authorized to exercise all the power and authority vested in or delegated or assigned to the Secretary of Housing and Urban Development to be exercised concurrently with the Secretary.

Section B. Authority Excepted

There is excepted from the authority delegated under Section A the authority to sue and be sued.

Section C. Delegation of Concurrent Authority Superseded

The Delegation of Authority to the Acting Deputy Secretary published in the **Federal Register** on September 21, 1994, at 59 FR 48444, is hereby superseded.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 7, 1995.

Henry G. Cisneros,

Secretary of Housing and Urban Development.

[FR Doc. 95–3500 Filed 2–10–95; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Alaska

[AK–964–1410–00–P; F–14934–A2 and F–14934–B2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Shishmaref Native Corporation for approximately 9,136 acres. The lands involved are in the vicinity of Shishmaref, Alaska, within Tps. 8 N., Rs. 32, 33, and 35 W., and T. 9 N., R. 32 W., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in The Nome Nugget. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 15, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Ana M. Stafford,

Land Law Examiner, Branch of Northern Adjudication.

[FR Doc. 95–3506 Filed 2–10–95; 8:45 am]

BILLING CODE 4310–JA–P

Fish and Wildlife Service

North American Wetlands Conservation Council; Meeting Announcement

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet on March 10 to review proposals for funding submitted pursuant to the North American Wetlands Conservation Act. Upon completion of the Council's review, proposals will be submitted to the Migratory Bird Conservation Commission with recommendations for funding. The meeting is open to the public.

DATES: March 10, 1995, 9:00 a.m.

ADDRESSES: The meeting will be held at the Grand Island Interstate Holiday Inn, Conference Room U, Grand Island, Nebraska 68802. The North American Wetlands Conservation Council Coordinator is located at U.S. Fish and Wildlife Service, Arlington Square Building, 4401 N. Fairfax Drive, Suite 110, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Coordinator, North American Wetlands Conservation Council, (703) 358–1784.

SUPPLEMENTARY INFORMATION: In accordance with the North American Wetlands Conservation Act (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989), the North American Wetlands Conservation Council is a Federal-State-Private body which meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to and final approval by the Migratory Bird Conservation Commission. Proposals from State and private sponsors require a minimum of 50 percent non-Federal matching funds.

Dated: January 27, 1995.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 95–3510 Filed 2–10–95; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32425]

Chicago SouthShore & South Bend Railroad—Operation Exemption—Illinois International Port District

Chicago SouthShore & South Bend Railroad (CSS) filed a notice of exemption to provide nonexclusive switching service over 8.7 miles of yard and switching track entirely within the Illinois International Port District. The track generally is located north of 130th Street and east of Doty Avenue on the west bank of Lake Calumet in Chicago, IL. The exemption was to become effective on or about October 20, 1994.

Any comments must be filed with the Commission and served on: Jo A. DeRoche, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, D.C. 20005–4797.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.[1] The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 1, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–3516 Filed 2–10–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Simultaneously with the filing of the notice of exemption, CSS filed a petition to dismiss; and, on October 20, 1994, it submitted exhibits inadvertently omitted from its petition. The Railway Labor Executives' Association and United Transportation Union, respectively, filed comments on October 24 and November 3, 1994. Chicago Rail Link (CRL), on November 3, 1994, petitioned to revoke the exemption and replied to CSS's petition to dismiss. Patrick W. Simmons, Illinois Legislative Board Director, United Transportation Union (Simmons), on November 9, 1994, petitioned to reject or revoke the exemption and replied to the petition to dismiss. CSS, on November 22, 1994, withdrew its petition to dismiss the exemption and submitted a copy of a CRL letter withdrawing the latter's petition to revoke. Thereafter, on November 29, 1994, CSS replied to Simmons' petition to reject or revoke and reply to CSS's petition to dismiss. Simmons' petition was considered as an appeal in a separate decision, and that decision is being served simultaneously with this notice of exemption.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA No. 129P]

Proposed 1995 Aggregate Production Quota for a Schedule II Controlled Substance

AGENCY: Drug Enforcement Administration.

ACTION: Notice of a proposed 1995 aggregate production quota.

SUMMARY: This notice proposes a 1995 aggregate production quota for hydrocodone (for conversion), a controlled substance in Schedule II of the Controlled Substances Act (CSA).

DATES: Comments or objections must be received on or before March 15, 1995.

ADDRESSES: Send comments or objections to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to Section 0.100 of Title 28 of the Code of Federal Regulations.

The Administrator, in turn, has redelegated this function to the Deputy Administrator pursuant to 59 FR 23637 (May 6, 1994).

A company submitted an application for a manufacturing quota for hydrocodone (for conversion) a Schedule II controlled substance. Based on the review of this application and other information available to the DEA, the Deputy Administrator of the DEA, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), delegated to the Administrator by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to 59 FR 23637 (May 6, 1994), hereby proposes that the 1995 aggregate production quota for the following controlled substance, expressed in grams of anhydrous base, be established as follows:

Basic class	Proposed 1995 aggregate production quota (grams)
Hydrocodone (for conversion) ..	2,200,000

All interested persons are invited to submit comments or objections, in writing, regarding this proposal. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866.

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

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities within the meaning of and intent of the Regulatory Flexibility Act, 5 U.S.C., 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: February 6, 1995.

Stephen H. Green,

Deputy Administrator.

[FR Doc. 95–3456 Filed 2–10–95; 8:45 am]

BILLING CODE 4410–09–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 93–13C]

Copyright Restoration of Certain Motion Pictures in Accordance With the North American Free Trade Agreement; List of Titles for Which Statements of Intent To Restore Copyright Were Received

AGENCY: Copyright Office, Library of Congress.

ACTION: Publication of list of restored NAFTA works.

SUMMARY: The Copyright Office is publishing a list of 345 titles for which Statements of Intent to Restore Copyright in the United States have been filed under terms of the North American Free Trade Agreement (NAFTA) and its implementing statute. Potential copyright owners of certain motion pictures and their contents who filed a complete and timely Statement of Intent with the Copyright Office on or before December 31, 1994, restored copyright protection in those works effective January 1, 1995. Publication of this list creates a record for the public regarding works for which complete Statements of Intent have been filed with the Copyright Office.

EFFECTIVE DATE: February 13, 1995.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, Post Office Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: The North American Free Trade Agreement (NAFTA) and the North American Free Trade Agreement Implementation Act (NAFTA Act) (Pub. L. No. 103–182, 107 Stat. 2057, 2115 (1993)), provide for the restoration of copyright for certain works that were in the public domain in the United States. Under the new section 104A of title 17 of the United States Code as provided by the NAFTA Act, copyright protection could have been restored for certain motion pictures that were first fixed or published in Mexico or Canada, and any work included in such motion pictures that was first fixed or published with these motion pictures, if the work ''entered the public domain in the United States because it was first published on or after January 1, 1978, and before March 1, 1989, without the notice required by sections 401, 402, or 403 of [title 17], the absence of which has not been excused by the operation of section 405 of [title 17], as such sections were in effect during that period.'' 17 U.S.C. 104A(a) (1993). A motion picture or underlying work (such as original music or dramatic text embodied in the motion picture) meeting these requirements ''shall have copyright protection under [title 17] for the remainder of the term of copyright protection to which it would have been entitled in the United States had it been published with such notice.'' *Id.*

The Copyright Office notified the public that copyright owners of qualifying works had to file with the Office Statements of Intent to Restore Copyright protection between January 1, 1994 (the date on which NAFTA entered into force), and December 31, 1994, to comply with the terms of the NAFTA Act. 59 FR 1408 (January 10, 1994). We stated that we would then publish in the **Federal Register** the list of works for which Statements were filed and which were determined to meet the criteria for restoration. *Id.* The restoration of copyright protection for these works was effective on January 1, 1995, in accordance with section 104A of title 17 of the United States Code as amended by the NAFTA Implementation Act. Section 104A(c) of this Act provides that U.S. nationals or domiciliaries who made or acquired copies of a motion picture or their contents may publicly perform, sell or distribute copies of these restored works or may continue such activities for up to one year following publication of this list of 345 titles of motion pictures today. This provision of the NAFTA Act applies only to copies produced or acquired before the date of enactment of the implementing legislation (December 8, 1993). As to copies produced or acquired after December 8, 1993, an owner of a restored work listed below may immediately enforce his or her restored copyright against individuals who infringe his or her rights.

This list of Restored Works is also available in the Public Information Office of the U.S. Copyright Office, Library of Congress, Room 401, James Madison Building, 101 Independence Avenue, S.E., Washington, D.C. Additionally, the complete Statements of Intent have been recorded on microfilm, and are available for inspection or copying. These statements have been indexed by title and the name of the copyright owner; these records are available both online in the Copyright Office and on Internet at Marvel.loc.gov.

List of Restored Works by Title

A

A FUEGO LENTO
A PASO DE COJO
ACOMPANAME
ADRIANA DEL RIO ACTRIZ
AGENCIA S.O.S. S.A.
AL CABO QUE NI QUERIA
AL FINAL DEL ARCO IRIS
ALBURES MEXICANOS
ALLA EN LA PLAZA GARIBALDI
AMBICION
AMIGO
AMOR A LA MEXICANA
AMOR LIBRE
EL AMOR LLEGO MAS TARDE
EL AMOR NUNCA MUERE
AMOR PROHIBIDO
EL ANO DE LA PESTE
ANORANZA
ANTONIETA
APRENDIENDO A AMAR
EL ARABE
ARDIENTE SECRETO
EL ARRACADAS
ASTUCIA

B

BAJO LA METRALLA
BARTOLO
BELLA Y BESTIA
BIANCA VIDAL
BLANCA NIEVES Y SUS SIETE AMANTES
LO BLANCO, LO ROJO & LO NEGRO
BURLESQUE

C

EL CABALLITO VOLADOR
LA CABRA
CACERIA IMPLACABLE
CACHUN CACHUN RA RA
CADENA PERPETUA
CAMINOS DE MICHOACAN
CAMPANAS ROJAS
CANANEA
EL CARA PARCHADA
LA CARABINA DE AMBROSIO
CARAS Y GESTOS
LA CARAVANA DE LA MUERTE
LAS CARINOSAS
CARNADA
CARNE DE HORCA
CARTAS PARA UNA VICTIMA
CARTUCHO CORTADO
CASA DE HUESPEDES
LA CASA PROHIBIDA
CASCABEL
LA CASTA DIVINA
CAZADOR DE TIBURONES
CEPILLIN
EL CHACHARAS
EL CHAPULIN COLORADO
EL CHARRO DEL MISTERIO
EL CHAVO
CHEPINA DE TODOS LOS MOLES
CHESPIRITO
CHICOASEN
CHIQUILLADAS
CHISPITA
LOS CHOLOLOCOS
EL CIELO ES PARA TODOS
CINCO POLLAS EN PELIGRO
EL COLOR DE NUESTRA PIEL
COLORINA
EL COMBATE
LOS COMPADRES
CON LA MUERTE EN ANCAS
CONFIDENCIAS
CONTACTO CHICANO

EL CONTRABANDO DEL PASO
EL CORAZON DE LA NOCHE
COSA FACIL
EL COYOTE Y LA BRONCA
CRONICA DE UNA FAMILIA
CRONICA INTIMA
CUARTELAZO
EL CUATRERO
CUENTOS DE PRINCIPES & PRINCESAS
CUMBRES BORRASCOSAS II

D

DEJAME VIVIR
DEL OTRO LADO DEL PUENTE
EL DERECHO DE NACER II
EL DESCONCIDO
DEVERAS ME ATRAPASTE
EL DIABOLICO
DIAS DIFICILES
DIMAS DE LEON
DIMENSIONES OCULTAS
DIOS EL NINO Y EL MAR
DISCOTECA ES AMOR
DISTRITO FEDERAL
DOMENICA MONTERO
DON HERCULANO ENAMORADO
DONA HERLINDA Y SU HIJO
DONDE TERMINA EL CAMINO
DOS MACHOS QUE LADRAN NO MUERDEN

E

EL ELIGIDO
ELISA
EN BUSCA DEL PARAISO II
EN EL CAMINO ANDAMOS
EN EL PAIS DE LOS PIES LIGEROS
EN LA TORMENTA
EN LA TRAMPA
EN LAS GARRAS DE LA CIUDAD
EL ENEMIGO
ENRIQUE POLIVOZ
EROTICA
ES MI VIDA
ESPEJISMO
ESTA NOCHE ES LUCIA
ESTA NOCHE EUROPA
ESTAS RUINAS QUE VES
ESTELARES DEL SABADO
EL ESTUDIO DE LOLA
EXTRANOS CAMINOS DEL AMOR
EL EXTRATERRESTRE

F

EL FANTASMA DEL LAGO
FANTASTICO ANIMAL
FIERAS CONTRA FIERAS
EL FISCAL DE HIERRO
FRIDA NATURALEZA VIVA
FUEGO EN EL MAR
LA FURIA DE UN DIOS
FUT-BOL DE ALCOBA
EL FUTBOLISTA FENOMENO

G

GABRIEL Y GABRIELA
LOS GEMELOS ALBOROTADOS
LAS GLORIAS DEL GRAN PUAS
LA GOLFA DEL BARRIO
GOTITA DE GENTE
EL GRAN PERRO MUERTO
LOS GUARURAS
LA GUERRA DE LOS PASTELES
LA GUERRA DE LOS SEXOS
LA GUERRA ES UN BUEN NEGOCIO
LA GUERRA SANTA

H

LOS HERMANOS MACHORRO
LA HIJA DE NADIE
LA HIJA SIN PADRE
EL HIJO DEL PALENQUE
EL HIJO DEL VIENTO
HISTORIAS VIOLENTAS
HOGAR DULCE HOGAR
EL HOGAR QUE YO ROBE
EL HOMBRE DE LOS HONGOS
EL HOMBRE SIN MIEDO
LOS HOMBRES NO DEBEN LLORAR
HONRARAS A LOS TUYOS
HORA DE SILENCIO
LA HORA DEL JAGUAR
HUEVOS RANCHEROS
HUMILLADOS Y OFENDIDOS

I

EL IMPERIO DE LA FORTUNA
LA INDIA BLANCA
LOS INDOLENTES
EL INFIERNO DE TODOS TAN TEMIDO

J

J.J. JUEZ
JUAN CHARRASQUEADO - GABINO BARRERA (SU VERDADERA HISTORIA)
EL JUDICIAL (CARNE DE CANON)
EL JUDICIAL 2 (CAZADORES DE NARCOS)
JUVENTUD
LA JUVENTUD DE SOR JUANA

L

LADRONZUELA
LAGRIMAS DE AMOR
LAGRIMAS NEGRAS
UNA LEYENDA DE AMOR
UNA LIMOSNA DE AMOR
LA LLAMA DE TU AMOR
LLAMENME MIKE
LLOVIZNA
LO QUE EL CIELO NO PERDONA
LO QUE IMPORTA ES VIVIR
LONGITUD DE GUERRA
LOS DE ABAJO
EL LUGAR SIN LIMITES
LUNA DE SANGRE

M

LA MAFIA DE LA FRONTERA
LA MAFIA TIEMBLA
LOS MAISTROS (pelados pero sabrosos)
MALDITA MISERIA
LOS MALVIVIENTES
MAMA CAMPANITA
MAMA SOLITA
MARCHA NUPCIAL
MARIA JOSE
MARIACHI
MARIANA MARIANA
MAS ALLA DEL DESEO
MATAR POR MATAR
MATEN AL LEON
MATINEE
LA MAXIMA FELICIDAD
ME LLEVA LA TRISTEZA
MEXICANO HASTA LAS CACHAS
MEXICO DE MIS AMORES
MEXICO DOS MIL
MI AMOR FRENTE AL PASADO
MI AVENTURA EN PUERTO RICO
MI COLONIA LA ESPERANZA
MI NOMBRE ES SERGIO Y SOY ALCOHOLICO
MI SECRETARIA
MIL CAMINOS TIENE LA MUERTE
MIL MILLAS AL SUR
MIS HUESPEDES
MISTERIO
LAS MODELOS
EL MOFLES Y LOS MECANICOS
MOJADO DE NACIMIENTO
MOJADO POWER
EL MONASTERIO DE LOS BUITRES
EL MORO DE CUMPAS
LAS MOVIDAS DEL MOFLES
MUCHACHA DE BARRIO
MUCHACHAS DE ACAPULCO
MUENCA ROTA
MUERTE A SANGRA FRIA
LA MUERTE DE UN PISTOLERO
LA MUERTE DEL SOPLON
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LOS PERROS DE DIOS
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PICARDIA MEXICANA III
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LA SENORITA ROBLES Y SU HIJO
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EL ZORRO BLANCO

Dated: February 6, 1995.

Marybeth Peters,

Register of Copyrights.

Approved:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–3499 Filed 2–10–95; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

International Advisory Panel; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that meeting of the International Advisory Panel (International Projects Initiative Section) to the National Council on the Arts will be held on March 13–15, 1995. The panel will meet from 9:00 a.m. to 6:00 p.m. on March 13 and 14 and from 9:00 a.m. to 5:00 p.m. on March 15. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

Portions of this meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on March 13 for introductions and instructions to the panel and from 4:00 p.m. to 5:00 p.m. on March 15 for an overview discussion.

The remaining portions of this meeting from 10:00 a.m. to 6:00 p.m. on March 14; and from 9:00 a.m. to 4:00 p.m. on March 15 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5433.

Dated: February 7, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Art.

[FR Doc. 95–3501 Filed 2–10–95; 8:45 am]

BILLING CODE 7537–01–M

International Advisory Panel; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that meeting of the International Advisory Panel (Overview/US Host Organizations Section) to the National Council on the Arts will be held on March 16–17, 1995 from 9:00 a.m. to 6:00 p.m. This meeting will be held in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on March 16 for introductions and instructions to panelists and from 9:00 a.m. to 6:00 p.m. on March 17 for guidelines review and overview discussion.

The remaining portion of this meeting from 10:00 a.m. to 6:00 p.m. on March 16 is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the

panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: February 7, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–3502 Filed 2–10–95; 8:45 am]

BILLING CODE 7537–01–M

Media Arts Advisory Panel; Notice of 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 Media Arts Advisory Panel (Radio/Audio Production/Services Section) to the National Council on the Arts will be held on February 21–23, 1995. The panel will meet from 9:00 a.m. to 6:30 p.m. on February 21; from 9:00 a.m. to 5:30 p.m. on February 22 and 23. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

Portions of this meeting will be open to the public from 9:00 a.m. to 9:30 a.m. on February 21 for introductory remarks and from 4:30 p.m. to 5:30 p.m. on February 23, for a policy discussion.

The remaining portions of this meeting, from 9:30 a.m. to 6:30 p.m. on February 21; from 9:00 a.m. to 5:30 p.m. on February 22; and from 9:00 a.m. to 4:30 p.m. on February 23 are fro the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5439.

Dated: February 6, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–3502 Filed 2–10–95; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Notice of 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 Music Advisory Panel (Overview/Composer in Residence Section) to the National Council on the Arts will be held on February 22–23, 1995 from 10 a.m. to 5:30 p.m. on February 22 and from 9 a.m. to 5:30 p.m. on February 23, 1995. This meeting will be held in Room M–14, at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 10 a.m. to 5:30 p.m. on February 22 for orientation and opening remarks; an overview of Music Program categories and categories supporting composer activities; a statement from the Director of the Music Program; a question and answer period; a session to identify the needs of the composer; a discussion of the Millenium Projects, and guidelines development. On February 23, open sessions will be held from 9 a.m. to 12 p.m. for guidelines development and from 4:30 p.m. to 5:30 p.m. for policy discussion and guideline review.

The remaining portion of this meeting from 1 p.m. to 4:30 p.m. on February 23 is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5439.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–3504 Filed 2–10–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Philadelphia Electric Co.; Limerick Generating Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–85, issued to Philadelphia Electric Company, (the licensee), for operation of the Limerick Generating Station, Units 1 and 2, located in Montgomery County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application of December 9, 1993, as supplemented July 5, September 9, October 19, November 19, 1994, January 6, and January 23, 1995, to amend the Limerick Generating

Station (LGS), Units 1 and 2 operating licenses. The proposed amendment would increase the licensed thermal power level from 3293 Mwt to 3458 Mwt. This request is in accordance with the generic boiling water reactor (BWR) power uprate program established by the General Electric Company (GE) and approved by U.S. Nuclear Regulatory Commission (NRC) staff in a letter of September 30, 1991.

The proposed action involves NRC issuance of a license amendment to increase the authorized power level by changing the operating license, including Appendix A of the license (Technical Specifications). No change is needed to Appendix B of the license (Environmental Protection Plan—Non-radiological).

The Need for the Proposed Action

The proposed action is needed to permit an increase in the licensed core thermal power from 3293 Mwt to 3458 Mwt and provide the licensee with the flexibility to increase the potential electrical output of LGS, Units 1 and 2, providing additional electrical power to service domestic and commercial areas.

Environmental Impacts of the Proposed Action

The ''Final Environmental Statement (FES) Related to Operation of Limerick Generating Station, Units 1 and 2'' was issued April 1984 (NUREG–0974). The licensee submitted GE Topical Report, NEDC–32225P, ''Power Rerate Safety Analysis Report for Limerick Generating Station, Units 1 and 2,'' Class III, dated September 1993, as Attachment 3 to the December 9, 1993 submittal. NEDC–32225P contains the safety analysis prepared by GE to support this license change request and the implementation of power uprate at LGS, Units 1 and 2. The analyses and evaluations supporting these proposed changes were completed using the guidelines in GE Topical Report NEDC–31897P–A, ''Generic Guidelines for General Electric Boiling Water Reactor Power Uprate,'' Class 3, dated May 1992, and NEDC–31948P, ''Generic Evaluations of General Electric Boiling Water Reactor Power Uprate,'' Class III, dated July 1991. The NRC reviewed and approved GE Topical Reports NEDC–31897P–A and NEPC–31948P in a September 30, 1991, letter and in a letter from W. Russell, NRC, to P. Marriotte, GE, dated July 31, 1992.

The licensee provided information regarding the nonradiological and radiological environmental effects of the proposed action in the December 9, 1993 application and supplemental information in the January 6, and January 23, 1995 submittal. The staff has reviewed the potential radiological and non-radiological effects of the proposed action on the environment as described below.

Non-Radiological Environmental Assessment

Power uprate will not change the method of generating electricity nor the method of handling any influents from nor effluents to the environment. Therefore, no new or different types of environmental impacts are expected.

The staff reviewed the nonradiological impact of operation at uprated power levels on influents from the Perkiomen Creek, Schuylkill and Delaware Rivers and effluents to the Schuylkill River. LGS, Units 1 and 2 each have a closed-loop circulating water system and cooling tower for dissipating heat from the main turbine condensers. The cooling towers are operated in accordance with the requirements of National Pollution Discharge Elimination System (NPDES) Permit No. PA0051926. The current permit was renewed on December 12, 1994 and is effective through December 31, 1999. The only increase in LGS water intake due to operation at power uprate conditions is due to increased evaporation in the hyperbolic natural draft cooling towers. In the January 6, 1995 letter, the licensee indicated that the existing consumptive flow will conservatively increase from 38,059,065 to 40,723,200 gallons per day (total for both units), depending on atmospheric conditions. The velocity of the intake water will increase less than 7 percent. Makeup is drawn from the Schuylkill River, Perkiomen Creek, or the Delaware River, depending on flow and temperature. When makeup is drawn from the Delaware River through the Point Pleasant Pumping Station via the Bradshaw Station, 3 percent additional evaporative losses must be considered. The increase makeup flow (including evaporative losses), is within the existing water diversion consumptive use limit of 42,000,000 gallons per day specified in the original permitting evaluations.

Makeup water requirements for systems and components other than the cooling towers are not expected to change due to operation at uprated power levels. The licensee indicated that the only potential change is due to increased reactor operating pressure which could slightly increase leakage through valve packing. System leakage, however, is processed through the liquid radwaste system and returned to the condensate storage tank for reuse. Based on the above considerations, the staff concluded that the effect of makeup requirements at uprated power levels on the environment is not significant.

The licensee does not expect any increase in the cooling tower blowdown due to the physical limitation in the blowdown system. Likewise, the licensee does not expect any increase in the blowdown discharge velocity. However, the licensee indicated that the blowdown discharge temperature will increase less than 0.1°F. This temperature rise will have an insignificant effect on the thermal plume. This increase is within the NPDES permit limit.

An increase in cooling tower drift is not anticipated for operation at uprated conditions. Drift is a function of physical geometry, water flow, and wind conditions, none of which are changed by power uprate. Therefore, the licensee has indicated that the original evaluation of impacts to the terrestrial environment is not altered.

The only changes to the cooling tower water chemistry are due to increased evaporation from the towers. Concentrations of dissolved and suspended solids in the blowdown will increase approximately less than 7 percent, which is within NPDES permit limits. The licensee stated that the use of biocides and corrosion inhibitors in the circulating water system may change as a result of operation at uprated power levels. However, the licensee stated that change in chemical usage would not impact existing NPDES permit limitations.

Nonradiological effluent discharges from other systems were also considered. Nonradiological effluent limits for such systems as yard drains, sewage treatment plant, and laundry drains are established in the NPDES permit. Discharges from these systems are not expected to change significantly, if at all, because operation at uprated power levels is governed by the limits in the NPDES permit. Thus, the impact on the environment from these systems as a result of operation at uprated power levels is not significant.

Operation at uprated power levels will not result in increased noise generation from the majority of plant equipment. Some of this equipment, such as the main turbine and generator will operate at the same speed and thus will not contribute to increased offsite noise. Other major plant equipment is located within plant structures and will not lead to increased offsite noise levels. The main station transformers will operate at an increased kilovolt-ampere level which will cause an insignificant increase in the overall noise level. The

makeup pumps, which are indoors, will operate at the same level, however, in some cases cycling on slightly more frequently. The pumps at the Bradshaw Station are variable speed and, when used, will operate at a slightly higher speed. The pumps are indoors; therefore, the outside noise level increase will be insignificant.

The licensee has stated that there are no changes required to the LGS Environmental Protection Plan as a result of operation at uprated power levels. Specifically the licensee stated:

Other non-radiological environmental impacts of the proposed power rerate were reviewed based on the information submitted in the Environmental Report, Operating License Stage, the NRC Final Environmental Statement (FES), Operating License Appendix B (i.e., Environmental Protection Plan), the requirements of the applicable NPDES permits, which include the outfall limits, and the Delaware River Basin Commission Water Use permit. We have concluded the proposed power rerate will have insignificant impacts on the non-radiological elements of concern and the plant will be operated in an environmentally acceptable manner as established by the FES. Existing Federal, State and Local regulatory permits presently in effect will accommodate power rerate without modification.

The FES described the impact of plant operation on fogging in the vicinity of the facility. The FES discussed that the increase in fogging due to plant operation was expected to blend in with the natural fog and be indistinguishable. The staff expects that operation of the plant at uprated power levels will result in only a minimal increase in fogging over that discussed in the FES. Thus, the impact of plant operation on local fogging, including operation at uprated power, remains insignificant.

Radiological Environmental Assessment

The licensee evaluated the impact of the proposed amendment to show that the applicable regulatory acceptance criteria continue to be satisfied for the uprated power conditions. In conducting this evaluation, the licensee considered the effect of the higher power level on source terms, onsite and offsite doses, and control room habitability during both normal operation and accident conditions. The licensee provided information regarding the radiological environmental effects of the proposed action in NEDC–32225P and supplemental information in the January 6, 1995 submittal. In Sections 8.1 and 8.2 of NEDC–32225P, the licensee discussed the potential effect of power rerate on liquid and gaseous radioactive waste systems. Sections 8.3 and 8.4 discussed the potential effect of power uprate on radiation sources in the reactor coolant resulted from coolant activation products, activated corrosion products and fission products. Section 8.5 of the Topical Report discussed the radiation levels during normal operation, normal post-operation, post-accident, and offsite doses during normal operation. Finally, Section 9.2 of NEDC–32225P presented the results of calculated whole body and thyroid doses at the uprated power and current authorized power conditions at the exclusion area boundary and the low population zone that might result from the postulated design basis radiological accidents [i.e., loss-of-coolant-accident (LOCA), main steam line break accident (MSLBA) outside containment, fuel handling accident (FHA) and control rod drop accident (CRDA)].

In Section 8.1 of NEDC–32225P, the licensee stated that there will be only a slight increase in the liquid radwaste collection as a result of operation at higher power levels. The liquid waste system collects, monitors, processes, stores, and returns processed radioactive waste to the plant for reuse or for discharge. The largest contributor to the liquid waste results from the backwash of the condensate demineralizers and deepbeds. The rate of loading on the demineralizers increases, resulting in the average time between backwash precoat being reduced slightly; this reduction does not affect plant safety. Similarly, the reactor water cleanup (RWCU) filter/demineralizers will require slightly more frequent backwashes due to slightly higher levels of activation and fission products. The power uprate will increase the flow rate through the condensate demineralizers, with a subsequent reduction in the average time between backwashing. Additionally, neither the floor drain collector subsystem nor the waste collector subsystem is expected to experience a significant increase in the total volume of liquid waste due to operation at the uprated level.

The licensee stated that while the activated corrosion products in liquid wastes are expected to increase proportionally to the square of the power increase, the total volume of processed waste is not expected to increase appreciably. Based on its analyses of the liquid radwaste system, the licensee has concluded the requirements of 10 CFR part 20 and 10 CFR part 50, appendix I, will be met. Based on the above considerations, the staff concluded that the power uprate will have no significant adverse effects on liquid effluents.

The gaseous waste management systems collect, control, process, store and dispose of gaseous radioactive waste generated during normal operation and abnormal operational occurrences. These systems include the standby gas treatment system (SGTS), off-gas recombiner system, the ambient temperature charcoal treatment system, and various building ventilation systems. Various devices and processes, such as radiation monitors, filters, isolation dampers, and fans, are used to control airborne radioactive gases. The licensee states that the activity of airborne effluents released through building vents is not expected to increase significantly with power uprate and the systems are designed to meet the requirements of 10 CFR part 20 and 10 CFR part 50, appendix I.

In its power uprate submittal, the licensee has stated that the greatest contributor of radioactive gases is the noncondensible radioactive gases from the main condenser, including activation gases (principally N–16, O–19, and N–13) and radioactive noble gas parents. The increase in production of these gases is expected to be approximately proportional to the core power increase. These noncondensible radioactive gases, along with nonradioactive air due to inleakage to the condenser, are continuously removed from the main condensers by the stream jet air ejectors (SJAE). The SJAEs discharge into the offgas system. The flow of these gases into the offgas system is included with the flow of H_2 and 0_2 to the recombiner, which will also increase linearly with core power. Radioactive gases and H_2 and 0_2 pass from the recombiner through a holdup pipe, cooler condenser, adsorber bed, and high-efficiency particulate air (HEPA) filters and exit the facility through the north stack. Gaseous activity effluent release rates are monitored down stream of the adsorber bed and alarms are provided in the control room. The licensee has stated that the operational increases in hydrogen, oxygen, and noble gases due to uprate are not significant when compared to the current total system flow which also includes air from condenser inleakage and steam flows from the air ejector.

The design basis for the offgas system is for activity release rates of 100,000 microcuries per second based on a mixture of activation and fission product gases and fuel leakage and a 30-minute holdup time. The system is designed to meet the requirements of 10 CFR part 20 and 10 CFR part 50, appendix I. Performance of the system at uprated power levels is expected to remain within the system design basis and, thus, to continue to meet the

requirements of 10 CFR part 20 and 10 CFR part 50, appendix I.

The contribution of gases to the gaseous waste management system from building ventilation system is not expected to increase significantly with power uprate because (1) the amount of fission products released into the reactor coolant depends on the number of nature of the fuel rod defects and is not dependent on reactor power, and (2) the concentration of coolant activation products is expected to remain unchanged since the linear increase in the production of these products will be offset by the linear increase in steaming rate.

Based on its review of the gaseous waste management system, the staff concluded that there will not be a significant adverse effect on airborne effluents as a result of the power rerate.

The licensee has evaluated the effects of the power uprate on in-plant radiation levels in the LGS facility during normal and abnormal operation as well as from postulated accident conditions. The licensee has concluded that radiation levels from both normal and accident conditions may increase slightly. However, because many areas of the plant were designed for higher than expected radiation sources, the small increase in radiation levels expected due to power uprate will not affect radiation zoning or shielding in the plant.

During periods of normal and post-operation conditions, individual worker exposures will be maintained within acceptable limits by the existing, as low as is reasonably achievable (ALARA) program, which controls access to radiation areas. Procedure controls compensate for slightly increased radiation levels.

The offsite doses associated with normal operation are not significantly affected by operation at the uprated power level, and are expected to remain below the limits of 10 CFR part 20 and 10 CFR part 50, appendix I.

The main control room (MCR) habitability was evaluated. Post-accident MCR and technical support center doses were confirmed by the licensee to be within the limits of General Design Criterion (GDC) 19 or 10 CFR part 50, appendix A.

The increase in LOCA radiological consequences due to power uprate was analyzed by the licensees. The resultant offsite doses were found to be within guidelines of 10 CFR part 100. The events evaluated for uprate were the LOCA, the MSLBA, the FHA, and the CRDA. The whole body and thyroid doses were calculated for the exclusion area boundary (EAB), low population zone (LPZ), and the control room. The plant-specific results for power uprate remain well below established regulatory limits. The doses resulting from the accidents analyzed are compared below with the applicable dose limits.

Location	LOCA radiological consequences		Limit
	UFSAR dose (rem) @3458 MWt	Dose (rem) @ 3527 MWt [1]	
Exclusion area:			
Whole body dose	0.67	0.68	25
Thyroid dose	0.15	0.15	300
Low population zone:			
Whole body dose	1.7	1.7	25
Thyroid dose	0.04	0.04	300
Main control room:			
Whole body dose	4.6	4.7	5
Thyroid dose	14.0	14.3	30
Beta	7.6	7.8	30
FHA Radiological Consequences			
Exclusion area:			
Whole body dose	0.7	0.7	6
Thyroid dose	0.95	0.98	75
Low population zone:			
Whole body dose	0.099	0.102	6
Thyroid dose	0.13	0.135	75
CRDA Radiological Consequences			
Exclusion area:			
Whole body dose	0.04	0.042	6
Thyroid dose	0.32	0.3	75
Low population zone:			
Whole body dose	0.014	0.0148	6
Thyroid dose	0.62	0.63	75

[1] This number represents 102% of the power uprate level. Doses based on 102% are consistent with Regulatory Guide 1.49, Revision 1 guidance and are provided to allow for possible instrument errors in determining the power level.

Based on a review of the licensee's major assumptions and methodology used in their reconstituted dose calculations and the staff's original safety evaluation, the staff concluded that the offsite radiological consequences and control room operator doses at uprated power levels still remain below 10 CFR part 100 dose reference values and GDC 19 dose limits. Therefore, the staff concludes that no significant adverse effect on radiation levels will result onsite or offsite from the planned power uprate.

It is expected that the increased energy requirements associated with operation at uprated power will require an increase in the reload fuel enrichment and will result in increased burnup. The NRC previously evaluated the environmental impacts associated with burnup values of up to 60,000 MWd/MT with fuel enrichments up to 5 percent ^{235}U (published in the **Federal Register**, 53 FR 6040 dated February 29, 1988). The staff concluded that the environmental impacts associated with Table S–3 of 10 CFR 51.51, Uranium Fuel Cycle Environmental Data, and Table S–4 of 10 CFR 51.52, Environmental Impact of Transportation of Fuel and Waste, are conservative and bound the corresponding impacts for burnup levels of up to 60,000 MWd/MtU and ^{235}U enrichments up to 5 percent by weight. In the January 23, 1995 submittal, the licensee indicated that while fuel burnup and enrichment levels may increase as a result of operation at uprated power, the burnup and enrichment will remain within the 5 percent enrichment and 60,000 MWd/MT value previously evaluated by the staff. Based on the above cited environmental assessment and the licensee's statements regarding expected burnup and enrichment values, the staff concludes that the environmental effects of increased fuel cycle and transportation activity as a result of operation at uprated power levels are not significant.

The Commission has completed its evaluation of the proposed action and concludes that the NRC's FES is valid for operation at the proposed uprated power conditions for LGS, Units 1 and 2. The staff also concluded that the plant operating parameters impacted by the proposed uprate would remain within the bounding conditions on which the conclusions of the FES are based.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

The NRC staff finds the radiological and nonradiological environmental impacts associated with the proposed small increase in power are very small and do not change the conclusion in the FES that the operation of LGS, Units 1 and 2, would cause no significant adverse impact upon the quality of the human environment.

Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated.

The principal alternative to the action would be to deny the request. Such action would not significantly reduce the environmental impact of plant operation but would restrict operation of LGS, Units 1 and 2 to the currently licensed power level and prevent the facility from generating approximately 60 MWe (165 MWt) additional that is obtainable from the existing plant design.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement related to the operation of Limerick Generating Station, Units 1 and 2,'' dated April 1984.

Agencies and Persons Consulted

In accordance with its stated policy, the staff consulted with the Bureau of Radiation Protection, Pennsylvania Department of Environmental Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 9, 1993, as supplemented by letters dated July 5, September 9, October 19, and November 19, 1994, and January 6, and January 23, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Dated at Rockville, Maryland, this 7th day of February 1995.

For the Nuclear Regulatory Commission.

Chester Poslusny,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–3520 Filed 2–10–95; 8:45 am]

BILLING CODE 7590–01–M

Draft NUREG: Issuance, Availability

The Nuclear Regulatory Commission has issued a draft report entitled, ''Management of Radioactive Material Safety Programs at Medical Facilities'' (NUREG–1516). This draft report, prepared by NRC staff and two representatives of Agreement States, is available for review and comment.

The draft report describes a systematic approach for effectively managing radiation safety programs at medical facilities. This is accomplished by defining and emphasizing the roles of an institution's executive management, radiation safety officer (RSO), and radiation safety committee, if required. Various aspects of program management are discussed and guidance is offered on selecting the RSO, determining adequate program resources, using contractual services such as consultants and service companies, conducting program audits, and clarifying the roles of physician authorized users and supervised individuals. NRC's reporting and notification requirements are outlined and a general description is given of how NRC's licensing, inspection, and enforcement programs work. There are 19 appendices that present detailed information on specific aspects of program management and include an annotated bibliography prepared by the Radiological Sciences Division of Brookhaven National Laboratory.

This report presents regulatory guidance. It does not describe new or proposed regulations, and licensees are not required to adhere to its principles. Any discussion or specific information that implies a new or proposed regulatory requirement does so unintentionally. Rather, this should be viewed as a practical guide to present a management approach and describe management tools which regulatory agencies have observed to be effective when managing a radiation safety program at a medical facility. Even though the radiation safety principles and practices in NUREG–1516 are directed towards the safe use of byproduct material, they have universal applicability and may be used by the RSO and other responsible individuals to manage the safe use of other sources of radiation for medical use not specifically addressed in this report.

Comments and suggestions on the Draft NUREG–1516 should be sent to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Copies of the comments received may be examined at the NRC Public Document Room at 2120 L Street, NW., Washington, DC. Submit comments on this draft report by December 31, 1995. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for those comments received by this date.

Copies of draft NUREG–1516 may be obtained by written request or telefax (301–504–2260) from Distribution Services, Printing and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For further information contact Janet Schlueter, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, Mail Stop, T–8F5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7894.

Dated at Rockville, Maryland, this 25th day of January 1995.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Acting Chief, Medical, Academic, and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–3521 Filed 2–10–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–313]

Entergy Operations, Inc. (Arkansas Nuclear One, Unit 1); Exemption

I

Entergy Operations, Inc. (the licensee) is the holder of Operating License No. DPR–51, which authorizes operation of Arkansas Nuclear One, Unit 1 (ANO–1). The operating license provides, among other things, that it is subject to all rules, regulations, and orders of the Commission now and hereafter in effect.

The facility consist of pressurized water reactor at the licensee's site in Pope County, Arkansas.

II

Section III.D.1(a) of appendix J to 10 CFR part 50 requires, ''* * * a set of three Type A tests [Overall Integrated Containment Leakage Rate Tests, or ILRTs] shall be preformed, at approximately equal intervals during each 10-year service period. The third test of each set shall be conducted when the plant is shutdown for the 10-year plant inservice inspection.'' By letter dated November 8, 1994, the licensee requested an exemption from this requirement of the Commission's regulations.

The NRC may grant exemptions from the requirements of the regulations, pursuant to 10 CFR 50.12, that (1) are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2) of 10 CFR part 50 describes special circumstances as including cases that would not serve the underlying purpose of the rule or are not necessary to achieve the underlying purpose of the rule.

In its November 8, 1994, letter, the licensee also applied for an amendment to Facility Operating License No. DPR–51 to change related provisions of the ANO–1 Technical Specifications (TSs). The TS amendment request will be addressed as a separate action.

III

The Type A test is defined in 10 CFR part 50, appendix J, section II.F, as a ''test intended to measure the primary reactor containment overall integrated leakage rate (1) after the containment has been completed and is ready for operation, and (2) at periodic intervals thereafter.'' A total of six Type A tests (ILRT) has been performed on the ANO–1 containment including the preoperational ILRT that was performed in 1973. Except for leakage detected by Type B and C tests, containment leakage rates have always been below the ANO–1 acceptance criteria. The requested exemption does not affect the performance of Type B and C leakage tests which are expected to detect the most probable sources of containment leakage.

In order to schedule the next ILRT (the third ILRT of this service period) such that it coincides with the 10-year inservice inspections, the licensee has requested a one-time exemption from the appendix J requirements. The exemption would permit the licensee to perform the ILRT together with the 10-year inservice inspections that are schedule during the thirteenth refueling outage. If performed during the thirteenth refueling outage, the third ILRT will not be completed until after the end of the current 10-year service period. To comply with regulations as written, an ILRT would be required during the twelfth refueling outage to satisfy the requirement for three ILRTs during the 10-year service period and another ILRT would be required during the thirteenth refueling outage to satisfy the requirement for the third ILRT to be performed when the plant is shutdown for the 10-year inservice inspections.

The thirteenth refueling outage is currently scheduled for the summer of 1996 and an ILRT performed during this refueling outage would result in a test interval between the second and third ILRTs of approximately 53 months. If the ILRT were performed during the twelfth refueling outrage, currently scheduled for early 1995, the interval between the second and third ILRTs would be approximately 34 months. In the absence of the exemption and related technical specification changes, the licensee would be required to perform ILRTs during both the twelfth and thirteenth refueling outages. A requirement to perform ILRTs during two consecutive refueling is clearly beyond the intent of the regulations and given the satisfactory results of previous tests at ANO–1, there is little, if anything, to gain from two closely spaced tests.

For the reasons set forth above, the NRC staff concludes that this one-time relief from the requirement to perform the third ILRT within a 10-year service period is not significant in terms of complying with the intent of appendix J, section III.D.1(a). Accordingly, the staff finds that the performance of ILRTs during both the twelfth and thirteenth refueling outages would not result in a commensuate increase in the confidence of containment integrity. Therefore, the subject exemption request meets the special circumstances of 10 CFR 50.12(a)(2)(ii), in that in these particular circumstances, the fourth test is not necessary to achieve the underlying purpose of the rule.

On this basis, the NRC staff finds that the licensee has demonstrated that special circumstances are present as required by 10 CFR 50.12. Further the staff also finds that extending the schedule for the third ILRT to beyond the 10-year service period will not present a undue risk to the public health and safety.

IV

Accordingly, the Commission has determined pursuant to 10 CFR 50.12(a), that this exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants Entery Operations, Inc. an exemption from the requirements of 10 CFR part 50, appendix J, section III.D.1(a).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact of the quality of the human environment (60 FR 6568).

Dated at Rockville, Maryland this 3rd day of February 1995.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Deputy Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–3522 Filed 2–10–95; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Request for Review Under the Paperwork Reduction Act; Collection of Information Under 29 CFR Part 2645, Extension of Special Withdrawal Liability Rules

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB review.

SUMMARY: This notice advises the public that the Pension Benefit Guaranty Corporation has requested review by the Office of Management and Budget for a collection of information (1212–0023)

contained in its regulation on Extension of Special Withdrawal Liability Rules (29 CFR part 2645).

ADDRESSES: All written comments should be addressed to: Office of Management and Budget, Paperwork Reduction Project (1212–0023), Washington, DC 20503. The request for review will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, 1200 K Street NW., Washington, DC 20005–4026, between the hours at 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This collection of information is contained in the Pension Benefit Guaranty Corporation's (''PBGC's'') regulation on Extension of Special Withdrawal Liability Rules, 29 CFR part 2645.

Sections 4203(f) and 4208(e)(3) of the Employee Retirement Income Security Act of 1974 (''ERISA'') provide for the PBGC's issuance of regulations under which the PBGC may approve a multiemployer pension plan's adoption of special rules for determining whether a complete or partial withdrawal from the plan has occurred. Section 4203(f) also sets standards for the approval of such special rules. The PBGC's regulation on Extension of Special Withdrawal Liability Rules requires the plan sponsor of a plan that adopts special rules to submit information about the rules, the plan, and the industry in which the plan operates with its request for PBGC approval of the rules. The PBGC uses that information in determining whether the plan's special withdrawal liability rules meet the requirements of ERISA.

The PBGC estimates that it receives three requests per year under the regulation and that each request takes sixteen hours to prepare. Thus, the total estimated burden is 48 hours per year.

Issued at Washington, DC, this 7th day of February 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–3447 Filed 2–10–95; 8:45 am]

BILLING CODE 7708–01–M

Request for Review Under the Paperwork Reduction Act; Collection of Information Under 29 CFR Part 2672, Mergers And Transfers Between Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB review.

SUMMARY: This notice advises the public that the Pension Benefit Guaranty Corporation has requested review by the Office of Management and Budget for a collection of information (1212–0022) contained in its regulation on Mergers and Transfers Between Multiemployer Plans (29 CFR part 2672).

ADDRESSES: All written comments should be addressed to: Office of Management and Budget, Paperwork Reduction Project (1212–0022), Washington, DC 20503. The request for review will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, 1200 K Street NW., Washington, DC 20005–4026, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This collection of information is contained in the Pension Benefit Guaranty Corporation's (''PBGC's'') regulation on Mergers and Transfers Between Multiemployer Plans, 29 CFR Part 2672.

Section 4231 of the Employee Retirement Income Security Act of 1974 (ERISA) imposes requirements on multiemployer plan mergers and transfers and provides that a merger or transfer will be deemed not to be in violation of ERISA section 406 (a) or (b)(2) (dealing with prohibited transactions) if the PBGC determines that those requirements are satisfied. Pursuant to section 4231, the PBGC has promulgated its regulation on Mergers and Transfers Between Multiemployer Plans (29 CFR part 2672), which sets forth (in §§ 2672.2, 2672.7, and 2672.8) the procedures a plan sponsor must follow to give the PBGC notice of a merger or transfer under section 4231 or to request a PBGC determination that a merger or transfer complies with the requirements of section 4231. The PBGC uses information submitted by multiemployer plan sponsors under the regulation to determine whether mergers and transfers conform to the requirements of ERISA section 4231 and the regulation.

The PBGC estimates that it takes a respondent an average of 5 hours to prepare a submission under the regulation and, based on its experience, that about 20 submissions are made each year.

Accordingly, the estimated burden of the collection of information is 100 hours.

Issued at Washington, DC, this 7th day of February 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–3446 Filed 2–10–95; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer, (202) 942–8800

Upon written request copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington DC 20549

Proposed Amendment Form BD File No. 270–19

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for the Office of Management and Budget approval on the proposed amendments to Form BD [17 CFR 249.501] under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Form BD is used to apply for registration as a broker-dealer and for firms other than banks and registered broker-dealers to apply for registration as a municipal securities dealer or a government securities broker-dealer. Form BD also is used to amend such applications when any information previously filed on Form BD becomes inaccurate. It is estimated that 1,200 broker-dealers annually will incur an average burden of 2.75 hours to file initial or successor applications for registration on Form BD for an annual burden of 3,300 hours. It also is estimated that broker-dealers will file 12,000 amendments annually, and will incur an average burden of 20 minutes to file amendments on Form BD for an annual burden of 3,960 hours. The total annual burden for Form BD and Form BD amendments is 7,260 hours.

Direct general comments to the Clearance Officer for the Securities and

Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and the Clearance Officer for the Securities and Exchange Commission, Project Number 3235–0012, Office of Management and Budget, New Executive Office Building, Room 3208, Washington DC 20503.

Dated: February 3, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–3495 Filed 2–10–95; 8:45 am]

BILLING CODE 8010–01–M

Release No. 34–35334; File No. SR–NASD–94–63]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Numbering and Terminology of Rules and Correction of Cross References

February 6, 1995.

On December 13, 1994, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed a proposed rule change [1] that recognizes the NASD Manual with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder.[3] The Commission published notice of the proposed rule change in the **Federal Register** on January 5, 1995.[4] No comments were received in response to the notice. For the reasons discussed below, the Commission is approving the proposed rule change.

The rule change amends Articles I, III, IV, V, VII, VIII, IX, XII and XVII of the By-Laws; and Articles, I, II, III, IV and V of the Rules of Fair Practice. The new language was included in the notice of the proposed rule change. The amendments are part of a multi-phase program in which the NASD is reorganizing the NASD Manual to make it easier to use by members and other users. The amendments are a non-substantive reordering of the existing rules, interpretations, and other provisions of the Manual intended to establish a more logical progression of rules within the Manual. All rules in the NASD Manual, including not only the current Rules of Fair Practice, but also, for example, such specialized rules as the Government Securities Rules, Nasdaq Rules, and the Code of Arbitration Procedure will be numbered consecutively throughout the Manual and considered together as ''Rules. The amendments will require certain changes in numbering and terminology in the By-Laws and Rules of the NASD. In addition, a common numbering and naming scheme for subdivisions within a Rule will be used. Discussion of the specific changes were included in the **Federal Register** notice.

The Commission finds the proposed rule change consistent with the provisions of Section 15A(b)(6) of the Act,[5] in that the proposal simplifies the terminology used for rules and corrects inadvertent errors and omissions. The Commission believes that making the NASD Manual easier to use may enhance the protection of investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–94–64 be, and hereby is, approved, effective February 9, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

[FR Doc. 95–3496 Filed 2–10–95; 8:45 am]

BILLING CODE 8010–01–M

[1] The NASD originally submitted the proposed rule change on November 28, 1994. On December 13, 1994, the NASD filed Amendment No. 1 to its filing requesting that certain language be deleted and substituted with the word ''unchanged''. This order reflects the amendment.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] Securities Exchange Act Release No. 35150 (December 23, 1994), 60 FR 1808.

[5] 15 U.S.C. Sec. 78o–3.

[6] 17 CFR 200.30–3(a)(12).

[Investment Company Act Release No. 20883; 812–9304]

Frank Russell Investment Company, et al.; Notice of Application

February 6, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Frank Russell Investment Company, including all current and future series thereof, (the ''Investment Company''); Frank Russell Investment Management Company (''FRIMCo''), Russell Fund Distributors, Inc. (''RFD''), and all future registered open-end management investment companies distributed by RFD or for which FRIMCo serves in the future as investment adviser, or for which any person controlling, controlled by, or under common control with FRIMCo (within the meaning of section 2(a)(9) of the Act) may in the future serve as investment adviser.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for conditional exemptions from sections 18(f), 18(g), and 18(i) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order that would permit them to issue an unlimited number of classes of shares representing interests in the same portfolio of securities.

FILING DATE: The application was filed on October 25, 1994, and was amended on January 9, 1995, and on February 1, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street N.W., Washington, D.C. 20549. Applicants, 909 A Street, Tacoma, Washington 98402.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, (202) 942–0654, or Barry D. Miller, Senior Special Counsel, (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 at the SEC's Public Reference Branch.

Applicants' Representations

1. The Investment Company is a Massachusetts business trust registered under the Act as an open-end management investment company. The Investment Company is a series company and consists of twenty-two separate series, each of which has separate investment objectives and policies (the existing and future series of the Investment Company are collectively referred to as the ''Funds''). FRIMCo is the investment adviser (the

''Adviser'') and RFD is the distributor of the Investment Company. The Funds consist of both money market funds and funds with fluctuating net asset values, the shares of which are sold and redeemed daily at net asset value without a sales or redemption change.

2. Applicants proposed to create a multi-class distribution system.[1] The Investment Company would be permitted to offer an unlimited number of additional classes of shares (''New Shares'') in connection with (a) a plan adopted pursuant to rule 12b–1 under the Act (the ''Services Plan''); and/or (b) a non-rule 12b–1 administrative plan (the ''Shareholder Administrative Plan''); or (c) neither the Services Plan nor the Shareholder Administrative Plan (collectively, the ''Plans''). The services provided pursuant to the Plans will augment or replace (and not be duplicative of) the services to be provided to the Funds by FRIMCo and RFD. Applicants propose to ''unbundle'' the services to be provided to the Funds to permit organizations, such as broker-dealers or banks, to select those services they wish to provide to their customers under Services Plan agreements and/or Shareholder Administrative Plan agreements (collectively, ''Plan Agreement'').[2]

3. A Fund would pay the distributor and/or an organization for its services and assistance in accordance with the terms of its particular Plan Agreement(s) (the ''Plan Payments''). Plan Payments will not exceed the limits imposed under Article III, Section 26 of the Rules of Fair Practice of the National Association of Securities Dealers (''NASD'').

4. The New Shares of a Fund would be identical in all respects, except that: (a) Each class of New Shares would have a different class designation; (b) each class of New Shares offered in connection with a Plan would bear the expense of the Plan Payments applicable to such class; (c) each class of New Shares could, as more fully described below, also bear certain other expenses (''Class Expenses'') that are directly attributable only to the class; (d) only the holders of the New Shares of the class or classes involved would be entitled to vote on matters pertaining to a Plan and any related agreements relating to such class or classes; and (e) classes of New Shares may have different exchange privileges.

5. Expenses of the Investment Company that cannot be attributed directly to any one Fund will be allocated to each Fund based on the relative net assets of such Fund (''Investment Company Expenses''). Expenses that may be attributable to a Fund but not to a particular class will be allocated to a class (''Fund Expenses'').

6. FRIMCo may choose to reimburse or waive Class Expenses of certain classes on a voluntary, temporary basis. The amount of Class Expenses waived or reimbursed by FIRMCo may vary from class to class. Class Expenses are, by their nature, specific to a given class and therefore are expected to vary from one class to another. Applicants thus believe that it is acceptable and consistent with shareholder expectations to reimburse or waive Class Expenses at different levels for different classes of the same Fund.

7. In addition, FRIMCo may waive or reimburse Investment Company Expenses and/or Fund Expenses (with or without a waiver or reimbursement of Class Expenses) but only if the same proportionate amount of Investment Company Expenses and/or Fund Expenses is waived or reimbursed for each class. Thus, any Investment Company Expenses that are waived or reimbursed would be credited to each class of a Fund based on the relative net assets of the classes. Similarly, any Fund Expenses that are waived or reimbursed would be credited to each class of that Fund according to the relative net assets of the classes. Investment Company Expenses and Fund Expenses apply equally to all classes of a given Fund. Accordingly, it may not be appropriate to waive or reimburse Investment Company Expenses or Fund Expenses at different levels for different classes of the same Fund.

8. The Investment Company may also offer classes of shares (''Institutional Shares'') that are available solely to: (a) Unaffiliated benefit plans, such as qualified retirement plans, other than individual retirement accounts and self-employed retirement plans, with total assets in excess of such minimum amounts as the Funds may establish and with such other characteristics as the Funds may establish;[3] (b) tax-exempt retirement plans of FRIMCo and its affiliates, including the retirement plans of FRIMCo's affiliated brokers; (c) banks and insurance companies that are not affiliated with FRIMCo purchasing for their own investment; (d) investment companies not affiliated with FRIMCo; and (e) endowment funds of non-profit organizations that are not affiliated with FRIMCo (each, an ''Institutional Investor'').

9. Each class of Institutional Shares will have attributes designed to meet specific investment needs of a particular category of Institutional Investor. Institutional Shares will be subject to either lower or no servicing fees under any Plan, and may bear lower transfer agency fees and other operating expenses than some other classes of shares. Only Institutional Investors will be eligible to invest in Institutional Shares. Applicants may choose not to make a particular class of Institutional Shares available to one or more categories of Institutional Investors.

No Institutional Investor that is eligible to invest in any class of Institutional Shares will be permitted to invest in any class other than a class of Institutional Shares. Accordingly, there will be no overlap between the investors eligible to invest in Institutional Shares and investors eligible to invest in other shares of a Fund.

Applicants' Legal Analysis

1. Applicants request an order pursuant to section 6(c) of the Act exempting them from sections 18(f)(1) and 18(g) of the Act to the extent that the proposed issuance and sale of an unlimited number of classes of new Shares may result in a ''senior security'' prohibited by section 18(f), and in a violation of section 18(i), to the extent that the different voting rights associated with such classes may be deemed to result in one or more classes of shares having unequal voting rights with other classes of shares.

2. The proposed allocation of expenses and voting rights relating to the Plans in the manner described is equitable and would not discriminate against any group of shareholders. The proposed arrangement does not involve borrowing and does not affect a Fund's existing assets or reserves. Nor will the proposed arrangement increase the speculative character of a Fund's shares,

[1] Existing shares of the Funds are expected to comprise one or more different classes.

[2] Twelve of the Funds (the ''Internal Fee Funds'') follow the conventional practice of paying FRIMCo a management fee from Fund assets. Ten of the Funds (the ''External Fee Funds'') require investors to pay a management fee directly to FRIMCo pursuant to contracts between each investor and FRIMCo. Each shareholder of an External Fee Fund pays the same *pro rata* amount for advisory services as each other shareholder of the Fund. In the future, FRIMCo may elect to ''internalize'' the portion of the management fee attributable to advisory services, administrative services, or both, so that fees for those services are deducted from Fund assets in the same manner as done for the Internal Fee Funds. In no event, if the requested relief is granted, would a Fund issue both a class of shares with an internal fee arrangement and one with an external fee arrangement.

[3] These plans will have a separate trustee who is vested with investment discretion as to plan assets, will have limitations on the ability of plan beneficiaries to access their plan investments without incurring adverse tax consequences, and will not include self-directed plans.

since all such shares will participate *pro rata* in all of the Fund's income and all of the Fund's expenses (with the exception of the proposed Plan Payments and Class Expenses).

Applicants' Conditions

Applications agree that the order granting the requested relief will be subject to the following conditions:

1. Each class of shares of a Fund will represent interests in the same portfolio of investments, and be identical in all respects, except for differences related to: (a) Class designation; (b) expenses assessed to a class pursuant to a Services Plan or Shareholder Administrative Plan; (c) certain Class Expenses, which would be limited to (i) transfer agent fees identified by the transfer agent as being attributable to a specific class of shares; (ii) stationery, printing, postage, and delivery expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxies to current shareholders of a specific class; (iii) blue sky registration fees incurred by a class of shares; (iv) SEC registration fees incurred by a class of shares; (v) the expense of the Investment Company's administrative personnel and services as required to support the shareholders of a specific class; (vi) litigation or other legal expenses relating to one class of shares; (vii) Trustees' fees incurred as a result of issues relating to one class of shares; (viii) independent accountants' fees related solely to a specific class of shares; (ix) expenses incurred in connection with shareholder meetings as a result of issues relating to one class of shares; and (x) account expenses relating to a particular class of shares; (d) voting rights as to matters exclusively affecting one class of shares; and (e) exchange privileges. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the Commission pursuant to an amended order.

2. The Trustees of the Investment Company, including a majority of the independent Trustees, will approve the offering of different classes of New Shares (the ''Multi-Class System'') with respect to a particular Fund, prior to the implementation of the Multi-Class System by the Fund. The minutes of the meetings of the Trustees regarding the deliberations of the Trustees with respect to the approval necessary to implement the Multi-Class System will reflect in detail the reasons for the Trustees' determination that the proposed Multi-Class System is in the best interests of the Fund and its shareholders.

3. The initial determination of the Class Expenses, if any, that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Board of Trustees of the Investment Company, including a majority of the independent Trustees. Any person authorized to direct the allocation and disposition of monies paid or payable by a Fund to meet Class Expenses shall provide to the Board of Trustees, and the Trustees shall review, at least quarterly, a written report of the amounts so expanded and the purposes for which such expenditures were made.

4. On an ongoing basis, the Trustees, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Funds for the existence of any material conflicts among the interests of the various classes of shares. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. FRIMCo and RFD will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, FRIMCo and RFD at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. RFD, as the Investment Company's distributor, will adopt compliance standards as to when each class of shares may be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards. Such compliance standards will require that all investors eligible to purchase Institutional Shares be sold only Institutional Shares, rather than any other class of shares offered by the Fund.

6. The Shareholder Administrative Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

7. The Trustees will receive quarterly and annual statements concerning the amounts expended under the Shareholder Administrative Plan and Services Plan and the related Plan Agreements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

8. Dividends paid by a Fund with respect to a class of shares will be calculated in the same manner, at the same time, on the same day, and will be in the same per share amount as dividends paid by that Fund with respect to each other class of shares of the Fund, except that the amount of dividends declared and paid by a particular class may be different from another class because Plan Payments made by a class under its Plan and any Class Expenses will be borne exclusively by the affected class.

9. The methodology and procedures for calculating the net asset value and dividends/distributions of the various classes and the proper allocation of expenses among the classes has been reviewed by an expert (the ''Expert'') who has rendered a report to the applicants concluding that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. The Expert's report is attached as Exhibit F to the originally filed application, and is incorporated by reference. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Investment Company that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act and the work papers of the Expert with respect to such reports, following request by the Investment Company (which the Investment Company agrees to provide), will be available for inspection by the Commission staff upon written request by a senior member of the Division of Investment Management or a regional office of the Commission. Authorized staff members would be limited to the director, an associate director, the chief accountant, the chief financial analyst, an assistant director, and any regional administrators or associate and assistant administrators. The initial report of the Expert is a ''Special Purpose'' report on

''policies and procedures placed in operation'' in accordance with Statements on Auditing Standards (''SAS'') No. 70. ''Reports on the Processing of Transactions by Service Organizations,'' of the American Institute of Certified Public Accountants (''AICPA''). Ongoing reports will be reports on ''policies and procedures placed in operation and tests of operating effectiveness'' prepared in accordance with SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

10. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions of the various classes of shares and the proper allocation of expenses among the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition 9, above, and will be concurred with by the Expert or an appropriate substitute Expert on an ongoing basis, at least annually, in the ongoing reports referred to in that condition. Applicants will take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

11. The prospectuses of each class of a Fund will include a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation with respect to one particular class of shares over another in the Fund.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees with respect to the Multi-Class System will be set forth in guidelines to be furnished to the Trustees.

13. Each Fund will disclose the respective expenses, performance data, distribution arrangements, exchange privileges, services, Shareholder Administrator Fees, and Services Fees applicable to each class of shares, other than Institutional Shares, in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Institutional Shares will be offered solely pursuant to separate prospectuses. The prospectus for a class of Institutional Shares will disclose the existence of the Fund's other classes, and a prospectus for a non-Institutional share class will disclose the existence of Institutional Shares and will identify the persons eligible to purchase Institutional Shares. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares, except Institutional Shares. Advertising materials reflecting the expenses or performance data for a class of Institutional Shares will be available only to those persons eligible to purchase that class of Institutional Shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares, except Institutional Shares, separately.

14. Applicants acknowledge that the grant of the requested exemptive order does not imply Commission approval, authorization of, or acquiescence in, any particular level of payments that a Fund may make to organizations pursuant to any Plan in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–3459 Filed 2–10–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No.: 09/79–0402]

AVI Capital L.P.; Notice of Issuance of a Small Business Investment Company License

On September 15, 1994, a notice was published in the **Federal Register** (59 FR 47366) stating that an application had been filed by AVI Capital, L.P., One First Street, Suite 12, Los Altos, CA 94022, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) for a license to operate as a small business investment company.

An additional limited partner of AVI III, Nynex Corporation, is expected to indirectly own 10 percent or more of the capital of Applicant. Also, AVI Partners Growth Fund II, L.P. (AVI PGF II) will not be providing capital to the Applicant. Accordingly, the Applicant will begin operations with private capital of $21.9 million solely from Associated Ventures III, L.P. (AVI III) and AVI Silicon Valley Partners, L.P. (AVI SVP).

Interested parties were given until close of business September 30, 1994 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No.: 09/79–0402 on February 6, 1995, to AVI Capital, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 7, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–3523 Filed 2–10–95; 8:45 am]

BILLING CODE 8025–01–M

[License No. 05/05–0222]

Norwest Equity Partners V; Notice of Issuance of a Small Business Investment Company License

On December 5, 1994, a notice was published in the **Federal Register** (59 FR 62439) stating that an application had been filed by Norwest Equity Partners V, L.P., 2800 Piper Jaffrey Tower, 222 South Ninth Street, Minneapolis, Minnesota 55402, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) for a license to operate as a non-leveraged small business investment company.

Interested parties were given until close of business December 19, 1994 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0222 on February 6, 1995, to Norwest Equity Partners V to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 7, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–3524 Filed 2–10–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

[Public Notice No. 2165]

Application for Presidential Permit Authorizing Petroleum Products Pipeline

AGENCY: Department of State.

ACTION: Notice of availability for public comment of application of Chevron Pipeline Company to the Department of State for a Presidential permit authorizing a petroleum products pipeline and related documents including a draft environmental assessment.

SUMMARY: Notice is hereby given that the Department of State has received an application for a Presidential permit authorizing construction by Chevron Pipeline Company of an approximately 20 mile petroleum products pipeline from El Paso, Texas in the United States, passing beneath the Rio Grande River, to Cuidad Juarez, Chihuahua in Mexico.

The Department of State's jurisdiction with respect to this petroleum products pipeline application derives from Executive Order 11423, dated August 18, 1968. As required by the Executive Order, the Department of State has circulated this application to the following agencies, as cooperating agencies: Department of the Treasury, Department of Defense, Department of the Interior, Department of Transportation, Department of Justice, Department of Commerce, Federal Emergency Action Agency, and Interstate Commerce Commission. As permitted by the Executive Order, the Department of State has also circulated this application to the Environmental Protection Agency, the Council on Environmental Quality.

Interested persons may submit their views regarding the application and related documents including a draft Environmental Assessment of the project prepared for the Department of State, in writing, not later than March 22, 1995, either to Mr. Donald Grabenstetter, Office of International Energy Policy, Rm. 3535, U.S. Department of State, 2201 C Street NW., Washington, DC 20520 or Ms. Nelly Rocha at the U.S. Environmental Protection Agency, 4050 Rio Bravo, Suite 100, El Paso, Texas (533–7273).

SUPPLEMENTARY INFORMATION: The application and related documents, including the draft Environmental Assessment referred to above, are a part of the record to be considered by the Department of State in connection with this application and are available for inspection and copying in Washington, D.C. at the Department of State, Office of International Energy Policy at the address set forth above. They are also available for inspection and copying at the EPA office in El Paso (4050 Rio Bravo, Suite 100, El Paso 79902) and at the main branch of the El Paso, Texas Public Library, (501 N. Oregon Street, El Paso).

PUBLIC MEETING; DATES: Notice is hereby given that a meeting, chaired by the Department of State, open to members of the public,including representatives from interested non-governmental organizations, and government representatives, for purposes of hearing and considering oral statements from the public on the application and related documents including the draft environmental assessment referred to above will be held on Monday, March 6 in El Paso, Texas at the University of Texas at El Paso, Student Union, East Thomas Rivera Conference Center, 500 West University Avenue, El Paso, Texas 79968. Information and materials concerning various aspects of the proposed project also may be obtained by the public at the meeting room on Monday, March 6 between 12:00 noon and 10:00 pm. The public meeting will be held from 4:00 pm until 10:00 pm.

Seating for interested members of the public will be available on a first-come, first-served basis. Oral comments, not to exceed five minutes in length, may be made at the meeting by members of the public upon recognition by the Chair, with due regard having been given to the number of speakers requesting an opportunity to be heard and the time constraints involved. To facilitate recognition, persons who wish to speak are encouraged to sign-in at the meeting. Speakers who sign in will be recognized on a first-come, first-served basis. Any written statements and supplemental materials may be presented to the Chairman at the meeting. The Department of State will provide a Spanish-English translator to assist as needed.

FOR FURTHER INFORMATION CONTACT: The Office of International Energy Policy at the above address or by telephone (202) 647–4557.

Dated: February 6, 1995.

Glen Rase,

Director, Office of International Energy Policy, Bureau of Economic and Business Affairs.

[FR Doc. 95–3549 Filed 2–10–95; 8:45 am]

BILLING CODE 4710–07–M

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 2158; Correction]

U.S. MAB National Committee for Man and the Biosphere; U.S. MAB Request for Proposals for Environmental Projects; Correction

Department of State Public Notice 2158, U.S. MAB National Committee for Man and the Biosphere: U.S. MAB Request for Proposals for Environmental Projects, which was published in 60 FR 5953, 1–31–95, is to be corrected as follows:

The United States Man and the Biosphere (U.S.) Program hereby announces its request for proposals to continue its assistance to the U.S. Peace Corps in the development of a worldwide environmental education projects initiative as described below.

U.S. MAB will accept proposals of a maximum length of six (6) pages that outline how the objectives described below could be accomplished.

A curriculum vitae (C.V.) of a maximum length of four (4) pages for each principal(s), that clearly demonstrates a history of competency in the implementation of such tasks, must accompany the proposal.

Proposals may not request more than the sum of fifty-four thousand one hundred eighty ($54,180) dollars to implement this initiative.

All proposals must specify that all tasks will be completed at U.S. Peace Corps headquarters and field offices for the period of March 13, 1995 through March 12, 1996.

Payments will be made on a quarterly basis in equal installments.

All proposals and accompanying documents must be received by the U.S. MAB Secretariat no later than the close of business (COB) on February 28, 1995. Proposals and c.v.'s will be evaluated on the criteria noted in the following section.

Selection will be made no later than March 3, 1995. Selected candidate principals must be prepared to implement their proposals beginning on March 13, 1995.

Objectives

To provide technical assistance to the U.S. Peace Corps, including but not limited to:

—Further develop the ongoing collaboration with the Environmental Sector in the design of Environmental Education projects and project components. As part of this effort, develop and coordinate in-service training workshops in Education and the Environment for Volunteers and their counterparts teaching math, science and English as a Foreign Language (EFL) in countries which are requesting this assistance;
—Take primary responsibility for providing technical support to Peace Corps Education projects, including, but not limited to, the following activities;
—Undertake approximately four consultancies to respond to requests from Peace Corps posts for technical assistance in project development, training development, or project evaluation;
—Develop and manage other initiatives in education, including, but not limited to, collaboration with other governmental and private agencies offering assistance to Peace Corps in project development and training;
—Review/select materials to be distributed through Peace Corps' Information Collection Exchange (ICE);
—Initiate and manage the development of training manuals and materials;
—Support the Agency in the implementation of PATS (Programming and Training System), including project design, monitoring, and evaluation assistance.
—Collaborate with incumbent Sector Specialists in the following tasks.—Participate in project plan reviews for environmental education projects;
—Undertake annual reviews of country programs and technical assistance requests
—Coordinate consultancies to respond to programming and training requests from the field, including developing and managing budgets and hiring and managing consultants.
—Work with other Education Sector Specialists in regular sector activities, including, but not limited to:
—Initiating and maintaining collaborative relationships with private organizations and other government agencies;
—Preparing documentation of sector activities;
—Sharing administrative tasks of the sector including managing budgets and coordinating activities;
—Collaborating with other sectors in OTAPS (Office of Training Program Support); for example, incorporating attention to WID (Women in Development) and Youth Issues into Education Sector projects/activities, and with other offices in Peace Corps.

Selection Criteria

—Performance record of the proposed principal;
—Demonstrated ability of the proposer to design and deliver training for environmental education.
—Demonstrated ability of the proposer to manage budgets and personnel;
—Demonstrated ability of the proposer to conduct needs assessments and develop project design;
—Fluency in Spanish or French preferred.

For further information concerning technical or grant performance-related inquiries, please contact: George Mahaffey, Director, Office of Training and Program Support, U.S. Peace Corps, Room 8624, 1990 K Street N.W., Washington, DC 20526, Tel. (202) 606–3101, FAX (202) 606–3204.

For submission of proposals: Roger E. Soles, Executive Director U.S. MAB, OES/EGC/MAB, U.S. Department of State, Washington, DC 20522, Tel. (703) 235–2946.

Dated: January 24, 1995.

Roger E. Soles,

Executive Director, U.S. Man and the Biosphere Program, Office of Global Change.

[FR Doc. 95–3519 Filed 2–10–95; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice 2164]

Defense Trade Advisory Group; Partially Closed Meeting

The Defense Trade Advisory Group (DTAG) will meet from 10:00–4:45 p.m. on Monday, March 13, 1995 in the Loy Henderson Conference Room, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. This advisory committee consists of private sector defense trade specialists who advise the Department on policies, regulations, and technical issues affecting defense trade.

The open session, which will be made up of all sessions preceding the lunch break, will include speakers from the Bureau of Political-Military Affairs and reports on DTAG Working Group progress, accomplishments, and future projects. Members of the public may attend the open session as seating capacity allows, and will be permitted to participate in the discussion in accordance with the Chairman's instructions.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by Friday, March 3, 1995. Each person should provide his or her name, company or organizational affiliation, date of birth, and social security number to the DTAG Secretariat at telephone number (202) 647–4231 or fax number (202) 647–4232 (Attention: Unita Williams). Attendees must carry a valid photo ID with them. They should enter the building through the C-Street diplomatic entrance (21st and C Streets, NW), where Department personnel will direct them to the Loy Henderson auditorium.

Following the open portion of the meeting, briefings which the Department of State will arrange for DTAG members will involve discussions of classified information pursuant to Executive Order 12356. The disclosure of classified and/or proprietary information essential to formulating U.S. defense trade policies would substantially undermine U.S. defense trade relations with foreign competitors. Therefore, these segments of the meeting will be closed to the public, pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9)(B).

For further information, contact Linda Lum of the DTAG Secretariat, U.S. Department of State, Office of Export Control Policy (PM/EXP), Room 2422 Main State, Washington, DC 20520–2422. She may be reached at telephone number (202) 647–0137 or fax number (202) 647–4232.

Dated: January 31, 1995.

Martha C. Harris,

Deputy Assistant Secretary for Export Controls, Bureau of Political-Military Affairs.

[FR Doc. 95–3550 Filed 2–10–95; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD02–95–002]

Second Coast Guard District Industry Day; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Commander, Second Coast Guard District is sponsoring an Industry Day event in St. Louis, Missouri. This notice will advertise the event which is open to the public.

DATES: Industry Day will be held on March 16, 1995 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: Industry Day activities will be held at the Frontenac Hilton Hotel, 1335 South Lindbergh Blvd., St. Louis, Missouri. To request registration forms

or additional information on Industry Day activities and on events scheduled by other groups to coincide with Industry Day, or to submit written recommendations for agenda discussion topics, contact Lieutenant Amy B. Kritz or Lieutenant Commander Patrick G. Gerrity, Commander (mpb), Second Coast Guard District, 1222 Spruce Street, Room 2.102G, St. Louis, Missouri 63103–2832. Please forward your registration forms to: Frontenac Hilton Hotel, Attn: Reservations, c/o Tanya Reichman, 1335 S. Lindbergh, St. Louis, Missouri 63131.

FOR FURTHER INFORMATION CONTACT: Lieutenant Amy B. Kritz or Lieutenant Commander Patrick G. Gerrity, Commander (mpb), Second Coast Guard District, 1222 Spruce Street, Room 2.102G, St. Louis, Missouri 63103–2832. The telephone number is: (314) 539–2655.

SUPPLEMENTARY INFORMATION: Industry Day is designed to provide an open exchange of information, ideas, and opinions on matters of mutual interest or concern to the inland marine community and the Coast Guard. Industry Day activities will be held at the Frontenac Hilton Hotel, 1335 South Lindbergh Blvd., St. Louis, Missouri. The schedule of events follows:

Wednesday, 15 March

5:00–7:00 p.m.—Registration for early arrivals.

Thursday, 16 March

7:30 a.m.—Registration continues.
8:30 a.m.—General Session: Opening comments and Selected Presentations.
10:00 a.m.—Panel Discussions: Two separate small group panels will focus on waterways management and environmental issues.
12:00 p.m.—Luncheon.
1:30 p.m.—Two separate small group panels will focus on towing vessel issues and passenger vessel issues.
4:30 p.m.—Industry Day concludes.

Advance registration and payment of a $27.00 conference fee is required. The fee includes luncheon and refreshments.

Persons interested in attending Industry Day may request registration forms or additional information on the Industry Day activities and on events scheduled by other groups to coincide with Industry Day from the address provided in the Addresses section of this notice. Persons interested in submitting written recommendations for agenda discussion topics should mail their recommendations directly to Commander (mpb), also at the address provided in the Addresses section of this notice.

Completed registration forms and fees should be mailed directly to the Frontenac Hilton Hotel, Attn: Reservations, c/o Tanya Reichman, 1335 S. Lindbergh, St. Louis, Missouri 63131. Registration forms and fees must be received by February 21, 1995.

Paul M. Blayney,

Rear Admiral, United States Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 95–3547 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–14–M

Federal Railroad Administration

Northeast Corridor Safety Committee; Public Meeting

Pursuant to Section 11 of the Rail Safety Improvement Act of 1988 (Pub. L. 100–342), notice is hereby given that a public meeting of the Northeast Corridor Safety Committee will be held on March 1, 1995, at 10 a.m. in room 6200 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The meeting is called for the purpose of providing counsel and advice to the Department of Transportation on safety improvements on the main line of the Northeast Corridor (NEC). The major topics on the agenda are vandalism and trespass prevention. Others may be added and are specifically requested.

Issued in Washington, D.C. on February 6, 1995.

Bruce M. Fine,

Acting Associate Administrator for Safety.

[FR Doc. 95–3486 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Annual List of Nonconforming Vehicles Decided To Be Eligible for Importation

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

ACTION: Annual list of nonconforming vehicles decided to be eligible for importation.

SUMMARY: This notice lists all vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards that have been decided, as of January 27, 1995, to be eligible for importation into the United States.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1) (formerly section 108(c)(3)(C)(i) of the Act), import eligibility decisions may be made ''on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under (49 U.S.C. 30141(c)).'' The Secretary's authority to make these decisions has been delegated to the Administrator of NHTSA under 49 CFR 1.50(a). The Administrator redelegated to the Associate Administrator for Enforcement the authority to grant or deny petitions for import eligibility decisions submitted by motor vehicle manufacturers and registered importers (49 CFR 501.8(g)(3)). Thus far, a number of import eligibility decisions have been made on the Administrator's own initiative, and the Associate Administrator has granted many petitions for such decisions submitted by registered importers.

Under 49 U.S.C. 30141(b)(2) (formerly section 108(c)(3)(C)(iv) of the Act), a list of all import eligibility decisions must be published annually in the **Federal Register**. That list is set forth in Annex A and is current as of January 27, 1995.

Each vehicle on the list is preceded by a vehicle eligibility number. The importer of a vehicle admissible under any eligibility decision must write that number on the Form HS–7 accompanying entry to indicate that the vehicle is eligible for importation. ''VSA'' eligibility numbers are assigned to all vehicles that are decided to be eligible for importation on the initiative of the Administrator. ''VSP'' eligibility

numbers are assigned to vehicles that are decided to be eligible under 49 U.S.C. 30141(a)(1)(A), based on a petition from a manufacturer or registered importer which establishes that a substantially similar U.S.-certified vehicle exists. ''VCP'' eligibility numbers are assigned to vehicles that are decided to be eligible under 49 U.S.C. 30141(a)(1)(B), based on a petition from a manufacturer or registered importer which establishes that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards. Vehicles for which eligibility decisions have been made are listed in Annex A alphabetically by make. Eligible models within each make are listed numerically by ''VSA,'' ''VSP,'' or ''VCP'' number.

Under 49 U.S.C. 30112(b)(9) (formerly section 108(i) of the Act), ''any motor vehicle that is at least 25 years old'' is not subject to importation restrictions. Such vehicles may therefore be imported into the United States without regard to their compliance with applicable Federal motor vehicle safety standards. Since the importation of a vehicle more than 25 years old is not conditioned on the existence of an eligibility decision, NHTSA has amended its eligibility decisions so that they no longer apply to such vehicles.

Authority: 49 U.S.C. 30141(b)(2); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on February 7, 1995.

William A. Boehly,

Associate Administrator for Enforcement.

Annex A

Vehicles Certified by Their Original Manufacturer as Complying With All Applicable Canadian Motor Vehicle Safety Standards

VSA #

1

(a) All passenger cars less than 25 years old that were manufactured before September 1, 1989;

(b) All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, which are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208;

(c) All multipurpose passenger vehicles, trucks, and buses less than 25 years old that were manufactured before September 1, 1991;

(d) All multipurpose passenger vehicles, trucks, and buses manufactured on and after September 1, 1991, by their original manufacturer to comply with the requirements of FMVSS No. 202 and 208 to which they would have been subject had they been manufactured for sale in the United States; and

(e) All trailers and motorcycles less than 25 years old.

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET

VSP #	Model type	Model year
	Acura	
51	Legend	1988
	Alfa Romeo	
44	Spider	1972
70	Spider	1987
76	164	1991

VSA #	Model type	Model year
	BMW	
2	1600	1970 through 1971
3	2002	1970 through 1976
4	2000 and 2000A	1970
5	2500 and 2500A	1970 through 1970
6	2800 and 2800A	1970 through 1971
7	2002A	1970 through 1976
8	2800CS and 2800CSA	1970 through 1971
9	2.8 and 2.8A Bavaria	1971
10	2002Tii	1972 through 1974
11	3.0 and 3.0A Bavaria	1972
12	3.0CSi and 3.0CSiA	1972 through 1974
13	3.0S and 3.0SA	1974
14	3.0Si and 3.0SiA	1975
15	530i and 530iA	1975 through 1978
16	320, 320i, and 320iA	1976 through 1985
17	630CSi and 630CSiA	1977
18	633CSi and 633CSiA	1977 through 1984
19	733i and 733iA	1977 through 1984
20	528i and 528iA	1979 through 1984
21	528e and 528eA	1982 through 1988
22	533i and 533iA	1983 through 1984
23	318i and 318iA	1981 through 1989
24	325e and 325eA	1984 through 1987
25	535i and 535iA	1985 through 1989
26	524tdA	1985 through 1986
27	635, 635CSi, and 635CSiA	1979 through 1989
28	737, 735i, and 735iA	1980 through 1989
29	L7	1986 through 1987

VSA #	Model type	Model year
30	325, 325i, 325iA, and 325E	1985 through 1989
31	325is and 325isA	1987 through 1989
32	M6	1987 through 1988
33	325iX and 325iXA	1988 through 1989
34	M5	1988
35	M3	1988 through 1989
66	316	1978 through 1982
67	323i	1978 through 1985
68	520 and 520i	1978 through 1983
69	525 and 525i	1979 through 1982
70	728 and 728i	1977 through 1985
71	730, 730i, and 730iA	1978 through 1980
72	732i	1980 through 1984
73	745i	1980 through 1986
78	All other models except those in the M1 and Z1 series	1970 through 1989

VSP #	Model type	Model year
	BMW	
4	518i	1986
5	525i	1989
6	730iA	1988
9	520iA	1989
10	850i	1991
14	728i	1986
15	625CSi	1981
24	730i	1991
25	316	1986
32	628CSi	1980
41	750iL	1993
46	518i	1991
55	859i	1993
57	730i	1993
79	525i	1991–1992
81	750iL	1991
	BMW Motorcycle	
30	R75/6	1974
58	R100S	1977

VCP #	Model type	Model year
	Bristol Bus	
2	VRT Bus—Double Decker	1978–1981
4	VRT Bus—Double Decker	1977
	Citroen	
1	XM	1990 through 1992

VSA #	Model type	Model year
	Ferrari	
36	308 (all models)	1974 through 1985
37	328 GTS	1985 through 1989
37	328 (all other models)	1985 and 1988 through 1989
38	GTO	1985
39	Testarossa	1987 through 1989
74	Mondial (all models)	1980 through 1989
76	208, 208 Turbo (all models)	1974 through 1988

VSP #	Model type	Model year
	Ferrari	
61	365 GTB 4 Daytona	1971
62	365 GT 2+2	1970
86	348TB	1992
100	365 GTB 4 Daytona	1972–1973

VSP #	Model type	Model year
	Honda	
77	Legend	1989
	Honda Motorcycle	
34	VFR750	1990
	Iso Grifo	
88	Lusso	1971

VSA #	Model type	Model year
	Jaguar	
40	XJS	1980 through 1987
41	XJ6	1970 through 1986

VSP #	Model type	Model year
	Jaguar	
47	XJ6	1987
78	Sovereign	1993
	Jaguar Daimler	
12	Limousine	1985
	Lancia	
82	Fulvia	1971
	Laverda Motorcycle	
37	1000	1975

VSA #	Model type	Model year
	Mazda	
42	RX7	1978 through 1981

VSA #	Model type	Model ID	Model year
	Mercedes Benz		
43	600	100.012	1970 through 1981
43	600 Long 4dr	100.014	1970 through 1981
43	600 Landaulet	100.015	1970 through 1981
43	600 Long 6dr	100.016	1970 through 1981
44	280 SLC	107.022	1975 through 1981
44	350 SLC	107.023	1972 through 1979
44	450 SLC	107.024	1973 through 1989
44	380 SLC	107.025	1981 through 1989
44	500 SLC	107.026	1978 through 1981
44	300 SL	107.041	1986 through 1988
44	280 SL	107.042	1970 through 1985
44	350 SL	107.043	1971 through 1978
44	450 SL	107.044	1972 through 1989
44	380 SL	107.045	1980 through 1989
44	500 SL	107.046	1980 through 1989
44	420 SL	107.047	1986
44	560 SL	107.048	1986 through 1989
45	280 S	108.016	1970 through 1972
45	280 SE	108.018	1970 through 1972
45	280 SEL	108.019	1970 through 1972
45	280 SE (3.5)	108.057	1970 through 1973
45	280 SEL (3.5)	108.058	1972 through 1973
45	280 SE (4.5)	108.067	1970 through 1972
45	280 SEL (4.5)	108.068	1972
46	300 SEL	109.016	1970 through 1972

VSA #	Model type	Model ID	Model year
46	300 SEL (6.3)	109.018	1970 through 1972
46	300 SEL (4.5)	109.057	1972
47	280S E Coupe	111.024	1970 through 1971
47	280 SE Conv	111.025	1970 through 1971
47	280 SE 3.5 Cp	111.026	1971
47	280 SE 3.5 Cv	111.026	1971
48	230 SL	113.042	1970 through 1971
48	250 SL	113.043	1970 through 1971
48	280 SL	113.044	1970 through 1971
49	230.6	114.015	1970 through 1976
49	250	114.010	1970 through 1976
49	250	114.011	1971 through 1976
49	250 CE	114.022	1970 through 1976
49	250 C	114.023	1970 through 1976
49	280	114.060	1972 through 1976
49	280 E	114.062	1972 through 1976
49	280 CE	114.072	1972 through 1976
49	280 C	114.073	1972 through 1976
50	200	115.015	1976
50	230.4	115.017	1974 through 1976
50	220 D	115.110	1970 through 1976
50	240 D (3.0)	115.114	1974 through 1976
50	240 D	115.117	1974 through 1976
51	280 S	116.020	1973 through 1980
51	280 SE	116.024	1972 through 1988
51	280 SEL	116.025	1972 through 1980
51	350 SE	116.028	1973 through 1980
51	350 SEL	116.029	1972 through 1980
51	450 SE	116.032	1972 through 1980
51	450 SEL	116.033	1972 through 1988
51	450 SEL (6.9)	116.036	1972 through 1988
52	200	123.020	1976 through 1980
52	230	123.023	1976 through 1985
52	250	123.026	1976 through 1985
52	280	123.030	1976 through 1985
52	280 E	123.033	1976 through 1985
52	230 C	123.043	1978 through 1980
52	280 C	123.050	1977 through 1980
52	280 CE	123.053	1977 through 1985
52	230 T	123.083	1977 through 1985
52	280 TE	123.093	1977 through 1985
52	200 D	123.120	1980 through 1982
52	240 D	123.123	1977 through 1985
52	300 D	123.130	1976 through 1985
52	300 D	123.133	1977 through 1985
52	300 CD	123.150	1978 through 1985
52	240 TD	123.183	1977 through 1985
52	300 TD	123.193	1977 through 1985
52	200	123.220	1979 through 1985
52	230 E	123.223	1977 through 1985
52	230 CE	123.243	1980 through 1984
52	230 TE	123.283	1977 through 1985
53	280 S	126.021	1980 through 1983
53	280 SE	126.022	1980 through 1985
53	280 SEL	126.023	1980 through 1985
53	300 SE	126.024	1985 through 1989
53	300 SEL	126.025	1986 through 1989
53	380 SE	126.032	1979 through 1989
53	380 SEL	126.033	1980 through 1989
53	420 SE	126.034	1985 through 1989
53	420 SEL	126.035	1986 through 1989
53	500 SE	126.036	1980 through 1986
53	500 SEL	126.037	1980 through 1989
53	560 SEL	126.039	1986 through 1989
53	380 SE	126.043	1982 through 1989
53	500 SEC	126.044	1981 through 1989
53	560 SEC	126.045	1986 through 1989
53	300 SD	126.120	1981 through 1989
54	190	201.022	1984
54	190 E (2.3)	201.024	1983 through 1989
54	190 E	201.028	1986 through 1989
54	190 E (2.6)	201.029	1986 through 1989
54	190 E 2.3 16	201.034	1984 through 1989
54	190 D (2.2)	201.122	1984 through 1989

VSA #	Model type	Model ID	Model year
54	190 D	201.126	1984 through 1989
55	200	124.020	1985
55	230 E	124.023	1985 through 1987
55	260 E	124.026	1985 through 1989
55	300 E	124.030	1985 through 1989
55	300 CE	124.050	1988 through 1989
55	230 TE	124.083	1985
55	300 TE	124.090	1986 through 1989
55	300 D	124.130	1985 and 1986
55	300 D Turbo	124.133	1985 through 1989
55	300 TD Turbo	124.193	1986 through 1989
77	All other models except Model ID 114 and 115 with sales designations ''long,'' ''station wagon,'' or ''ambulance''.		1970 through 1989

VSP #	Model type	Model ID	Model year
	Mercedes Benz		
1	230 E	124.023	1988
2	230 TE	124.083	1989
3	200 TE	124.081	1989
7	300SL	107.041	1989
11	200E	124.021	1989
17	200D	124.120	1986
18	260SE	126.020	1986
19	230E	124.023	1990
20	230E	124.023	1989
21	300SEL	126.025	1990
22	190E	201.024	1990
23	500SEL	129.066	1989
26	500SE	140.050	1991
27	600SEL	140.057	1992
28	260SE	126.020	1989
31	250C	114.021	1970
33	500SL	129.066	1991
35	500SE	126.036	1988
36	300SEL	109.056	1970
38	250C	114.021	1970
40	300TE	124.090	1990
45	190E	201.024	1991
48	420SEL	126.035	1990
50	500SE	140.050	1992
54	300SL	129.006	1992
56	500E	124.036	1991
60	500SL	129.006	1992
63	500SEL	126.037	1991
64	300CE	124.051	1990
66	500SEC	126.044	1990
67	300SE	140.032	1993
68	300SE	126.024	1990
69	300SE	140.032	1992
71	190E	201.028	1992
74	230E	124.023	1991
75	200E	124.019	1993
83	300CE	124.051	1991
84	230CE	124.043	1991
85	S280	140.028	1994
89	560SEL	126.039	1990
105	260E	124.026	1992

VCP #	Model type	Model ID	Model year
	Mercedes Benz		
3	300GE	463.228	1993
5	300GE	463.228	1990–1992, 1994
6	G320		1995

VSP #	Model type	Model year
	MG	
90	MGB GT	1971

VSP #	Model type	Model year
	Mitsubishi	
8	Galant VX	1988
13	Galant SUP	1989

VSA #	Model type	Model year
	Nissan	
75	Z and 280Z	1973 through 1981
75	Fairlady and Fairlady Z	1975 through 1979
	Peugeot	
65	405	1989
	Porsche	
56	911 Coupe	1970 through 1989
56	911 Targa	1970 through 1989
56	911 Turbo	1976 through 1989
56	911 Cabriolet	1984 through 1989
56	911 Carrera	1972 through 1989
58	914	1970 through 1976
59	924 Coupe	1976 through 1989
59	924 Turbo Coupe	1979 through 1989
59	924 S	1987 through 1989
60	928 Coupe	1976 through 1989
60	928 S Coupe	1983 through 1989
60	928 S4	1979 through 1989
60	928 GT	1979 through 1989
61	944 Coupe	1982 through 1989
61	944 Turbo Coupe	1985 through 1989
61	944 S Coupe	1987 through 1989
79	All other models except Model 959	1970 through 1989

VSP #	Model type	Model year
	Porsche	
29	911 CA	1990
52	911 Carrera	1992

VSA #	Model type	Model year
	Rolls Royce	
62	Silver Shadow	1970 through 1979

VSP #	Model type	Model year
	Rolls Royce	
16	Bentley	1989
53	Bentley Turbo	1986
72	Corniche	1971
	Saab	
59	9000	1988

VSA #	Model type	Model year
	Toyota	
63	Camry	1987 through 1988
64	Celica	1987 through 1988
65	Corolla	1987 through 1988

VSP #	Model type	Model year
	Toyota	
39	Camry	1989

VSA #	Model type	Model year
	Volkswagen	
42	Scirocco	1986

VSP #	Model type	Model year
	Volkswagen	
73	Golf Rally	1988
80	Golf	1988
	Volvo	
43	262C	1981
87	740 Sedan	1988

[FR Doc. 95–3488 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–8; Notice 1]

Spartan Motors, Inc.; Receipt of Application for Temporary Exemption From Three Federal Motor Vehicle Safety Standards

Spartan Motors, Inc., of Charlotte, Michigan, has applied to be exempted from three Federal motor vehicle safety standards for light trucks that it converts to electric power. The basis of the application is that an exemption would facilitate the development or field evaluation of a low-emission motor vehicle, and would not unreasonably lower the safety level of the vehicle.

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

Spartan is a Michigan corporation ''providing development electric vehicle technology through the application of state of the art traction system and battery technology in commercial applications.'' It intends to convert new Chevrolet S10 and GMC Sonoma pickup trucks to electric power. It seeks exemption for two years from three Federal motor vehicle safety standards. The standards for which exemptions are requested are set forth below, together with the applicant's arguments why an exemption would not unreasonably lower the safety level of the vehicle.

1. Standard No. 103, *Windshield Defrosting and Defogging Systems.* Spartan asks for exemption from paragraphs S4.2 and S4.3 because testing to these requirements ''is not possible due to the engine related requirements of the test procedure.'' It states that the engine coolant heater core is intact, with an electrical resistance heating element contained in an external expansion tank plumbed similar to an internal combustion engine configuration, and that other portions of the system are untouched. This ''minimizes the impact of the conversion not meeting the standard.''

2. Standard No. 105, *Hydraulic Brake Systems.* Spartan wishes to be exempted from S5.1.1.3 (the third effectiveness test), S5.1.2.1 (partial failure), and S7.7.1, S7.9.1 and S7.9.2 (certain tests at lightly loaded vehicle weight). The curb weight of the vehicle is increased to approximately 4,500 pounds. The weight proportioning between axles is different than that used in the certification testing of the original vehicle. These changes affect the applicability of the testing requirements for lightly loaded vehicle weight. However, the GVWR remains the same as the original rating of 4,900 pounds, and the original vehicle's braking system is not modified. This, in the applicant's view, minimizes ''the impact of the electric vehicle not meeting the standard.''

3. Standard No. 301, *Fuel System Integrity.* Although the converted vehicle no longer uses a fossil fuel as a propellant, ''a small tank'' is added ''for the on board storage of fuel for interior heating.'' Care is taken ''in mounting of the electric vehicle conversion components to reduce their effect on crash protection. Specifically, the fuel storage and delivery system is of automotive quality supplying the heating device.''

According to the petitioner, granting the exemption would be in the public interest and consistent with 49 U.S.C. Chapter 301 Motor Vehicle Safety because it will advance ''the state of the art in electric vehicle traction systems and electric vehicle infrastructure, through the application of electric vehicles in actual commercial uses.'' Because the developmental changes are frequent, ''testing for conformance to the standards'' is impractical. Demonstration of the commercial feasibility of electric vehicles ''will enhance the demand for their use, consistent with established national policy.''

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below 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. Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: March 15, 1995.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on February 7, 1995.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 95–3489 Filed 2–10–95; 8:45 am]

BILLING CODE 4910–59–P

UNITED STATES INFORMATION AGENCY

Advisory Commission on Public Diplomacy; Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on February 15 in Room 600, 301 4th Street, S.W., Washington, D.C. from 8:15 a.m.–10:30 a.m.

At 8:15 a.m. the Commission will meet with Mr. Jack Loiello, Associate Director; and Mr. Dell Pendergrast, Deputy Associate Director; Bureau of Educational and Cultural Affairs, USIA, to discuss exchange coordination and consolidation. At 9:30 a.m. the Commission will meet with Mr. Stanley Silverman, Comptroller, USIA; and Mr. Douglas Wilson, Director, Office of Congressional and Intergovernmental Affairs, USIA, to discuss budget reauthorization and Congressional issues.

FOR FURTHER INFORMATION: Please call Betty Hayes, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: February 7, 1995.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 95–3460 Filed 2–10–95; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 29
Monday, February 13, 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).

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1473]

TIME AND DATE: 10 a.m. (EST), February 15, 1995.

PLACE: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on January 18, 1995.

ACTION ITEMS:

New Business

C—Energy

C1. Delegation of authority to the Vice President of Purchasing, or his designee, to execute a contract with the United States Enrichment Corporation for uranium enrichment services for all of TVA's nuclear plants for the period 1995–2001.

E—Real Property

E1. Abandonment of certain easement rights affecting approximately 23.18 acres of land in Sugarlimb Industrial Park on Watts Bar Lake (Tract Nos. WBR–1558F and 1559F), Loudon County, Tennessee.

E2. Sale of three noncommercial, nonexclusive, permanent recreation easements affecting 0.22 acre of Tellico Lake shoreline (Tracts XTELR–138RE, –153RE, and –157RE), Loudon and Monroe Counties, Tennessee.

E3. Grant of a 30-year recreation easement to Sevier County, Tennessee, for the continued operation, development, and maintenance of a county park affecting approximately 255 acres on Douglas Lake (Tract No. XTDR–30RE), Sevier County, Tennessee.

E4. Land Exchange by the United States Department of Agriculture, Forest Service, affecting approximately 7 acres on Chatuge Lake (Tract No. XTCHR–3, Parcel 2), Towns County, Georgia.

E5. Sale of a permanent easement to the State of Tennessee affecting 0.09 acre of TVA's Clarksburg 161–kV substation property (Tract No. XCLKSS–1H), Carroll County, Tennessee.

F—Unclassified

F1. Filing of condemnation cases.

F2. Delegation of authority to the Vice President, TVA Services, to execute a supplement to the contract with Manpower Temporary Services.

INFORMATION ITEMS:

1. Filing of condemnation cases.
2. Appointment of William M. Oden to the Board of Directors of the TVA Retirement System.

CONTACT PERSON FOR MORE INFORMATION: Ron Loving, Vice President, Governmental Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: February 8, 1995.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 95–3621 Filed 2–9–95; 3:09 pm]

BILLING CODE 8120–08–M

federal register

Monday
February 13, 1995

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Service Coordinator Funds for Fiscal Year 1995; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–95–3865; FR–3852–N–01]

Service Coordinator Funds for Fiscal Year 1995

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice announces the issuance of Housing Notice H–94–99, entitled ''Processing of Requests for Section 8 Funds for Service Coordinators in Section 8 (including Section 515/8 under the Rural Housing and Community Development Service (RHCDS) [1]), and Sections 202, 208/8, 221(d)(3) and 236 Projects and Monitoring of Approved Requests—FY 1995''. Housing Notice H–94–99 describes the procedures for applying for service coordinator funds in FY 1995 and the State or area office's processing of applications and awards for those funds.

This FY 1995 Notice supersedes Housing Notices H–93–71 and H–94–20. Also, it continues funding for service coordinators to Section 202 and 202/8 projects, Section 8 projects (including RHCDS Section 515/8 projects), and 221(d)(3) and 236 projects and substitutes an ''as applied for'' funding basis instead of the more limited lottery process of earlier years. All eligible applications will be approved. The awarding of funds is subject to availability.

DATES: Effective Date: February 13, 1995.

Requests for service coordinators may be submitted to the HUD State or area office in whose jurisdiction the project lies at any time, beginning February 28, 1995.

SUPPLEMENTARY INFORMATION: Service Coordinators are authorized by sections 671, 674, 676 and 677 of the Housing and Community Development Act of 1992 (the Act) (42 U.S.C. 13632). A service coordinator is a social service staff person hired by the project owner/management company. The coordinator is responsible for assuring that elderly residents of the project, especially those who are frail and disabled, are linked to the supportive services they need to continue living independently in that project.

[1] Previously entitled the Farmers Home Administration (FmHA.

This **Federal Register** Notice makes available $22,000,000 for Section 202 projects, $14,352,499 for Section 8 projects, and $9,568,333 for Sections 221(d)(3) and 236 projects. Additional funds may be available as a result of apportioned carryovers, and therefore the actual amount available under this **Federal Register** Notice may be greater. All requests must be for eligible projects which are housing for the elderly and disabled. Eligible projects include any building within a mixed-use project that was designated for occupancy by elderly persons or persons with disabilities at its inception, or although not so designated, for which the eligible owner gives preferences in tenant selection (with HUD approval) for all units in the eligible project to eligible elderly persons or persons with disabilities. Additionally, projects must:

—Have at least 40 rental units (Two or more projects having at least 40 rental units in combination thereof may also apply.);
—Have frail, disabled or ''at risk'' residents which total at least 25 percent of the tenants;
—Be finally closed;
—Be current in mortgage payments or have a current workout agreement;
—For owner/borrowers using the AAF rent increase process (e.g.), Section 202s, State Housing Finance Agencies and RHCDS 515/8), first establish that revenues from the project are not adequate to pay for a coordinator; and
—For section 202 projects, must have a residual receipts account separate from the Repair and Replacement account, or agree to establish this account. (This requirement does not apply to section 8, 515/8, 221(d)(3) and 236 projects.)

There is no deadline for submission of requests. State and area offices must process and approve requests within 45 days of receipt. Requests will be submitted by the State and area offices to HUD Headquarters for funding. All projects will be funded as they are submitted and approved, subject to the availability of funds. When dollars designated in each section 8 service coordinator category of funds are exhausted, HUD State and area offices will be notified to begin processing projects under Housing Notice H–94–98, ''Funding a Service Coordinator in Eligible Housing Projects for Elderly, Disabled, or Families by Using Residual Receipts, Budget-Based Rent Increases or Special Adjustments'', which allows approval of a coordinator using residual receipts, the budget-based rent increase process, or contract rents adjusted by the AAF.

FOR FURTHER INFORMATION CONTACT: The local HUD State or area office which services the project (see list, attached). RHCDS projects must also contact the HUD State or area office which normally handles the location in which the project is located. A copy of the new program Notice will be available to all requestors from the HUD State and area offices or RHCDS State offices.

Dated: January 31, 1995.

Jeanne K. Engel,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

MF Division Directors

New England

Boston

Jeanne McHallam, Multifamily Housing Director, HUD-Boston Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, Massachusetts 02222–1092, (617) 565–5154

Hartford

Robert S. Donovan, Multifamily Housing Director, HUD-Hartford Office, 330 Main Street, Hartford, Connecticut 06106–1860, (203) 240–4523

Manchester

Loren Cole, Acting Multifamily Housing Director, HUD-Manchester Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103–2487, (603) 666–7755

Providence

Louisa Osborne, Multifamily Housing Director, HUD-Providence Office, 330 John O. Pastore Federal Building and U.S. Post Office, Kennedy Plaza, Providence, Rhode Island 02903–1785, (401) 528–5354

New York/New Jersey

New York

Juan Bautista, Acting Multifamily Housing Director, HUD-New York Office, 26 Federal Plaza, New York, New York 10278–0068, (212) 264–4771

Buffalo

Kenneth Lobene, Multifamily Housing Director, HUD-Buffalo Office, Lafayette Court, 465 Main Street, 5th Floor, Buffalo, New York 14203–1780, (716) 846–5722

Newark

Encarnacion Loukatos, Multifamily Housing Director, HUD-Newark Office, One Newark Center, 13th

Floor, Newark, New Jersey 07102–5260, (201) 622–7900 x3400

Mid-Atlantic

Philadelphia

Thomas Langston, Multifamily Housing Director, HUD-Philadelphia Office, Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106–3392, (215) 597–2646

Baltimore

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S. 273/P.L. 104–2

To amend section 61h–6 of title 2, United States Code. (Feb. 9, 1995; 109 Stat. 45; 2 pages)

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17 Parts:			
1–199	(869–022–00054–3)	20.00	Apr. 1, 1994
200–239	(869–022–00055–1)	23.00	Apr. 1, 1994
240–End	(869–022–00056–0)	30.00	Apr. 1, 1994
18 Parts:			
1–149	(869–022–00057–8)	16.00	Apr. 1, 1994
150–279	(869–022–00058–6)	19.00	Apr. 1, 1994
280–399	(869–022–00059–4)	13.00	Apr. 1, 1994
400–End	(869–022–00060–8)	11.00	Apr. 1, 1994
19 Parts:			
1–199	(869–022–00061–6)	39.00	Apr. 1, 1994
200–End	(869–022–00062–4)	12.00	Apr. 1, 1994
20 Parts:			
1–399	(869–022–00063–2)	20.00	Apr. 1, 1994
400–499	(869–022–00064–1)	34.00	Apr. 1, 1994
500–End	(869–022–00065–9)	31.00	Apr. 1, 1994
21 Parts:			
1–99	(869–022–00066–7)	16.00	Apr. 1, 1994
100–169	(869–022–00067–5)	21.00	Apr. 1, 1994
170–199	(869–022–00068–3)	21.00	Apr. 1, 1994
200–299	(869–022–00069–1)	7.00	Apr. 1, 1994
300–499	(869–022–00070–5)	36.00	Apr. 1, 1994
500–599	(869–022–00071–3)	16.00	Apr. 1, 1994
600–799	(869–022–00072–1)	8.50	Apr. 1, 1994
800–1299	(869–022–00073–0)	22.00	Apr. 1, 1994
1300–End	(869–022–00074–8)	13.00	Apr. 1, 1994
22 Parts:			
1–299	(869–022–00075–6)	32.00	Apr. 1, 1994
300–End	(869–022–00076–4)	23.00	Apr. 1, 1994
23	(869–022–00077–2)	21.00	Apr. 1, 1994
24 Parts:			
0–199	(869–022–00078–1)	36.00	Apr. 1, 1994
200–499	(869–022–00079–9)	38.00	Apr. 1, 1994
500–699	(869–022–00080–2)	20.00	Apr. 1, 1994
700–1699	(869–022–00081–1)	39.00	Apr. 1, 1994
1700–End	(869–022–00082–9)	17.00	Apr. 1, 1994
25	(869–022–00083–7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1–1.60	(869–022–00084–5)	20.00	Apr. 1, 1994
§§ 1.61–1.169	(869–022–00085–3)	33.00	Apr. 1, 1994
§§ 1.170–1.300	(869–022–00086–1)	24.00	Apr. 1, 1994
§§ 1.301–1.400	(869–022–00087–0)	17.00	Apr. 1, 1994
§§ 1.401–1.440	(869–022–00088–8)	30.00	Apr. 1, 1994
§§ 1.441-1.500	(869-022-00089-6)	22.00	Apr. 1, 1994
§§ 1.501–1.640	(869–022–00090–0)	21.00	Apr. 1, 1994
§§ 1.641–1.850	(869–022–00091–8)	24.00	Apr. 1, 1994
§§ 1.851–1.907	(869–022–00092–6)	26.00	Apr. 1, 1994
§§ 1.908–1.1000	(869–022–00093–4)	27.00	Apr. 1, 1994
§§ 1.1001–1.1400	(869–022–00094–2)	24.00	Apr. 1, 1994
§§ 1.1401–End	(869–022–00095–1)	32.00	Apr. 1, 1994
2–29	(869–022–00096–9)	24.00	Apr. 1, 1994
30–39	(869–022–00097–7)	18.00	Apr. 1, 1994
40–49	(869–022–00098–4)	14.00	Apr. 1, 1994
50–299	(869–022–00099–3)	14.00	Apr. 1, 1994
300–499	(869–022–00100–1)	24.00	Apr. 1, 1994
500–599	(869–022–00101–9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600–End	(869–022–00102–7)	8.00	Apr. 1, 1994
27 Parts:			
1–199	(869–022–00103–5)	36.00	Apr. 1, 1994
200–End	(869–022–00104–3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869–022–00105–1)	27.00	July 1, 1994
43-end	(869-022-00106-0)	21.00	July 1, 1994
29 Parts:			
0–99	(869–022–00107–8)	21.00	July 1, 1994
100–499	(869–022–00108–6)	9.50	July 1, 1994
500–899	(869–022–00109–4)	35.00	July 1, 1994
900–1899	(869–022–00110–8)	17.00	July 1, 1994
1900–1910 (§§ 1901.1 to 1910.999)	(869–022–00111–6)	33.00	July 1, 1994
1910 (§§ 1910.1000 to end)	(869–022–00112–4)	21.00	July 1, 1994
1911–1925	(869–022–00113–2)	26.00	July 1, 1994
1926	(869–022–00114–1)	33.00	July 1, 1994
1927–End	(869–022–00115–9)	36.00	July 1, 1994
30 Parts:			
1–199	(869–022–00116–7)	27.00	July 1, 1994
200–699	(869–022–00117–5)	19.00	July 1, 1994
700–End	(869–022–00118–3)	27.00	July 1, 1994
31 Parts:			
0–199	(869–022–00119–1)	18.00	July 1, 1994
200–End	(869–022–00120–5)	30.00	July 1, 1994
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–022–00121–3)	31.00	July 1, 1994
191–399	(869–022–00122–1)	36.00	July 1, 1994
400–629	(869–022–00123–0)	26.00	July 1, 1994
630–699	(869–022–00124–8)	14.00	[5] July 1, 1991
700–799	(869–022–00125–6)	21.00	July 1, 1994
800–End	(869–022–00126–4)	22.00	July 1, 1994
33 Parts:			
1–124	(869–022–00127–2)	20.00	July 1, 1994
125–199	(869–022–00128–1)	26.00	July 1, 1994
200–End	(869–022–00129–9)	24.00	July 1, 1994
34 Parts:			
1–299	(869–022–00130–2)	28.00	July 1, 1994
300–399	(869–022–00131–1)	21.00	July 1, 1994
400–End	(869–022–00132–9)	40.00	July 1, 1994
35	(869–022–00133–7)	12.00	July 1, 1994
36 Parts:			
1–199	(869–022–00134–5)	15.00	July 1, 1994
200–End	(869–022–00135–3)	37.00	July 1, 1994
37	(869–022–00136–1)	20.00	July 1, 1994
38 Parts:			
0–17	(869–022–00137–0)	30.00	July 1, 1994
18–End	(869–022–00138–8)	29.00	July 1, 1994
39	(869–022–00139–6)	16.00	July 1, 1994
40 Parts:			
1–51	(869–022–00140–0)	39.00	July 1, 1994
52	(869–022–00141–8)	39.00	July 1, 1994
53–59	(869–022–00142–6)	11.00	July 1, 1994
60	(869-022-00143-4)	36.00	July 1, 1994
61–80	(869–022–00144–2)	41.00	July 1, 1994
81–85	(869–022–00145–1)	23.00	July 1, 1994
86–99	(869–022–00146–9)	41.00	July 1, 1994
100–149	(869–022–00147–7)	39.00	July 1, 1994
150–189	(869–022–00148–5)	24.00	July 1, 1994
190–259	(869–022–00149–3)	18.00	July 1, 1994
260–299	(869–022–00150–7)	36.00	July 1, 1994
300–399	(869–022–00151–5)	18.00	July 1, 1994
400–424	(869–022–00152–3)	27.00	July 1, 1994
425–699	(869–022–00153–1)	30.00	July 1, 1994
700–789	(869–022–00154–0)	28.00	July 1, 1994
790–End	(869–022–00155–8)	27.00	July 1, 1994
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–022–00156–6)	9.50	July 1, 1994
101	(869–022–00157–4)	29.00	July 1, 1994
102–200	(869–022–00158–2)	15.00	July 1, 1994
201–End	(869–022–00159–1)	13.00	July 1, 1994
42 Parts:			
1–399	(869–022–00160–4)	24.00	Oct. 1, 1994
400–429	(869–022–00161–2)	26.00	Oct. 1, 1994
*430–End	(869–022–00162–1)	36.00	Oct. 1, 1994
43 Parts:			
1–999	(869–022–00163–9)	23.00	Oct. 1, 1994
1000–3999	(869–022–00164–7)	31.00	Oct. 1, 1994
4000–End	(869–022–00165–5)	14.00	Oct. 1, 1994
44	(869–022–00166–3)	27.00	Oct. 1, 1994
45 Parts:			
1–199	(869–019–00167–1)	22.00	Oct. 1, 1993
200–499	(869–019–00168–9)	15.00	Oct. 1, 1993
500–1199	(869–022–00169–8)	32.00	Oct. 1, 1994
1200–End	(869–022–00170–1)	26.00	Oct. 1, 1994
46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
*41–69	(869–022–00172–8)	16.00	Oct. 1, 1994
70–89	(869–019–00173–5)	8.50	Oct. 1, 1993
90–139	(869–022–00174–4)	15.00	Oct. 1, 1994
140–155	(869–019–00175–1)	12.00	Oct. 1, 1993
156–165	(869–019–00176–0)	17.00	Oct. 1, 1993
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
*500–End	(869–022–00179–5)	15.00	Oct. 1, 1994
47 Parts:			
*0–19	(869–022–00180–9)	25.00	Oct. 1, 1994
20–39	(869–022–00181–7)	20.00	Oct. 1, 1994
40–69	(869–022–00182–5)	14.00	Oct. 1, 1994
*70–79	(869–022–00183–3)	24.00	Oct. 1, 1994
*80–End	(869–022–00184–1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
1 (Parts 52–99)	(869–022–00186–8)	23.00	Oct. 1, 1994
2 (Parts 201–251)	(869–022–00187–6)	16.00	Oct. 1, 1994
2 (Parts 252–299)	(869–022–00188–4)	13.00	Oct. 1, 1994
3–6	(869–022–00189–2)	23.00	Oct. 1, 1994
*7–14	(869–022–00190–6)	30.00	Oct. 1, 1994
15–28	(869–019–00191–3)	31.00	Oct. 1, 1993
29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
1–99	(869–022–00193–1)	24.00	Oct. 1, 1994
100–177	(869–022–00194–9)	30.00	Oct. 1, 1994
178–199	(869–022–00195–7)	21.00	Oct. 1, 1994
*200–399	(869–022–00196–5)	30.00	Oct. 1, 1994
400–999	(869–019–00197–2)	33.00	Oct. 1, 1993
*1000–1199	(869–022–00198–1)	19.00	Oct. 1, 1994
1200–End	(869–022–00199–0)	15.00	Oct. 1, 1994
50 Parts:			
1–199	(869–019–00200–6)	20.00	Oct. 1, 1993
*200–599	(869–022–00201–5)	22.00	Oct. 1, 1994
600–End	(869–022–00202–3)	27.00	Oct. 1, 1994
CFR Index and Findings Aids	(869–022–00053–5)	38.00	Jan. 1, 1994

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued January 1, 1993, should be retained.