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Thursday
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Environmental Protection Agency

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 12433 of July 19, 1983

National Bipartisan Commission on Central America

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), the National Bipartisan Commission on Central America, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the National Bipartisan Commission on Central America. The Commission shall be composed of not more than 12 members appointed or designated by the President. These members shall be drawn from among distinguished leaders of the government, business, labor, education, Hispanic and religious communities. No more than seven members shall be of the same political party.

(b) The President shall designate a Chairman from among the members of the Commission.

Sec. 2. *Functions.* (a) The Commission shall study the nature of United States interests in the Central American region and the threats now posed to those interests. Based on its findings, the Commission shall provide advice to the President, the Secretary of State and the Congress on elements of a long-term United States policy that will best respond to the challenges of social, economic, and democratic development in the region, and to internal and external threats to its security and stability. The Commission also shall provide advice on means of building a national consensus on a comprehensive United States policy for the region.

(b) The Commission shall report to the President by December 1, 1983.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions.

(b) Members of the Commission shall serve without compensation for their work on the Commission. However, members appointed from among private citizens of the United States may, subject to the availability of funds, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(c) The Secretary of State shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of its functions.

Sec. 4. *General.* (a) Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, which are applicable to the Commission, shall be performed by the Secretary of State, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall, unless otherwise extended, terminate 60 days after submitting its final report.

Ronald Reagan

THE WHITE HOUSE,
July 19, 1983.

[FR Doc. 83-19968
Filed 7-20-83; 11:16 am]
Billing code 3195-01-M

Editorial Note: The President's announcements of July 19 and 20, 1983, concerning his appointments to the Commission, are printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 29).

Presidential Documents

Executive Order 12434 of July 19, 1983

Alaska Railroad Rates

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Alaska Railroad Act, as amended (38 Stat. 305, 43 U.S.C. 975–975g), and in order to determine the procedures for establishing rates for the Alaska Railroad, it is hereby ordered as follows:

Section 1. *General Responsibility.* The Secretary of Transportation is authorized to operate and administer the Alaska Railroad, except that the authority of the Secretary to fix, change, or modify rates for the transportation of passengers and property shall be subject to the authority of the Interstate Commerce Commission, pursuant to Section 3 of this Order.

Sec. 2. *Rates—Secretary of Transportation.* (a) In exercising the authority granted by this Order to fix, change, or modify rates of the Alaska Railroad, the Secretary of Transportation is authorized to establish rates and enter into rate arrangements, including contracts, with other parties to the same extent as comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49 of the United States Code. Such rates shall be filed with the Interstate Commerce Commission to the same extent as rates are filed by comparable rail carriers subject to its jurisdiction.

(b) Any contract filed with the Commission shall be available to any other shipper for rates and services for transportation of the same type of commodity under similar conditions to the contract on file, if the other shipper is able to enter into such contract at a time essentially contemporaneous with the period during which the contract on file is offered.

(c) Connecting water carriers may participate in Alaska Railroad contract rate agreements.

(d) Alaska Railroad rates, rate arrangements, and contracts entered into pursuant to this Order and Executive Order No. 11107 of April 26, 1963 are subject to the actions of the Interstate Commerce Commission, pursuant to Section 3 of this Order.

Sec. 3. *Rates—Interstate Commerce Commission.* With respect to rates filed by the Secretary with the Interstate Commerce Commission pursuant to Section 2 of this Order, the Commission may act in the same manner as though the Alaska Railroad were subject to section 10101a; subchapter I of chapter 105; subchapter I of chapter 107; subchapter II of chapter 107, except sections 10723 and 10724; subchapter III of chapter 107, except sections 10746 and 10751; subchapter IV of chapter 107; subchapter I of chapter 111, subchapter II of chapter 111; and chapter 117, except sections 11703 and 11704 of title 49 of the United States Code: Provided, however, that to the extent Section 2 of this Order may grant additional authority or impose additional limitations, the standards established by Section 2 shall be applicable.

Sec. 4. *Conforming Provisions.* (a) Executive Order No. 11107 is superseded.

(b) Any existing Alaska Railroad rate entered into under Executive Order No. 11107 shall have the same force and effect as if it had been entered into in accordance with the provisions of this Order.

(c) Any Alaska Railroad rate entered into in accordance with this Order shall be deemed to be in compliance with the Alaska Railroad Act, as amended.

Ronald Reagan

THE WHITE HOUSE,
July 19, 1983.

[FR Doc. 83-19969
Filed 7-20-83; 11:17 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5073 of July 19, 1983

Bicentennial Year of the Birth of Simon Bolivar

By the President of the United States of America

A Proclamation

July 24, 1983, marks the bicentennial of the birth of Simon Bolivar, the great Liberator who laid the foundation for the Inter-American System. The Government and people of the United States take pride in joining with the other countries of the Americas in celebrating this historic event. A great soldier and patriot, Simon Bolivar serves as an inspiration to all the peoples of the western hemisphere. Through turbulent and frustrating times, he had the vision to see that the unity of the Americas could be achieved.

Bolivar's military prowess made independence possible for Venezuela, Colombia, Peru, Ecuador, Bolivia, and Panama in a struggle similar to that which had brought the United States its liberty forty years earlier. Although shaken by personal tragedy and disappointed by two unsuccessful attempts to establish an independent republic in his homeland, Bolivar persevered. His burning desire for freedom could not be extinguished, and his subsequent brilliant military victories inspired an entire continent. Likewise, his vision of a united Americas continues to inspire new generations of citizens in every country of this hemisphere.

Bolivar's letter from Jamaica on September 6, 1815, poignantly expressed his dream of a union "with a single bond that unites its parts among themselves and to the whole." With this aim in mind, he convoked the Congress of Panama in 1826, which signalled a decisive step toward the system of cooperation we enjoy today. The Treaty drawn up by that Congress was ratified by only one country, but the idea of forming a coalition of American Republics took root, slowly developed, and finally evolved into a unique and beneficial system of international cooperation.

From the seeds planted by Simon Bolivar, the Organization of American States was born. Bolivar's ideals of Pan Americanism, based on independence, solidarity, sovereignty, as well as the right of all nations to live in peace, find clear expression in the Charter of the Organization of American States.

The debt owed by all Americans to Simon Bolivar is incalculable. Thus, it is fitting that we should pause and reflect upon his great achievements in this bicentennial year of his birth. On this occasion, we in the United States join with our hemispheric friends to remember the great hero whose ideals bind us closer together. Bolivar, more than any other figure in the history of the western hemisphere, understood that, while we are citizens of separate countries, we are members of one family in the new world—we are Americans.

The Congress of the United States, by Senate Concurrent Resolution 14, has authorized and requested the President to issue a proclamation designating the period from July 24, 1983 through July 23, 1984, as the bicentennial year of the birth of Simon Bolivar.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the year beginning July 24, 1983 through July 23, 1984 as the Bicentennial Year of the Birth of Simon Bolivar, hero of the independence of the Americas.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-19970
Filed 7-20-83; 11:18 am]
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Presidential Documents

Proclamation 5074 of July 19, 1983

Temporary Duty Increases and Quantitative Limitations on the Importation Into the United States of Certain Stainless Steel and Alloy Tool Steel

By the President of the United States of America

A Proclamation

1. Pursuant to section 201(d)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2251(d)(1)), the United States International Trade Commission (USITC) on May 6, 1983, reported to the President the results of its Investigation No. TA–201–48 under section 201(b) of the Trade Act (19 U.S.C. 2251(b)). The USITC determined that certain bars; wire rods; and plates, sheets, and strip, not cut, not pressed, and not stamped to nonrectangular shape; all the foregoing of stainless steel or certain alloy tool steel; and round wire of high speed tool steel; provided for in items 606.90, 606.93, 606.94, 606.95, 607.26, 607.28, 607.34, 607.43, 607.46, 607.54, 607.72, 607.76, 607.88, 607.90, 608.26, 608.29, 608.34, 608.43, 608.49, 608.57, 608.64, and 609.45 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industries producing articles like or directly competitive with the imported articles. The USITC recommended the imposition of quantitative restrictions on imports of articles classified in the above TSUS items with exemptions for certain articles which are not produced in the United States or are produced in such small quantities that their exemption would not have an adverse impact on the domestic industry.

2. On July 5, 1983, pursuant to section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to impose additional tariffs and quantitative restrictions, with exemptions for certain articles which are not produced in the United States or are produced in such small quantities that their exemption would not have an adverse impact on the domestic industry. On July 5, 1983, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to proclaim these additional tariffs and quotas, and stating the reasons why my decision differed from the action recommended by the USITC.

3. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 15 days after the import relief determination date.

4. Pursuant to sections 203(a)(1), 203(a)(3), and 203(e)(1) of the Trade Act (19 U.S.C. 2253(a)(1), 2253(a)(3), and 2253(e)(1)), I am providing import relief through the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel, as hereinafter proclaimed.

5. In accordance with section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)), I have determined that the level of import relief hereinafter proclaimed pursuant to section 203(a)(3) of the Trade Act (19 U.S.C. 2253(a)(3)) permits the importation into the United States of a quantity of articles which is not less than the average annual quantity of such articles imported into the United States in the 1972–1982 period, exclusive of 1975 and 1982, which I have

determined to be the most recent representative period for imports of such articles.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 203 and 604 of the Trade Act (19 U.S.C. 2253 and 2483), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786), do proclaim that—

(1) Part I of Schedule XX of the GATT is modified to conform to the action taken in the Annex to this proclamation.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this proclamation.

(3) The United States Trade Representative (USTR) is hereby directed to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief set forth in the Annex hereto, including the allocation of quota quantities on a country-by-country basis; to negotiate orderly marketing agreements pursuant to section 203 of the Trade Act (19 U.S.C. 2253); and to modify, pursuant to section 203, the relief set forth in the Annex hereto. In order to carry out said directive, the USTR is hereby authorized to delegate to appropriate officials or agencies of the United States authority to perform any functions necessary for the implementation and administration of said relief. The USTR is hereby authorized to make any changes in the headnote or TSUS items created in the Annex hereto which may be necessary to implement the foregoing authority, such changes to be effective on or after the date of their publication in the **Federal Register** or such other date as may be specified therein.

(4) The President's authority in sections 203(g) (1) and (2) of the Trade Act (19 U.S.C. 2253(g) (1) and (2)) to prescribe regulations providing for the efficient and fair administration of any restriction herein proclaimed or governing the entry or withdrawal from warehouse of articles covered by any orderly marketing agreement negotiated hereunder or of like articles which are the product of countries not parties to any such agreement, has been delegated to the Secretary of the Treasury pursuant to section 5(b) of Executive Order No. 11846, as amended. Such authority shall be exercised by the Secretary of the Treasury, upon direction by the USTR, in consultation with representatives of the member agencies of the Trade Policy Staff Committee.

(5) The USTR is directed to conduct an annual review of the necessity for and effectiveness of such relief and recommend to the President any appropriate action under section 203(h)(4) of the Trade Act (19 U.S.C. 2253(h)(4)), and to set up such interagency bodies as may be necessary to monitor the progress toward adjustment of the domestic industry.

(6) The Secretary of the Treasury shall take such actions, not otherwise in contravention of law or in derogation of the authority of the Secretary, as the USTR shall determine are necessary to implement any import relief under this proclamation, or modifications thereof.

(7) This proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 20, 1983, and before the close of July 19, 1987, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th. day of July, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

Billing code 3195-01-M

ANNEX

Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified --

(a) by adding in numerical sequence the following new headnote 10:

"10. Additional duties and quantitative limitations on stainless steel and alloy tool steel. -- The provisions of this headnote apply to items 926.00 through 926.23, inclusive, of this subpart. The duties provided for in items 926.00 and 926.05 and the quantitative limitations set forth in items 926.10 through 926.23, inclusive, are in addition to the duties provided for the subject articles in schedule 6, part 2B, or in item 832.00, part 3A, schedule 8, where applicable.

(a) Definitions. - For the purposes of this subpart -

(i) the term "restraint period" refers to a 3-month period provided for in the Quota Quantity column for items 926.10 through 926.23, inclusive;

(ii) the terms "razor blade steel" and "chipper knife steel" are defined as provided in headnotes 2(h)(x) and 2(h)(viii), respectively, of part 2B, schedule 6;

(iii) the term "band saw steel" refers to alloy tool steel which contains, in addition to iron, each of the following elements by weight in the amounts specified:

(A) carbon:	not less than 0.47 nor more than 0.53 percent;
(B) manganese:	not less than 0.60 nor more than 0.90 percent;
(C) sulfur:	none, or not more than 0.015 percent;
(D) phosphorus:	none, or not more than 0.025 percent;
(E) silicon:	not less than 0.10 nor more than 0.25 percent;
(F) chromium:	not less than 0.90 nor more than 1.10 percent;

(G) nickel: not less than 0.50 nor more than 0.70 percent;

(H) molybdenum: not less than 0.90 nor more than 1.10 percent; and

(IJ) vanadium: not less than 0.08 percent nor more than 0.15 percent;

(iv) the term "cladding grade 434 stainless steel sheet" refers to stainless steel sheet, not under 0.055 inch and not over 0.065 inch in thickness, not under 25.5 inches and not over 26.25 inches in width, containing by weight not more than 0.12 percent carbon; not less than 16 percent nor more than 18 percent chromium; and not less than 0.75 percent nor more than 1.25 percent molybdenum; certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of stainless steel-clad-aluminum automobile trim.

(b) Shortfall.-- During the last 30-day period of a restraint period, if the United States Trade Representative (USTR) determines that any quota quantity under an item hereof is unlikely to be used during that restraint period, the USTR may, to the extent permitted by law, modify the quota quantity for that item during the remainder of that restraint period to reallocate the shortfall or any portion thereof to the quota quantity of any other item, such modifications to be effective on the date of their publication in the Federal Register.

(c) Carryover.-- Whenever the quota quantity specified for an item has not been entered during any restraint period, the USTR may by Federal Register notice authorize the entry during subsequent restraint periods of an amount not to exceed the difference between the quota quantity specified for such restraint period and the amount entered during that period; and such amount shall not be counted against the quota quantity therefor.

(d) Exceeding restraint levels.-- The USTR may by Federal Register notice authorize the restraint levels for any quota quantity to be exceeded by not more than 10 percent during any restraint period. If a quota quantity is exceeded during a restraint period, the USTR shall make a downward adjustment of the corresponding quota quantity for the next restraint period in the absolute amount the preceding restraint level was exceeded.

(e) Adjustments.-- If any country-by-country allocations of quota quantities are made by the USTR, the USTR may make the necessary adjustments to the appropriate quota quantities.

(f) United States International Trade Commission (USITC) surveys.-- The USITC shall conduct mandatory surveys with respect to the products subject to import relief under each item involved as follows:

(i) Quarterly.-- Surveys by calendar quarter to obtain from domestic producers monthly data on production, shipments, prices, employment, and man-hours; and to obtain from importers data by calendar quarter on prices, orders, and inventories. The initial surveys shall cover the fourth quarter of 1982 and the first two quarters of 1983; subsequent surveys will cover individual quarters; the last such survey shall cover the quarter which ends not less than 60 days prior to the termination of the import restraints. The USITC shall publish the results of the initial surveys by October 1, 1983 and the results of later surveys within 45 days of the end of the surveyed quarter. Such surveys will be conducted monthly, upon written request of the USTR to the USITC, if the USTR determines that monthly reporting is necessary.

(ii) Annually.-- Annual surveys to obtain from domestic producers data by calendar quarter on profits, orders, and inventories, and annual data on capital expenditures, capacity, and research and development expenditures. The initial surveys shall cover the fourth quarter of 1982 and calendar year 1982, as appropriate, and calendar year 1983, and the results shall be published by March 31, 1984. The results of subsequent surveys shall be published by March 31 of each year thereafter so long as the import restraints in this subpart are in effect. With each annual survey, the USITC shall also report the production, capacity, and capacity utilization, to the extent the information can be obtained, for each country which is a major supplier of imports, and any projected changes in production, capacity, and capacity utilization for those countries.".

(b) by inserting in numerical sequence the following new provisions:

"Item	Articles	Rates of duty				
		1				2
		Effective with respect to articles entered during the period —				
		July 20, 1983 through July 19, 1984	July 20, 1984 through July 19, 1985	July 20, 1985 through July 19, 1986	July 20, 1986 through July 19, 1987	
926.00	Sheets and strip of stainless steel (except razor blade steel, and cladding grade 434 stainless steel sheet) provided for in items 607.76, 607.90, 608.29, 608.43, and 608.57, part 2B, schedule 6, all the foregoing whether or not entitled to duty-free treatment under item 832.00, part 3A, schedule 8.....	10% ad val.	8% ad val.	6% ad val.	4% ad val.	No change
926.05	Plates of stainless steel provided for in items 607.76 and 607.90, part 2B, schedule 6, all the foregoing whether or not entitled to duty-free treatment under item 832.00, part 3A, schedule 8.....	8% ad val.	6% ad val.	5% ad val.	4% ad val.	No change

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period— July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective aggregate quantity of articles specified below for items 926.10 through 926.23, inclusive, has been entered in any restraint period (whether, for tariff purposes, in schedule 6 or in item 832.00 of schedule 8), no article in such item may be entered during the remainder of such restraint period, except as provided in headnote 10:				
	Bars of stainless steel, provided for in item 606.90, part 2B, schedule 6:				
926.10	If entered during the period from July 20, 1983, through July 19, 1984, inclusive.....	6,750	6,750	6,750	6,750
926.11	If entered during the period from July 20, 1984, through July 19, 1985, inclusive.....	6,950	6,950	6,950	6,950
926.12	If entered during the period from July 20, 1985, through July 19, 1986, inclusive.....	7,150	7,150	7,150	7,150
926.13	If entered during the period from July 20, 1986, through July 19, 1987, inclusive.....	7,375	7,375	7,375	7,375
	Wire rod of stainless steel, provided for in item 607.26 and 607.43, part 2B, schedule 6:				
926.15	If entered during the period from July 20, 1983, through July 19, 1984, inclusive.....	4,775	4,775	4,775	4,775
926.16	If entered during the period from July 20, 1984, through July 19, 1985, inclusive.....	4,925	4,925	4,925	4,925
926.17	If entered during the period from July 20, 1985, through July 19, 1986, inclusive.....	5,075	5,075	5,075	5,075

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period— July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective, etc. (con.):				
	Wire rod, etc. (con.):				
926.18	If entered during the period from July 20, 1986, through July 19, 1987, inclusive.....	5,225	5,225	5,225	5,225
	Bars, wire rods, plates, sheets, and strip, all the foregoing of alloy tool steel (except chipper knife steel and band saw steel), provided for in items 606.95, 607.28, 607.34, 607.46, 607.54, 607.72, 607.88, 608.34, 608.49, and 608.64, and round wire of high speed tool steel, provided for in item 609.45, part 2B, schedule 6:				
926.20	If entered during the period from July 20, 1983, through July 19, 1984, inclusive.....	5,600	5,600	5,600	5,600
926.21	If entered during the period from July 20, 1984, through July 19, 1985, inclusive.....	5,775	5,775	5,775	5,775
926.22	If entered during the period from July 20, 1985, through July 19, 1986, inclusive.....	5,950	5,950	5,950	5,950
926.23	If entered during the period from July 20, 1986, through July 19, 1987, inclusive.....	6,125	6,125	6,125	6,125"

[FR Doc. 83-19971
Filed 7-20-83; 11:19 am]
Billing code 3195-01-C

Rules and Regulations

Federal Register
Vol. 48, No. 141
Thursday, July 21, 1983

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 month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-328]

Witchweed Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of suppressive areas under the witchweed quarantine and regulations by adding areas in 9 counties in North Carolina and 1 county in South Carolina to the list of suppressive areas and by deleting areas in 9 counties in North Carolina and 3 counties in South Carolina from the list of suppressive areas. Other changes were also made to reflect changes in ownership of certain properties and to make corrections in certain descriptions to more accurately describe the area regulated. This action is necessary to prevent the artificial spread of witchweed and to delete unnecessary restrictions of the interstate movement of regulated articles.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Paul F. Sand, Staff Officer, Field Opeartions Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The amendment has been issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that the amendment will have an annual effect on the economy of approximately $650; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small businesses and should not have a significant economic impact on any small organizations or small governmental jurisdictions. This action affects the interstate movement of regulated articles from specified areas in North Carolina and South Carolina. Based on information compiled by the Department, it has been determined that these are approximately 290,000 small entities that move regulated articles interstate from such States and many hundreds of thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 35 entities move regulated articles interstate from the specified areas affected by this action. Further, the overall economic impact from this action is estimated to be only about $650.

Background

A document published in the **Federal Register** on April 18, 1983 (48 FR 16465-16474), set forth an interim rule amending § 301.80-2a of the witchweed quarantine and regulations (7 CFR 301.80-2a). The document amended the quarantine and regulations by adding areas in 9 counties in North Carolina and 1 county in South Carolina to the list of suppressive areas and by deleting areas in 9 counties in North Carolina and 3 counties in South Carolina from the list of suppressive areas. Other changes were also made to reflect changes in ownership of certain properties and to make corrections in certain descriptions to more accurately described the area regulated.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread of the witchweed and to delete unnecessary restrictions on the interstate movement of regulated articles.

Comments were solicited for 60 days after publication of the amendment. No comments were received in response to the amendment. The factual situations which were set forth in the document of April 18, 1983, still provide a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on April 18, 1983.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Quarantine, Transportation, Witchweed.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.80)

Done at Washington, D.C., this 18th day of July 1983.

Harvey L. Ford

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-19811 Filed 7-20-83; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 309]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona

Valencia oranges that may be shipped to market during the period July 22–July 28, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on July 19, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. Section 908.609 is added as follows:

§ 908.609 Valencia orange regulation 309.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 22, 1983 through July 28, 1983, are established as follows:

(a) District 1: 336,000 cartons;
(b) District 2: 364,000 cartons;
(c) District 3: Unlimited cartons.

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

Dated: July 20, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-19975 Filed 7-20-83; 11:34 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service: Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule designates Applications Adjudicators and Contact Representatives assigned to Up-Front Adjudications as Immigration Officers. The addition of these positions to the officer ranks is necessary to carry out the duties specified in Up-Front Adjudications, and formalizes a procedure which will benefit the public and enhance compliance with the Act.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives & Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Thomas Cook, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: Over the past few years, the Adjudication and Naturalization Division of the Service has been operating under severe budgetary restraints. At the same, time, the workloads and backlogs in this program have been increasing. In order to deal with these excessive workloads, the Adjudication staff developed a procedure named Up-Front Adjudications (UFA). UFA is a procedure where less complex applications and petitions are adjudicated immediately upon receipt.

The philosophy behind UFA is that by quickly disposing of volumes of relatively simple, uncomplicated cases before they become part of the pending workload, INS can lower the cost of adjudicating them, expend less time and money responding to status inquiries and complaints and, at the same time improve service to the public. By doing so, INS can divert portions of its limited adjudications resources to other types of work which more properly justify expenditure of money and manpower, such as cases which are more complex, present meaningful questions of fact or law, or may be fraudulent. A UFA test was conducted for a period of four months at the Boston and Houston District offices. Based on the analysis of the more than 6,400 completed cases, it was found that the expenditure of INS resources to adjudicate these cases under UFA procedures was significantly less than that under traditional adjudication methods.

In order to continue the success which UFA has achieved, it is necessary to have permanent positions to continue the program. The two positions designated, Applications Adjudicator, and Contact Representative, assigned to UFA duties, are added to the Immigration Officer classification to enable them to exercise the powers and duties of such officers as specified in the Act in the performance of UFA responsibilities.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this order is exempt therefrom as provided by paragraph (a)(2) of § 553, which exempts matters relating to agency management or personnel.

This order is not a rule within the meaning of Section 1(a) of E.O. 12291 because it is within the exception defined in paragraph 1(a)(3) which

relates to agency organization, management, or personnel.

The provisions of 5 U.S.C. 601 *et seq.* of the Regulatory Flexibility Act relating to certification or a regulatory flexibility analysis, do not apply since this order is not within the definition of a rule as defined in 5 U.S.C. 601(2).

List of Subjects in 8 CFR Part 103

Authority delegation (Government Agencies), Organization and functions (Government Agencies).

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended to read as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS: AVAILABILITY OF SERVICE RECORDS

1. Section 103.1 is amended by revising paragraph (q) to read as follows:

§ 103.1 Delegations of Authority.

* * * * *

(q) *Immigration Officer.* Any immigration inspector, immigration examiner, border patrol agent, aircraft pilot, airplane pilot, helicopter pilot, deportation officer, detention officer, detention guard, investigator, general attorney, paralegal specialist, applications adjudicator, contact representative, or supervisory officer of such employees is hereby designated as an immigration officer authorized to exercise the powers and duties of such officer as specified by the Act and this chapter.

* * * * *

(Sec. 103 of the INA; 8 U.S.C. 1103)

Dated: July 14, 1983.

Gerald R. Riso,

Deputy Commissioner, Immigration and Naturalization Service.

[FR Doc. 83-19659 Filed 7-20-83; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

Partial Regionalization of the Operator Licensing Function To Include Region I

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations relating to operator licenses to provide information concerning the further implementation of NRC's regional licensing program. This amendment states that authority and responsibility for the issuance of licenses for operators and senior operators of licensed nuclear reactors located in Region I has been assigned and delegated to the Regional Administrator of Region I. This amendment is necessary to inform licensees, operators, applicants, and the public of current NRC organization and practice.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Don H. Beckham, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone (301) 492-4868.

SUPPLEMENTARY INFORMATION: In further implementation of its regionalization program, the Commission has delegated to the Regional Administrator of Region I authority and responsibility pursuant to the regulations in 10 CFR Part 55 to issue and renew licenses for operators and senior operators of nuclear reactors licensed under 10 CFR Part 50 and located in this region.

The general delegation of authority for the Regional Administrators is described in NRC Manual Chapter 0128. Pursuant to that general delegation of authority, the Executive Director for Operations and the Director of Nuclear Reactor Regulation on November 22, 1982, assigned and delegated to the Regional Administrators for Regions II and III the responsibility under 10 CFR Part 55 for licensing operators of nuclear reactors licensed under 10 CFR Part 50 and located in Regions II and III. Now, this same responsibility has been assigned to the Regional Administrator for Region I. A copy of the delegation of authority has been placed in the Commission's public document room at 1717 H Street, NW., Washington, D.C., and at the Region I Office, 631 Park Avenue, King of Prussia, Pennsylvania 19406, where it is available for inspection and copying by the public. Assignment of this authority and responsibility to the Regional Administrators for Regions II and III was reflected in a final rule published December 22, 1982 (47 FR 56984).

The revised regulations are intended to inform licensees and the public of current NRC practices and organization.

Since the amendments to Part 55 are nonsubstantive and relate to matters of Agency organization and procedure, the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and good cause exists for making the amendments effective upon publication without the customary 30-day waiting period.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval numbers 3150-0018 and 3150-0024.

List of Subjects in 10 CFR Part 55

Manpower training programs, Nuclear power plants and reactors, Penalty, Reporting requirements.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Part 55 are published as a document subject to codification.

PART 55—OPERATORS' LICENSES

1. The authority citation for Part 55 continues to read as follows:

Authority: Secs. 107, 161, 68 Stat. 939, 948, as amended (42 U.S.C. 2137, 2201); secs. 201, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 55.40 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 55.3 and 55.31(a)-(d) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and § 55.41 is issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C . 2201(o)).

2. In § 55.5, a new paragraph (b)(2) is added; paragraphs (b)(2) and (b)(3) are redesignated (b)(3) and (b)(4), respectively; and paragraph (b)(1) is revised to read as follows:

§ 55.5 Communications.

* * * * *

(b)(1) The Commission has delegated to the Regional Administrators of Regions I, II, and III authority and responsibility pursuant to the regulations in this part for the issuance and renewal of licenses for operators and senior operators of nuclear reactors licensed under 10 CFR Part 50 and located in the regions.

(2) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region I and any inquiry, communication, information, or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region I must be submitted by mail or in person to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 631 Park Avenue, King of Prussia, Pennsylvania 19406. The Regional

Administrator of Region I or his designee will transmit to the Director of Nuclear Reactor Regulation any matter that is not within the scope of the Regional Administrator's delegated authority.

* * * * *

Dated at Bethesda, Maryland, this 1st day of July 1983.

Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-19711 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 9008

[Notice 1983-20]

Presidential Election Campaign Fund, Federal Financing of Presidential Nominating Conventions

AGENCY: Federal Election Commission.

ACTION: Final rule; technical amendments.

SUMMARY: The Commission is publishing today technical amendments to its regulations at 11 CFR Part 9008 which govern public financing of Presidential Nominating Conventions. These amendments are intended to bring the regulations into conformance with the 1979 Amendments to the Federal Election Campaign Act of 1971 (Pub. L. 96-187). 11 CFR Part 9008 has also been amended to change the terminology defining the metropolitan area in which the convention city is located in accordance with new standards established by the Office of Management and Budget.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW, Washington, D.C. 20463, (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act Amendments of 1979, Pub. L. 96-187, 93 Stat. 1339 (1980), amended 26 U.S.C. 9008(b)(1) by increasing the amount of convention financing available to major and minor political parties from $2 million to $3 million. These amendments also changed the recordkeeping requirements under 2 U.S.C. 432(c)(5) by raising the threshold for documentation of expenditures to $200 and reducing the documentation requirements for expenditures to a payee which individually are less than, but which in the aggregate total in excess of the threshold amount.

The technical amendments published in this notice revise 11 CFR 9008.1(a)(1) to increase the entitlement amount to $3,000,000 in accordance with 26 U.S.C. 9008(b)(1). Also, 11 CFR 9008.8(b)(4)(v)(A) has been amended to include the revised recordkeeping requirements of 2 U.S.C. 432(c)(5).

Further technical amendments have been made to incorporate the new terminology defining metropolitan areas recently adopted by the Office of Management and Budget. 45 FR 956 (1/3/80). Since the general term used to refer to metropolitan areas, "Standard Metropolitan Statistical Area" or "SMSA" is no longer used, it has been replaced by the new generic term "Metropolitan Statistical Area" ("MSA") in 11 CFR 9008.7(c)(2)(iv) and 9008.7(d)(2)(iv). Thus, § 9008.7(c)(2)(iv) now provides that a business located within the same Metropolitan Statistical Area as the convention city is considered a local business which may sell or provide samples and promotional materials to those attending the convention pursuant to 11 CFR 9008.7(c)(2)(i). Similarly, businesses, municipal corporations, government agencies and labor organizations within the Metropolitan Statistical Area of the convention city are considered local under 11 CFR 9008.7(d)(2)(iv) and under 11 CFR 9008.7(d)(2)(i), may make contributions and expenditures to promote the convention city and its commerce.

Because these amendments are technical, they are not substantive rules requiring notice and comment under the Administrative Procedure Act, 5 U.S.C. 553, or legislative review under 26 U.S.C. § 9009(c). These amendments are, therefore, made effective July 21, 1983.

List of Subjects in 11 CFR Part 9008

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

PART 9008—FEDERAL FINANCING OF PRESIDENTIAL NOMINATING CONVENTIONS

1. 11 CFR 9008.1(a) is revised to read as follows:

§ 9008.1 Scope.

(a) This part interprets 2 U.S.C. 437 and 26 U.S.C. 9008. Under 26 U.S.C. 9008(b), the national committees of both major and minor parties are entitled to public funds to defray expenses incurred with respect to a Presidential Nominating Convention. Under 26 U.S.C. 9008(d), expenditures with regard to such a convention by a national committee receiving public funds are limited to $3,000,000, as adjusted by the Consumer Price Index. New parties are not entitled to receive any public funds to defray convention expenses.

* * * * *

2. 11 CFR 9008.7 is amended by revising paragraphs (c)(2)(iv) and (d)(2)(iv) to read as follows:

§ 9008.7 Limitation on expenditures.

* * * * *

(c) * * *

(2) * * *

(iv) For purposes of 11 CFR 9008.7(c)(2), any business within the Metropolitan Statistical Area (MSA) of the convention city shall be considered a local business. There shall be a rebuttable presumption that any business located outside the MSA is not a local business. This presumption may be rebutted by a showing that the volume of business in an area outside the NSA would be directly affected by the presence of the convention.

* * * * *

(d) * * *

(2) * * *

(iv) For purposes of 11 CFR 9008.7(d)(2), any business, municipal corporation, agency or labor organization within the Metropolitan Statistical Area (MSA) of the convention city shall be considered local. There shall be a rebuttable presumption that any such entity located outside the MSA is not local. This presumption may be rebutted by a showing that the volume of business in an area lying outside the MSA would be directly affected by the presence of the convention.

* * * * *

3. 11 CFR 9008.8(b)(4)(v)(A) introductory text is revised to read as follows:

§ 9008.8 Payment and certification procedures.

* * * * *

(b) * * *

(4) * * *

(v) * * *

(A) For expenditures exceeding $200, either:

* * * * *

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

I certify that the attached final rule will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that no committee subject to the requirements of these rules is a small entity.

(26 U.S.C. 9008)

Dated: July 18, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-19795 Filed 7-20-83; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-54-AD; Amdt. 39-4687]

Airworthiness Directives; Canadair Model CL-600 and CL-601 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to all Canadair CL-600 and CL-601 airplanes which requires a repetitive visual inspection of the outboard wing flap vane support rods, support fittings, and flap vane lower skins for cracks. Several instances of cracked or broken support rods have been reported. If this situation is allowed to go uncorrected, it could result in the loss of the support fittings. If the support fittings fail, the vane will depart from the airplane.

EFFECTIVE DATE: July 28, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A Montreal, PQ H3C 3G9, Canada, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Several instances of cracked or broken vane support rods have recently been reported on the outboard wing flap of the CL-600 airplane. If a rod is broken, it is possible that vibrations will eventually induce cracks in the vane support fittings. If the support fittings fail, the vane could depart from the aircraft. If this should occur at low altitude, the airplane could be lost. Canadair Service Bulletins A600-0326 R3 and A601-0004 prescribe repetitive visual inspections of the vane support rods, support fittings, and vane lower skins for cracks or damage at intervals of ten hours time in service on all Canadair CL-600 and CL-601 airplanes. Terminating action for the inspections is not provided by the current revisions of the service bulletins. The FAA has determined that an AD requiring the previously mentioned inspections are necessary at this time. The AD will be amended to reflect terminating action when it becomes available. The Canadian Ministry of Transport has issued an AD requiring the inspections.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Canadair: Applies to all Canadair Model CL-600-1A11 (CL-600) and CL-600-1A12 (CL-601) airplanes certificated in all categories. Compliance is required as indicated. To prevent failure of the outboard flap vane support structure, accomplish the following within ten days after the effective date of this AD unless already accomplished:

A. Perform a visual inspection of the inboard and outboard flap vane support rods, support fittings and vane lower skins in accordance with Canadair Alert Service Bulletins A600-0326, Revision 3, dated April 28, 1983, on CL-600 airplanes and A601-0004 dated May 2, 1983, on CL-601 airplanes. Replace cracked or damaged parts prior to further flight.

B. Repeat the inspections of paragraph A. at intervals not to exceed 10 hours time in service.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD. This amendment becomes effective July 28, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on July 8, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-19317 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-CE-60-AD; Amdt. No. 39-4692]

Airworthiness Directives; Empresa Brasileria de Aeronautica S.A. (EMBRAER) Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain EMBRAER Model EMB-110P1 and EMB-110P2 airplanes which requires initial and repetitive visual inspections of the fuselage structure near the horizontal stabilizer front attachment fitting for loose rivets and cracks, and if necessary, repair. Cracks and loose rivets have been reported in this area which, if undetected, could result in loss of the horizontal stabilizer and airplane control. The actions required by this AD will assure the structural integrity of the airplane in this area.

DATES: *Effective date:* July 27, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin (SB) 110-53-019 dated March 29, 1983, applicable to this AD may be obtained from Empresa Brasileria de Aeronautica S.A. (EMBRAER), P.O. Box 343-CEP, 12.200, Sao Jose Dos Campos, Sao Paulo, Brazil. A copy of the service bulletin is also contained in the Rules Docket, Federal Aviation Administration, Room

1558, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, ACE-120A, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been reports of loose rivets in the fuselage structure near the horizontal stabilizer front attachment fitting and cracks in the web of bulkhead 33 on EMBRAER Model EMB-110P1 and EMB-110P2 airplanes. This may cause degradation of structural integrity of the bulkhead 33 and the horizontal stabilizer front fitting attachments which could result in loss of the horizontal stabilizer and control of the airplane. As a result, Empresa Brasileria de Aeronautica S.A. (EMBRAER) has issued Service Bulletin No. 110-53-019, dated March 29, 1983, which provides for initial and repetitive visual inspections for loose rivets in the fuselage structure near the horizontal stabilizer front attachment fitting and cracks in the web of bulkhead 33, and if necessary, modification of the structure in accordance with the Service Bulletin. Initial visual inspection is required within 50 hours time-in-service from the effective date of this AD and every 125 and/or 500 hours time-in-service thereafter, depending upon the findings of the inspection and the extent of the modification as indicated in the AD, until all modifications have been incorporated. The Centro Technico Aeroespacial (CTA), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Brazil, has issued CTA AD 83-03-03, which makes compliance with the Service Bulletin mandatory. On airplanes operated under Brazilian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of CTA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of EMBRAER Service Bulletin No. 110-53-019, dated March 29, 1983, and the CTA AD 83-03-03, dated March 29, 1983.

Based on the foregoing, the FAA has determined that the condition addressed by EMBRAER Service Bulletin No. 110-53-019, dated March 29, 1983, is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring initial and repetitive visual inspections for loose rivets in the fuselage structure near the horizontal stabilizer front attachment fitting and cracks in the web of bulkhead 33 and, if necessary, modification of the structure on certain EMBRAER Model EMB-110P1 and EMB-110P2 airplanes in accordance with the procedures set forth in EMBRAER Service Bulletin No. 110-53-019, dated March 29, 1983. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

EMBRAER: Applies to Models EMB-110P1 and EMB-110P2 (S/N 110001 through 110386, 110388 through 110397, 110399 through 110401, 110404 through 110408, 110410 through 110412, 110414, 110415 and 110421) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. To preclude structural failure of the horizontal stabilizer front attachment and fuselage bulkhead 33, accomplish the following:

(a) Within the next 50 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 500 hours time in-service, except as provided in paragraph (b) of this AD, visually inspect:

(1) The rivets (MS20470AD4) that attach the "C" channels (P/N 4A-1419-05/06/07/08) to the upper and lower flanges of the "U" shaped machined parts (P/N 4A-1411-07-16/17) for looseness (See Figure 2, EMBRAER Service Bulletin (SB) No. 110-53-019, hereinafter referred to as the SB).

(2) The rivets (MS20470AD3) that attach the fuselage skin to the "C" channels described in paragraph (a)(1) above and the two lower adjacent channels for looseness (See Figure 3, of the SB).

(3) The web or flange areas of bulkhead 33 adjacent to the horizontal stabilizer front fittings, at each side of the fuselage for cracks (See Figure 2, Section C-C, of the SB).

(b) If loose rivets are found during any inspection required by paragraph (a)(1), above, in either the upper or lower "C" channel attachments, repeat the inspections in paragraph (a) of the AD at intervals not to exceed 125 hours time-in-service until not more than 500 hours time-in-service is accumulated, at which time replace all five rivets (MS20470AD4) in the flange having the loose rivets with Hi-Lock rivets HL-22-77-5-4 or AN3-5A bolts. If loose rivets are found during any inspection required by paragraph (a)(2), above, in both the upper and lower "C" channels, prior to further flight replace the rivets. The detailed rivet replacement is shown in Figure 3 of the SB. Accomplish the repetitive inspections of those flanges in which rivets have been replaced at intervals not to exceed 500 hours time-in-service until the "C" channel attachments are reinforced in accordance with the procedures show in Figure 4 of the SB.

(c) If cracks are found during any inspection required by paragraph (a)(3) of this AD, accomplish the following:

(1) If cracks are less than 3 inches, repeat the repetitive visual inspections at intervals not to exceed 125 hours time-in-service until not more than 1000 hours time-in-service is accumulated, at which time repair bulkhead 33 in accordance with Figure 5 of the SB, reinforce the "C" channel attachments, and replace the rivets of the horizontal stabilizer front attachment structure in accordance with Figure 4 of the SB if not previously accomplished. If possible, stop drill the crack ends.

(2) If cracks are 3 inches or longer, prior to further flight, repair bulkhead 33 web in accordance with Figure 5 of the SB, reinforce the "C" channel attachments, and replace the rivets of the horizontal stabilizer front attachment structure in accordance with Figure 4 of the SB.

(3) If the horizontal stabilizer forward attachment fitting (P/N 110-1411-07-29) rides on the corner of the reinforcing plate (P/N 4A-1419-07-09), remove excess material from the upper inboard corner of the reinforcing plate (P/N 4A-1419-09), to provide for a proper fit.

(d) If no cracks are found in the bulkhead 33 web during any inspection required by paragraph (a)(3) of this AD, the repetitive inspections of that paragraph are no longer required when the "C" channel attachments are reinforced and the rivets of the horizontal stabilizer front attachment are replaced in accordance with the procedures shown on Figure 4 of the SB.

(e) The repetitive inspections required by paragraphs (b) and (c) of this AD are no longer required when the bulkhead 33 web is repaired in accordance with Figure 5 of the SB and the "C" channel attachments are reinforced and the horizontal stabilizer front attachment rivets are replaced in accordance with Figure 4 of the SB.

(f) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(g) Aircraft may be flown in accordance with FAR 21.197 to a location where this (AD) can be accomplished.

(h) An equivalent method of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification

Office, ACE-115A, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7428.

This amendment becomes effective July 27, 1983.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449 January 12, 1983); § 11.89, Federal Aviation Regulations (14 CFR Sec. 11.89)

Note. The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It had been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" the location identified.

Issued in Kansas City, Missouri on July 12, 1983.

Murray E. Smith,

Director.

[FR Doc. 83-19499 filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-47-AD; Amendment 39-4691]

Airworthiness Directives; Piper Model PA-38-112 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Model PA-38-112 airplanes which requires the installation of two additional stall strips to the wing leading edge. The manufacturer has incorporated these stall strips on some production airplanes and made them available for field installation. This has resulted in variations in the stall characteristics between the differently configured Piper Model PA-38-112 airplanes in service and increases the possibility that inexperienced pilots may lose control of the airplane. Incorporating the additional stall strips on airplanes not so equipped, together with corresponding changes in the airspeed indicator and Pilot's Operating Handbook, will establish fleet uniformity in stall characteristics.

DATES: *Effective date:* August 26, 1983.

Compliance: As prescribed in body of the AD.

ADDRESSES: Piper Service Letter No. 876 dated April 12, 1979, applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: N. Glenn, Flight Test Section, ANE-176, New York Aircraft Certification Office, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-7144.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the installation of two additional stall strips to the wing leading edge on certain Piper Model PA-38-112 airplanes was published in the **Federal Register** on April 11, 1983 (48 FR 15479, 15480). The proposal resulted from two configurations of Piper Model PA-38-112 airplanes in service having different stall characteristics. Inexperienced pilots trained in airplanes with four stall strips may not be prepared to handle the differences in stall characteristics of airplanes with two stall strips. The FAA believes this variation in stall characteristics may result in a hazardous situation for such pilots which could result in loss of airplane control.

Interested persons have been afforded an opportunity to comment on the proposal.

Two comments were received in response to the NPRM, one of which concurred with the proposed rule. The second commenter did not agree with the proposed rule on the basis that it is not required to correct an unsafe condition. This commenter stated that information obtained from flight school instructors using these airplanes for instruction indicated that the only noticeable difference in handling characteristics between the two configurations was during spin entry. Airplanes with two stall strips dropped a wing more abruptly, but in their opinion the aircraft response was neither dangerous nor dramatic. While the FAA does not totally disagree with this commenter, the conclusion that there is a difference in airplane handling characteristics between the two configurations confirms that there is a need to standardize these characteristics on all airplanes in the fleet to preclude a latent hazardous condition.

The costs that are associated with this AD are estimated to be $315 for each of 1,405 airplanes now in service. The total is estimated at $505,000. For these reasons, the rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule without change.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Piper: Applies to Model PA-38-112 airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To standardize and improve the stall characteristics, accomplish the following:

(a) Install Piper Flow Strip Installation Kit, Part No. 763-930.

(b) Replace the airspeed indicator with Piper Part No. 61906-02 or 61905-02, or alter the original airspeed indicator markings to read as follows:

(1) Red radial 138 knots.

(2) Yellow arc from 110 to 138 knots.

(3) Green arc from 52 to 110 knots.

(4) White arc from 49 to 89 knots.

If the instrument is remarked, it must be accomplished by a certificated and appropriately rated instrument repair station.

(c) Insert Piper Part No. 761-658, Revision 3, dated December 18, 1978, containing performance information applicable to airplanes with Kit P/N 763-963 installed in the Pilot's Operating Handbook.

(d) Airplanes may be flown in accordance with FAR 91.197 to a location where this AD may be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, FAA, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581.

Piper Service Letter No. 876 dated April 12, 1979, covers the subject matter of this AD.

This amendment becomes effective on August 26, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); § 11.89 Federal Aviation Regulations (14 CFR 11.89)

Note.—For the reasons discussed earlier in this rulemaking action, the FAA has

determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few small entities.

A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the Rules Docket under the caption "ADDRESSES".

Issued in Kansas City, Missouri, on July 12, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-19495 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 83-ACE-07]

Designation of Transition Area; Stockton, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Stockton, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Stockton, Missouri, Airport utilizing the Springfield VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Stockton, Missouri, Airport utilizing the Springfield VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Stockton, Missouri, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 19740 and 19741 of the **Federal Register** dated May 2, 1983, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Stockton, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT September 29, 1983, by designating the following transition area:

Stockton, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Stockton Airport (Latitude 37°39'37" N; Longitude 93°49'00" W) and within 3 miles either side of the Springfield, Missouri VORTAC 308° radial extending from the center of the 5-mile radius area to 5.5 miles southeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and § 11.69, Federal Aviation Regulations (14 CFR 11.69))

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

Issued in Kansas City, Missouri, on June 29, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-19501 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ANM-22]

Alteration of Transition Area; Lewistown, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This action provides for alteration of the 1200-foot transition area at Lewistown, Montana, to provide additional controlled airspace for the 10-mile DME arc northwest to the VOR Runway 7 approach. This additional controlled airspace will also accommodate fuel conserving routes between Havre and Lewistown, Montana; and reduce pilot/controller workload.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace Technician, ANM-535, Airspace & Procedures Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone (206) 431-2535.

SUPPLEMENTARY INFORMATION:

History

On March 7, 1983, a Notice of Proposed Rulemaking was published in the **Federal Register** (48 FR 9532) stating that the Federal Aviation Administration proposed to alter the transition area at Lewistown, Montana. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received objecting to the proposal.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the 1200-foot transition area at Lewistown, Montana. This action accommodates fuel conserving routes between Havre and Lewistown, Montana, and reduces pilot/controller workload.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, §71.181 of Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.M.T., September 29, 1983, as follows:

Lewistown, Montana

Delete all words following " * * * "10.5 miles west of the VORTAC;" and insert " * * * that airspace extending upwards from 1200 feet above the surface within 15 miles north and 9.5 miles south of the Lewistown VORTAC 288° radial extending via the 18.5 miles radius west of the VORTAC, and within 5 miles north and 8 miles south of the Lewistown VORTAC 109° radial, extending from the VORTAC to 7 miles east of the VORTAC."

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C 1655(c); § 11.65, Federal Aviation Regulations (14 CFR 11.65))

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

Issued in Seattle, Washington on July 18, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-19496 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23700; Amdt. No. 1247]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilties, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The larger number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures,

effective at 0901 Gmt on the dates specified, as follows:

1. By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPS identified as follows:

** * * Effective September 29, 1983*

Kamuela, HI—Waimea-Kohala, VOR-A, Amdt. 8
Kamuela, HI—Waimea-Kohala, VOR Rwy 4, Amdt. 10
Fergus Falls, MN—Fergus Falls Muni-Einar Mickelson Fld, VOR Rwy 17, Amdt. 3
Fergus Falls, MN—Fergus Falls Muni-Einar Mickelson Fld, VOR Rwy 35, Amdt. 6
Fergus Falls, MN—Fergus Falls Muni-Einar Mickelson Fld, VOR/DME Rwy 31, Amdt. 1

** * * Effective September 1, 1983*

Hawthorne, CA—Hawthorne Muni, VOR Rwy 7, Amdt. 13, Cancelled
Greencastle, IN—Putnam County, VOR/DME-A, Amdt. 3
Kennett, MO—Kennett Memorial, VOR Rwy 35, Amdt. 2
Chadron, NE—Chadron Muni, VOR-A, Amdt. 9
Saratoga Springs, NY—Saratoga County, VOR-A, Amdt. 3
Southern Pines, NC—Moore County, VOR-A, Amdt. 13
Washington, PA—Washington County, VOR-B, Amdt. 4
Charleston, SC—Charleston AFB/INTL, VOR/DME or TACAN Rwy 21, Amdt. 10
San Antonio, TX—San Antonio INTL, VOR-A, Amdt. 3
Wheeling, WV—Wheeling Ohio Co, VOR Rwy 21, Amdt. 9

** * * Effective August 4, 1983*

Hyannis, MA—Barnstable Muni-Boardman/Polando Field, VOR Rwy 6, Amdt. 3
Hyannis, MA—Barnstable Muni-Boardman/Polando Field, VOR Rwy 24, Amdt. 8
Tulsa, OK—Richard Lloyd Jones Jr. VOR Rwy 36L, Amdt. 1

** * * Effective July 11, 1983*

Coatesville, PA—Chester County, G. O. Carlson, VOR Rwy 29, Amdt. 5
Downingtown, PA—Bob Shannon Memorial Field, VOR-A, Amdt. 2

** * * Effective July 2, 1983*

Kaunakakai, Molokai, HI—Molokai, VOR or TACAN-A, Amdt. 8

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPS identified as follows:

** * * Effective September 1, 1983*

Denver, CO—Stapleton INTL, LDA/DME Rwy 35R, Amdt. Orig., Cancelled
Marquette, MI—Marquette County, LOC BC Rwy 28, Amdt. 6
Southern Pines, NC—Moore County, LOC Rwy. 5, Amdt. 2
Ashland, VA—Hanover County Muni, SDF Rwy 16, Amdt. Orig.

** * * Effective August 4, 1983*

Butte, MT—Bert Mooney, LOC/DME Rwy 15, Amdt. 3

3. By amending § 97.27 NDB and NDB/DME SIAPS identified as follows:

** * * Effective September 29, 1983*

Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, NDB Rwy 17R, Amdt. 4
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, NDB Rwy 35L, Amdt. 4
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, NDB Rwy 36L, Amdt. Orig.

** * * Effective September 1, 1983*

Chicago, IL—Chicago-O'Hare INTL, NDB Rwy 4L, Amdt. 13, Cancelled
Marquette, MI—Marquette County, NDB Rwy 26, Amdt. 1, Cancelled
Chadron, NE—Chadron Muni, NDB Rwy 20, Amdt. 9
Chadron, NE—Chadron Muni, NDB Rwy 2, Amdt. Orig.
Marion, OH—Marion Muni, NDB Rwy 12, Amdt. Orig.
Marion, OH—Marion Muni, NDB Rwy 12, Amdt. 7, Cancelled
Shawnee, OK—Shawnee Muni, NDB Rwy 17, Amdt. 3
Weatherford, OK—Thomas P. Stafford, NDB Rwy 17, Amdt. Orig.
Kirbyville, TX—Kirbyville, NDB Rwy 13, Amdt. 1
San Antonio, TX—San Antonio INTL, NDB Rwy 3, Amdt. 35
San Antonio, TX—San Antonio INTL, NDB Rwy 12R, Amdt. 19
San Antonio, TX—San Antonio INTL, NDB Rwy 30L, Amdt. 8

** * * Effective August 4, 1983*

Hyannis, MA—Barnstable Muni-Boardman/Polando Field, NDB Rwy 24, Amdt. 7
North Platte, NE—Lee Bird Field, NDB Rwy 30L, Amdt. 6
North Platte, NE—Lee Bird Field, NDB Rwy 30R, Amdt. Orig.
North Platte, NE—Lee Bird Field, NDB Rwy 35, Amdt. 7, Cancelled

** * * Effective June 29, 1983*

Wahpeton, ND—Breckenridge-Wahpeton Interstate, NDB Rwy 33, Amdt. 1

4. By amending § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPS identified as follows:

** * * Effective September 29, 1983*

Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 17L, Amdt. Orig.
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 17R, Amdt. 10
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 18L, Amdt. 11
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 18R, Amdt. Orig.
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 31R, Amdt. 4
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 35L, Amdt. 10
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 35R, Amdt. Orig.
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 36R, Amdt. 10
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 36L, Amdt. Orig.

** * * Effective September 1, 1983*

New York, NY—John F. Kennedy INTL, ILS Rwy 31L, Amdt. 5
New York, NY—John F. Kennedy INTL, ILS Rwy 31R, Amdt. 10
Erie, PA—Erie INTL, ILS Rwy 6, Amdt. 14
Pittsburgh, PA—Greater Pittsburgh INTL, ILS Rwy 10L, Amdt. 21
Pittsburgh, PA—Greater Pittsburgh INTL, ILS Rwy 10R, Amdt. 2.
Pittsburgh, PA—Greater Pittsburgh INTL, ILS Rwy 28L, Amdt. 2.
Pittsburgh, PA—Greater Pittsburgh INTL, ILS Rwy 28R, Amdt. 3.
Pittsburgh, PA—Greater Pittsburgh INTL, ILS Rwy 32, Amdt. 6.
San Antonio, TX—San Antonio INTL, ILS Rwy 3, Amdt. 12
San Antonio, TX—San Antonio INTL, ILS Rwy 12R, Amdt. 9
San Antonio, TX—San Antonio INTL, ILS Rwy 30L, Amdt. 6
Wheeling, WV—Wheeling Ohio Co, ILS Rwy 3, Amdt. 16

** * * Effective August 4, 1983*

Hyannis, MA—Barnstable Muni-Boardman/Polando Field, ILS Rwy 24, Amdt. 14
Butte, MT—Bert Mooney, ILS Rwy 15, Amdt. 1
North Platte, NE—Lee Bird Field, ILS Rwy 30R, Amdt. 2
North Kingstown—Quonset State, ILS Rwy 16, Amdt. Orig.

5. By amending § 97.31 RADAR SIAPS identified as follows:

** * * Effective September 1, 1983*

Tulsa, OK—Richard Lloyd Jones Jr., RADAR-1, Amdt. Orig., Cancelled
Pittsburgh, PA—Greater Pittsburgh INTL, RADAR-1, Amdt. 23
San Antonio, TX—San Antonio INTL, RADAR-1, Amdt. 22

6. By amending § 97.33 RNAV SIAPS identified as follows:

** * * Effective September 1, 1983*

Marquette, MT—Marquette County, RNAV Rwy 26, Amdt. Orig., Cancelled
Southern Pines, NC—Moore County, RNAV Rwy 23, Amdt. 7
Shawnee, OK—Shawnee Muni, RNAV Rwy 17, Amdt. Orig
San Antonio, TX—San Antonio INTL, RNAV Rwy 30L, Amdt. 7

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

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

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on July 15, 1983.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 83-19619 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9146]

Xidex Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Mountain View, Ca. manufacturer of diazo and vesicular duplicate microfilm, among other things, to timely divest to a Commission-approved buyer, the vesicular duplicate microfilm technology and know-how it acquired from Kalvar Corp. or Anacomp, Inc. Under the divestiture, Xidex is required to make available to the purchaser its customer lists; a royalty-free license for its diazo duplicate microfilm technology and know-how; and 12 months of technological training with periodic consultations thereafter. Xidex is also required to license its proprietarily developed vesicular microfilm technology to all interested parties; train them in the use of such technology for a period of 1 year; and make available to them and the acquirer of the Kalvar technology, 10,000,000 square feet of its vesicular duplicate microfilm for private label sales. Additionally, Xidex has to sell such parties a major ingredient necessary to the manufacture of its vesicular microfilm, which is not commercially available.

DATES: Complaint issued Sept. 16, 1980. Decision and Order issued July 1, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-2, George S. Cary, Washington, D.C. 20580. (202) 254-8577.

SUPPLEMENTARY INFORMATION: On Monday, Jan. 3, 1983, there was published in the **Federal Register**, 48 FR 32, *correction*, 48 FR 1200 (Tuesday, Jan. 11, 1983), a proposed consent agreement with analysis In the Matter of Xidex Corporation, a corporation, 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 order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; § 13.5–20 Federal Trade Commission Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–43 Grant license(s); § 13.533–51 Making supply of product(s) available to competitors; 13.533–60 Release of general, specific, or contractual constrictions, requirements or restraints.

List of Subjects in 16 CFR Part 13

Microfilm, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec.7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Emily H. Rock,

Secretary.

Separate Statement of Chairman James C. Miller III

Xidex Corporation, Docket No. 9146

I write separately in this matter to reiterate that the Commission's action in accepting this consent agreement should not be misconstrued or mischaracterized as the uncritical adoption of mandatory licensing as a remedy in merger cases and to note my concern about the possible chilling effects of this remedy on innovation. Despite my vote to accept the consent agreement, I remain troubled that the Commission's action will decrease incentives to innovate in the private sector and thus I would be hesitant to apply similar remedies in other matters that do not offer the highly unusual set of circumstances present here.

In this case, the need for mandatory licensing arose because of the competitive distortions resulting from the unlawful acquisitions by Xidex. As the Commission noted in its Analysis of Proposed Consent in Order to Aid Public Comment, the purpose of this order is to encourage and facilitate new entry into the duplicate microfilm marketplace, with the hope that "this new entry will result in a more competitive market structure in less time than would be required to achieve such relief through continued litigation and eventual divestiture of the assets alleged to have been acquired unlawfully."

The Analysis emphasized that, by provisionally accepting this agreement, the Commission did not intend "to establish a general principle that compulsory licensing is an appropriate remedy in every merger case, or even in every merger case where technology innovations are important to the industry." The Commission indicated its belief, however, that compulsory licensing was appropriate in this case because of the circumstances described in the Analysis, including the market share of Xidex, its elimination of Kalvar as a technological rival, and the impracticability of obtaining an effective divestiture remedy. These principles need to be reiterated as the Commission gives final approval to the consent agreement.

In addition to the limited circumstances in which mandatory licensing represents an appropriate remedy, the highly regulatory nature of this relief raises a number of concerns, of which the possible "chilling" effects on innovation are perhaps most troubling. I am convinced that one of the most important, and most often overlooked, costs of government regulation is the effect it has on innovation and, thus, on productivity. In this case, the mandatory licensing of not only existing technology but also technology developed in the future may deter Xidex from engaging in the full measure of innovation-producing activities it would have undertaken in the absence of the order. In addition, the expropriation of property rights in innovations represented by the mandatory licensing provision may send signals to others in the private sector, with the result of reducing innovation.

The Commission's Analysis of the proposed order in this case correctly stresses that the mandatory licensing provision is necessary only because Xidex allegedly violated the antitrust laws. It is intended to assure law-abiding companies that they have no fear of such expropriation. On the other hand, it is not always clear whether a contemplated acquisition or practice will be deemed to violate the antitrust laws. Thus, if the possibility of being required to engage in mandatory licensing begins to pose a significant threat to property rights in innovation, firms will discount these property rights by the probability of successful antitrust actions and imposition of such a remedy. At least at the margin, firms will begin to revise their asset portfolios and the net result will be that firms will channel fewer resources toward innovative activities. The costs of such decreased innovation may be sufficiently large to offset any competitive benefits resulting from the mandatory licensing.

I am disappointed that the public comments received in this proceeding failed to address these significant questions of the order's effects on innovation. In the absence of any indication from the public comments that such effects are likely to occur as a result of this order, I have voted for final approval of the consent agreement.

As we observe the business community's response to this order, we should gain additional insights regarding the effects of mandatory licensing on innovation. I look

[1] Copies of the Complaint and the Decision and Order filed with the original document.

forward to such information and to the opportunity to expand and refine our analyses of these important issues.

[FR Doc. 83-19791 Filed 7-20-83; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 35

[Docket No. RM81-38-001 et al.]

Construction Work in Progress for Public Utilities

Issued: July 15, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for purposes of further consideration and denying petitions for stay of final rule.

SUMMARY: The Commission grants rehearing for the limited purpose of further consideration of all applications for rehearing. The Commission denies all motions for stay of the effective date of Order No. 298 pending a final order on rehearing. Order No. 298 is a final rule which provides that any public utility engaged in the sale of electric power for resale may file to include in rate base: (1) Up to 50 percent of construction work in progress (CWIP), subject to a rate impact limitation in the first two years, and (2) all CWIP associated with pollution control and fuel conversion facilities.

FOR FURTHER INFORMATION CONTACT: Michael R. Postar, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION:

On May 16, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 298, a final rule (48 FR 24323, June 1, 1983), that establishes new regulations to govern the inclusion of construction work in progress (CWIP) in the rate base of public utilities. The new rule replaces present CWIP policy, codified in 18 CFR 2.16, with a new § 35.26 which provides that any public utility engaged in the sale of electric power for resale may file to include in rate base up to 50 percent of CWIP, subject to a rate impact limitation in the first two years, and all CWIP associated with pollution control and fuel conversion facilities. In addition, the rule amends the requirements of certain cost of service statements in section 35.13 in order to obtain information about construction programs pertinent to the utility's rate change filing. Under these new filing requirements, applications for inclusion of CWIP in rate base will enable the Commission to evaluate the prudence of the claimed costs, including the extent to which the investment is part of a least-cost power supply strategy, at an earlier stage in each rate proceeding.

I. Applications for Rehearing

Applications for rehearing of Order No. 298 were filed on June 15, 1983, by Montaup Electric Company; Alabama Electric Cooperative, Inc., Kansas Electric Power Cooperative, Inc., North Carolina Electric Membership Corporation, Oglethorpe Power Corporation, Old Dominion Electric Cooperative, Inc., Sam Rayburn G&T, Inc., and the South Mississippi Electric Power Association (Alabama Electric Cooperative *et al.*); Edison Electric Institute; New England Power Company; Public Systems; American Public Power Association; Consumer-Owned Power Systems; Municipal Electric Distribution Group; National Rural Electric Cooperative Association; American Paper Institute; Consumers Union of United States, Natural Resources Defense Council. Two untimely petitions for rehearing were filed by the Mountain Plains Congress of Senior Citizens Organization, *et al.* (June 16, 1983), and by the U.S. Small Business Administration, (June 22, 1983).

Petitioners seek to reargue many issues that were presented during the rulemaking and which the Commission carefully considered. However, the Commission requires additional time to complete its final consideration of many points raised on rehearing and, therefore, will not issue its final rehearing decision at this time. Nonetheless, with respect to the pendency of the Petitions to Stay the final rule, the Commission makes the following determinations.

II. Petitions for Stay

On June 15, 1983, Alabama Electric Cooperative *et al.*, Public Systems, Consumer-Owned Power Systems, and the National Rural Electric Cooperative Association ("petitioners") filed with the Commission Petitions for Stay of Order No. 298 pending rehearing. On June 16, 1983, the Mountain Plains Congress of Senior Citizens Organization, *et al.* also filed a Petition for Stay of Order No. 298. In the context of their request for a stay of the final rule in Docket No. RM81-38, the burden is upon petitioners for such extraordinary action to show that significant harm will be incurred and that the equities favor granting the stay. For the reasons set forth below, the Commission does not believe a stay is warranted.[1]

The final rule makes public utilities engaged in the sale of electric power for resale eligible to file to include up to 50 percent of CWIP in rate base subject to certain limitations. To obtain CWIP in rate base, a public utility must file an application with the Commission and provide the documentation prescribed in 18 CFR 35.13. In turn, the public utility's CWIP-related rate change application is subject to the same ratemaking proceedings and scrutiny as any other element of the cost of electric service. The rule does not therefore place CWIP in the rate base of any particular utility; this may be done only pursuant to a rate proceeding under the Federal Power Act, which is administered to protect the interests of all parties, including wholesale customers. In addition, the final rule limits the amount of CWIP which a utility can request in rate base during the first two years the rule is in effect. No CWIP-related increase may amount to more than 6 percent of existing rates annually. The Commission has concluded that few rate increases will, in fact, reach this ceiling. The average annual rate increase resulting from the rule will be 3.57%. The Commission finds that this rate increase limit, which was designed to shield customers from sudden rate increases, obviates the need to hold the operation of the rule in abeyance altogether.

In assessing whether there is potential harm from the continued effectiveness of the final rule, the petitioners have demonstrated a fundamental disagreement with the Commission's decision but have not presented any information that demonstrates injustice or the potential for harm, either of which might warrant a stay. Absent such a showing, the Commission will not take the unusual step of granting a stay of the final rule.

III. The Commission Orders

1. In order to have sufficient time to consider the rehearing applications, rehearing of Order No. 298 is granted

[1] Contrary to the Natural Rural Electric Cooperative Association's assertion, the standards for judicial stays in *Virginia Petroleum Jobbers Ass'n* v. *FPC*, 259 F. 2d 921, 925 (D.C. Cir. 1958) are not mandatory for the Commission in determining whether to stay a final rule. Under the Administrative Procedure Act, the Commission may grant a stay when "justice so requires." 5 U.S.C. 705. *See, e.g.*, Order Denying Petition for a Stay of Final Rule, Order No. 225-C, Docket Nos. RM78-22-000, and RM78-22-010, issued August 24, 1982, 20 FERC ¶ 61,200; Consolidated Gas Supply Corporation, Docket Nos. TA82-22-000 (PGA82-2, IPR82-2 and RD & D82-2) and RP82-64-000, issued April 6, 1983 23 FERC ¶ 61,018.

solely for purposes of further consideration. The requests for rehearing are not denied by operation of Rule 713(f), 18 CFR 385.713(f). This order does not constitute an action on the merits.

2. After reviewing the arguments made in the Petitions for Stay, the factors discussed above, and all the interests involved, a stay of the effectiveness of the final rule in Docket No. RM81-38, pending a decision on rehearing, is unwarranted at this time. Accordingly, the Petitions For Stay of Order No. 298 are hereby denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19653 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Amendment of Basin Regulations—Water Quality

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its June 29, 1983 business meeting the Delaware River Basin Commission amended its Comprehensive Plan and Basin Regulations relating to water quality standards; water supply policy; diversions; releases and reservoir management during drought; and water conservation policy.

The amendments are based upon recommendations in the Commission's Final Level B Study and a recent agreement by the Governors of the Commonwealth of Pennsylvania, the States of New York, New Jersey and Delaware, and the Mayor of New York City entitled *Interstate Water Management Recommendations of the Parties to the U.S. Supreme Court Decree of 1954 to the Delaware River Basin Commission Pursuant to Commission Resolution 78-20.*

The amendments are designed to apportion available water during shortages, assure that stream flow levels repel ocean water salt during droughts, institute conservation measures, and protect fisheries and recreational uses.

EFFECTIVE DATE: June 29, 1983.

ADDRESS: Copies of the Commission's Administrative Manual—Part III, *Basin Regulations—Water Quality* and *Water Code of the Delaware River Basin* are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission; Telephone (609) 883-9500.

SUPPLEMENTARY INFORMATION: The Commission held public hearings on these proposed amendments on May 25, 1983 in Philadelphia, Pennsylvania; on June 2, 1983 in West Trenton, New Jersey; and on June 3, 1983 in Port Jervis, New York. Notice of these hearings, including the text of the proposed amendments, appeared at 48 FR 19893 (May 3, 1983), and was widely distributed to public agencies, civic groups, interested individuals and water users in the Delaware Basin area of Pennsylvania, New York, New Jersey and Delaware. Oral and written comments presented during the hearings and through the close of the hearing record on June 15, 1983, as well as comments presented during and following public meetings held throughout the Basin in the summer of 1982, have been considered by the Commission.

List of Subjects in 18 CFR Part 410

Water pollution control

The Commission's Comprehensive Plan and Article 3 of *Basin Regulations—Water Quality*, 18 CFR Part 410, are amended as follows:

Subsection 3.30.3C.12 is amended to read as follows:

12. *Chlorides.* Maximum 30-day average concentration of 180 mg/l at R.M. 98.

Subsection 3.30.3C.14 is added to read as follows:

14. *Sodium.* Maximum 30-day average concentration of 100 mg/l at R.M. 98.

Subsection 3.30.4C.12 is removed.

The Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* are amended as follows:

A new Section 2.400 is added to read as follows:

2.400 *Design Streamflow Criteria*

2.400.1 *Water Supply.* The drought of record, which occurred in the period 1961-1967, shall be the basis for determination and planning of dependable Basin water supply.

2.400.2 *Salinity Control.* The drought of record, which occurred in the period 1961-1967, shall be the basis for planning and development of facilities and programs for control of salinity in the Delaware estuary.

2.400.3 *Waste-Assimilative Capacity.* Section 4.30.7.7 of *Basin Regulations—Water Quality* is incorporated by reference.

The Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* are amended by the addition of new Sections 2.5.3 and 2.5.4 to read as follows:

2.5.3 *Schedule of Phased Reductions in Diversions, Releases and Flow Objectives During Drought*

A. Criteria Defining Conditions

For purposes of water management pursuant to Section 3.3 and Article 10 of the Compact, diversions of water from the Delaware River Basin by the City of New York and State of New Jersey, compensating reservoir releases from the New York City Delaware Basin reservoirs, reservoir releases from Beltzville Reservoir, Blue Marsh Reservoir, and other reservoirs under the jurisdiction or control of the Commission, and streamflow objectives at the USGS gaging stations located at Montague, New Jersey, and Trenton, New Jersey, shall be governed by a schedule based upon a differentiation among "normal", "drought warning", and "drought" conditions defined by the combined storage in the Cannonsville, Pepacton and Neversink Reservoirs as set forth in Figure 1 entitled "Operation Curves for Cannonsville, Pepacton and Neversink Reservoirs". The division of the drought-warning zone into upper and lower halves shall be defined as a physically equal division, or 20 billions of gallons in each zone.

B. Schedule of Reductions

The schedules of phased reductions set forth in Tables 1 and 2 shall govern (1) the maximum allowable rates of diversion of waters from the Delaware River Basin by the City of New York and State of New Jersey; (2) the minimum compensating releases to be made by the City of New York from its reservoirs in the upper Delaware Basin; and the streamflow objectives at the USGS gaging stations located at Montague, New Jersey and Trenton, New Jersey.

During "drought" conditions as defined by Figure 1, the streamflow objectives at the Montague and Trenton gaging stations shall be established as set forth in Table 2, in accordance with the seven-day average location of the 250 mg/l isochlor (the "salt front") in the Delaware Estuary.

C. Diversion Allowances and Release Requirements

(1) The City of New York may divert waters from the Delaware River Basin at maximum rates equivalent to the quantities set forth in Table 1.

(2) The State of New Jersey may divert waters from the Delaware River Basin, from the Delaware River or its tributaries in New Jersey, at maximum rates equivalent to the quantities set forth in Table 1.

(3) The City of New York shall release water from one or more of its storage reservoirs in the upper Delaware Basin in quantities designed to maintain the minimum basic rates of flow at the USGS gaging station located at Montague, New Jersey, as set forth in Tables 1 and 2.

TABLE 1.—INTERSTATE OPERATION FORMULA FOR REDUCTIONS IN DIVERSIONS, RELEASES, AND FLOW OBJECTIVES DURING PERIODS OF DROUGHT

NYC storage condition	NYC Div. mgd	NJ Div. mgd	Montague flow objective cfs	Trenton flow objective cfs
Normal	800	100	1750	3000
Upper Half—Drought Warning	680	85	1655	2700
Lower Half—Drought Warning	560	70	1550	2700
Drought	520	65	[1] 1100-1650	[1] 2500-2900
Severe Drought (to be negotiated based on conditions)				

[1] Varies with time of year and location of salt front as shown on Table 2.

TABLE 2.—FLOW OBJECTIVES FOR SALINITY CONTROL DURING DROUGHT PERIODS

7-day average location of "Salt Front," River-mile [1]	Flow objective, cubic feet per second at					
	Montague, N.J.			Trenton, N.J.		
	Dec.-Apr.	May-Aug.	Sept.-Nov.	Dec.-Apr.	May-Aug.	Sept.-Nov.
Upstream of R.M. 92.5	1,600	1,650	1,650	2,700	2,900	2,900
Between R.M. 87.0 and R.M. 92.5	1,350	1,600	1,500	2,700	2,700	2,700
Between R.M. 82.9 and R.M. 87.0	1,350	1,600	1,500	2,500	2,500	2,500
Downstream of R.M. 82.9	1,100	1,100	1,100	2,500	2,500	2,500

[1] Measured in statute miles along the navigation channel from the mouth of Delaware Bay.

D. Computation of Diversions

(1) Diversions by the City of New York during "normal" conditions, as defined by Figure 1, shall be computed as provided in Section III.A.4 of the Amended Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954). At no time during a twelve-month period of the Water Year, commencing June 1, shall the aggregate total quantity diverted by the City of New York, divided by the number of days elapsed since the preceding May 31, exceed the maximum permitted rate of diversion.

(2) Diversions by the State of New Jersey during "normal" periods, as defined by Figure 1, shall be computed as provided in Section V.B of the amended Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954). The total diversion by the State of New Jersey shall not exceed an average of 100 mgd as a monthly average, with the diversion on any day not to exceed 120 million gallons, and its total diversion without compensating releases shall not exceed 100 mgd during any calendar year.

BILLING CODE 6360-01-M

OPERATION CURVES FOR
CANNONSVILLE, PEPACTON AND NEVERSINK RESERVOIRS

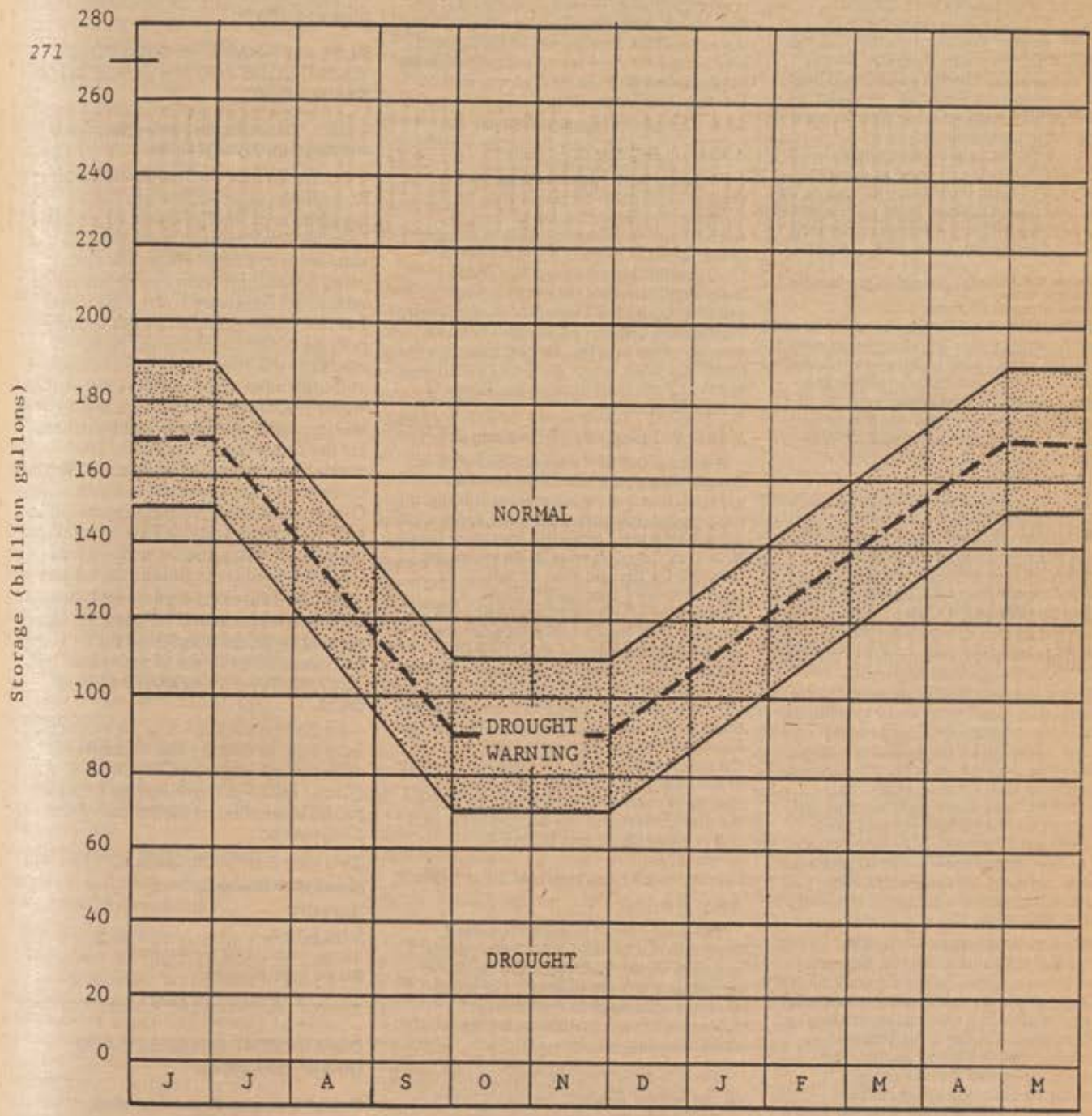

FIGURE 1

BILLING CODE 6360-01-C

(3) Diversions by the City of New York and State of New Jersey set forth in Table 1 during "drought warning" and "drought" conditions as defined by Figure 1, shall be computed as a daily running average, commencing on the day such drought warning or drought operations become effective, as provided in subsection E of this Section. If the allowable diversion for any condition period following entry into drought warning operations is not fully used, the unused portion may not be credited or used during subsequent periods.

(4) Upon return to normal condition operations, following a period of drought warning or drought operations, diversions by the City of New York and State of New Jersey shall be computed as averages commencing upon the date of return to normal operations.

E. Effective Period for Drought Operating Schedule

(1) The schedule of diversions, releases and streamflow objectives for "drought warning" operations as provided in Subsection B shall go into effect automatically whenever the combined storage in the New York City Delaware Basin Reservoirs declines below the drought warning line, defined in Figure 1 and remains below that line for five consecutive days.

(2) The schedule of diversions, releases and streamflow objectives for "drought" operations as provided in Subsection B shall go into effect immediately whenever the combined storage in the New York City Delaware Basin reservoirs declines below the drought line defined in Figure 1, and remains below that line for five consecutive days.

(3) When the combined storage in the New York City Delaware Basin reservoirs (including the projected water runoff equivalent of actual snow and ice within the watersheds tributary to the reservoirs) reaches a level 15 billion gallons above the drought warning line, as defined in Figure 1, and remains above that level for five consecutive days, the drought warning and drought operations schedules set forth in Subsection B shall automatically terminate, and normal operations shall be resumed as provided in the Amended Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954).

(4) Pursuant to Section 3.3(a) of the Compact, the Parties to the U.S. Supreme Court Decree in New Jersey v. New York, 347 U.S. 995 (1954), have given their unanimous consent to adoption and implementation by the Commission of the drought operation schedules provided in this section. The Parties have agreed that the drought operation formula will go into effect automatically, and be binding on parties for not less than 180 days following the triggering of drought warning operations, unless terminated automatically by improved storage conditions as provided in Subsection E.3. During the 180-day period following triggering of drought warning operations, authorized representatives of the City of New York, States of Delaware, New Jersey and New York, and Commonwealth of Pennsylvania, as parties to the U.S. Supreme Court Decree, shall convene no less frequently than once each month to review current conditions, and they may extend, modify, or extend as modified the schedules provided in this section. If no unanimous agreement as to a continuing drought operation formula is reached within the 180-day period, all Parties shall be released from the terms of the formula and schedules and may pursue their rights and obligations under the Delaware River Basin Compact and the U.S. Supreme Court Decree.

2.5.4 *Drought Emergency Actions*

A. Criteria Defining Conditions

For purposes of water management pursuant to Section 3.3 and Article 10 of the Compact, the determination of drought warning and drought conditions shall be based upon the combined storage in the Cannonsville, Pepacton and Neversink Reservoirs, in accordance with Figure 1, entitled "Operation Curves for Cannonsville, Pepacton and Neversink Reservoirs". The division of the drought-warning zone into upper and lower halves shall be defined as a physically equal division, or 20 billions of gallons in each zone.

B. Drought Emergency Declaration

It is the policy of the Commission that a drought emergency will be declared for purposes of imposing mandatory in-basin conservation measures and other appropriate actions whenever combined storage in the New York City Delaware Basin reservoirs falls into the drought zone as defined in Figure 1 for five consecutive days. Termination of a drought emergency will be considered by the Commission whenever combined storage in the New York City Delaware Basin reservoirs reaches a level 40 billion gallons above the drought warning line as defined in Figure 1 and remains above that line for 30 consecutive days. The drought emergency will be terminated by the Commission whenever the combined storage in the New York City Delaware Basin reservoirs reaches 40 billion gallons above the drought warning line defined in Figure 1 and remains above that line for 60 consecutive days, unless the Commission unanimously agrees to extend the emergency.

Effect of Policy

This policy is not intended to extend, impair, or conflict with the Commission's authority under the Compact to declare or terminate a drought emergency or water-shortage emergency in the Basin, or subregion thereof, in other instances as conditions may require.

The Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* are amended by the addition of new Section 2.1.4 to read as follows:

2.1.4 *Depletive Use Reduction During Drought*

It shall be the policy of the Commission that conservation measures in the Basin designed for implementation during drought periods shall be based upon the objective of reducing overall depletive use of fresh water by 15 percent.

Reflecting the final action on the rules and regulations of the Delaware River Basin Commission, public notice of which is set forth herein, 18 CFR Part 410 is amended by revising § 410.1 to read as follows:

PART 410—BASIN REGULATIONS—WATER CODE AND WATER QUALITY STANDARDS

§ 410.1 Basin Regulations—Water code and water quality standards.

(a) The Water Code of the Delaware River Basin is a codification of the regulations of the Delaware River Basin Commission concerning the policies and standards applicable to public and private water projects and programs within the Delaware River Basin. Article I of the Water Code sets forth general policies of the Commission. Article II concerns the conservation, development and utilization of Delaware River Basin water resources. Article III sets forth the water quality standards and guidelines for the Delaware River Basin. The regulations contained within the Water Code of the Delaware River Basin Commission are hereby incorporated in and made a part of this Part 410 and include all amendments to the Water Code adopted through June 29, 1983.

(b) The Water Code, the regulations contained therein and information about them may be obtained from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

(c) The regulations may be amended from time to time by the Commission after due notice and public hearing. An official file of changes will be kept for public inspection in the offices of the Commission.

(Delaware River Basin Compact, 75 Stat. 688)

Susan M. Weisman,

Secretary.

July 15, 1983.

[FR Doc. 83-19727 Filed 7-20-83; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulation No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Home Energy Assistance

AGENCY: Social Security Administration, HHS.

ACTION: Interim regulations with request for comments.

SUMMARY: These regulations provide that we will not count as income or as a resource certain home energy assistance in determining eligibility for and the amount of Supplemental Security Income (SSI) payments. These rules reflect the following two statutory provisions. First, section 128 of Pub. L. 97-377, effective December 18, 1982 through September 30, 1983, mandates that no funds provided thereunder be used to reduce or deny SSI payments because of the receipt of certain home energy assistance. Second, section 545 of Pub. L. 97-424 added a new section 1612(b)(13) of the Social Security Act which provides that we will not count as income for SSI purposes certain home energy assistance received from February 1, 1983 through June 30, 1985.

DATES: These interim regulations are effective July 21, 1983. Written comments may be submitted by September 19, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203. Comments received may be inspected between 8:00 a.m. and 4:30 p.m. on regular business days at the Office of Regulations, Social Security Administration, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, by contacting the person shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Short, Legal Assistant, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7337.

SUPPLEMENTARY INFORMATION:

Justification for Dispensing With Notice of Proposed Rulemaking

Section 128 of Pub. L. 97-377 enacted on December 21, 1982 became effective December 18, 1982, while section 545 of Pub. L. 97-424 enacted on January 6, 1983 became effective February 1, 1983. In view of the short time periods between the enactment of the legislation and the effective dates, it was not feasible to issue these regulations under a Notice of Proposed Rulemaking as this would delay issuance of final regulations well past the effective dates of the two laws. These regulations are needed immediately to carry out the legislative mandate that we not count certain home energy assistance under the SSI program.

Accordingly, we believe that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed regulations would be impracticable and contrary to the public interest. Moreover, immediate implementation of the regulations is advantageous to SSI claimants who receive home energy assistance.

While Notice of Proposed Rulemaking is being waived, we are interested in comments regarding these interim regulations. We will review the comments and will revise these rules, if appropriate, based on the comments received.

Section 128 of Pub. L. 97-377

Section 128 of Pub. L. 97-377 states that no funds provided under it can be used to reduce or deny SSI payments because of the receipt of certain home energy assistance. Therefore, we will not count as income or as a resource home energy assistance, either in cash or in kind, which the appropriate State agency (designated by the chief executive officer of the State) certifies is both based on need and is provided by a private nonprofit organization, or by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body. This provision is effective from December 18, 1982 through September 30, 1983. Since section 128 of Pub. L. 97-377 prohibits the use of any funds provided thereunder to reduce or deny SSI benefits because of home energy assistance during its effective period, we will not count such home energy assistance provided prior to December 18, 1982 if it affects SSI eligibility or payment amount determinations made after December 17, 1982 and prior to October 1, 1983.

We will not count certain home energy assistance provided to an SSI claimant or his or her ineligible spouse, parent, sponsor (or sponsor's spouse) of an alien, or essential person as income or as a resource. In addition, we will not consider certain home energy assistance in determining a pro rata share of household operating expenses under the rules in § 416.1133. These policies are necessary to carry out the statutory mandate of section 128 of Pub. L. 97-377 that an individual's SSI payments not be reduced or denied because of the receipt of home energy assistance. To count home energy assistance provided to either individuals whose income and resources are deemed to be the income and resources of an SSI claimant or to any person who lives in an SSI claimant's household would be contrary to section 128 of Pub. L. 97-377.

Section 545 of Pub. L. 97-424

Section 545 of Pub. L. 97-424 added a new section 1612(b)(13) to the Act which provides that certain home energy assistance is not countable as income for SSI purposes. Therefore, we will not count as income home energy assistance which the appropriate State agency (designated by the chief executive officer of the State) certifies is both based on need and is provided: (1) Either in cash or in kind by a supplier of home heating gas or oil, a municipal utility providing home energy, or an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body; or (2) in kind by a private nonprofit organization. This provision is effective for such home energy assistance received from February 1, 1983 through June 30, 1985.

In addition, any home energy assistance which we do not count as income will not be considered a resource. This policy is necessary in order for us to carry out the legislative intent that certain home energy assistance not affect an individual's SSI eligibility or payment amount. To do otherwise and count such home energy assistance as a resource would in effect defeat the intended purpose of this legislation as it could result in the loss of SSI payments.

We will not count certain home energy assistance provided to an SSI claimant or his or her ineligible spouse, parent, sponsor (or a sponsor's spouse) or an alien, or essential person. In addition, we will not consider certain home energy assistance in determining a pro rata share of household operating expenses under the rules in § 416.1133. These policies are also necessary to carry out the legislative intent that certain home energy assistance not affect an individual's SSI eligibility or payment amount. To count home energy assistance provided to an individual whose income and resources are deemed to be the income and resources of the SSI claimant or to any person who lives in an SSI claimant's household would defeat the purpose of this statutory provision.

Regulatory Provisions

The rules in § 416.1155 reflect the general statutory provisions and provide applicable definitions. We have defined "based on need" generally in terms of whether the home energy assistance was provided for purposes of home energy for an SSI claimant rather than in terms of home energy assistance provided to individuals with limited

income. We have defined "based on need" in this manner since it is implicit that if home energy assistance is provided to an SSI claimant, it is provided to an individual with limited income. We have defined "home energy assistance" as any assistance related to home energy, except food or clothing.

The rules in § 416.1156 discuss how we treat certain home energy assistance during different time periods. This section states that we will not count as income certain home energy assistance received by an SSI claimant, his or her ineligible spouse, parent, sponsor (or a sponsor's spouse) of an alien, or essential person. This section also states that we will not consider certain home energy assistance in determining a pro rata share of household operating expenses under § 416.1133.

There are periods of time during which only one statutory provision or the other is effective. Accordingly, for the time period December 18, 1982 through January 31, 1983, we have implemented section 128 of Pub. L. 97–377. These rules are set out in § 416.1156(b). For the time period October 1, 1983 through June 30, 1985, we have implemented section 1612(b)(13) of the Act as added by section 545 of Pub. L. 97–424. These rules are set out in § 416.1156(d). For the time period in which these two provisions overlap (February 1, 1983 through September 30, 1983), we have implemented both provisions. The rules for this overlapping time period are set out in § 416.1156(c). We have also made conforming changes in §§ 416.1124(c) and 416.1161 (a) and (b). In addition, we have amended the definition of resources in § 416.1201(a) to state that home energy assistance which we do not count as income under these statutory provisions is not a resource.

Applicability to AFDC

These statutory provisions also apply to the Aid to Families with Dependent Children (AFDC) program. Interim regulations implementing these provisions for the AFDC program are also contained in this issue of the **Federal Register**. Generally, the same regulatory provisions apply under the SSI and AFDC programs, however, there are some distinctions. First, the interim regulations reflect that section 545 of Pub. L. 97–424 is mandatory for the SSI program but optional for the States under the AFDC program. Second, the definition of "based on need" for the AFDC program can be determined by the State for purposes of section 545 of Pub. L. 97–424, whereas the SSI definition of "based on need" set out in the interim regulations applies under both statutory provisions. Third, with regard to the treatment of home energy assistance provided in joint AFDC/SSI households, for AFDC purposes, home energy assistance provided to such a household which is not excluded for AFDC purposes must be prorated between the AFDC recipients and SSI claimants in such joint households. Even though the portion of the prorated assistance attributed to the AFDC recipients will be counted for AFDC purposes, no portion of the prorated assistance attributed to the SSI claimants will be counted for SSI purposes.

Social Security Amendments of 1983

Section 404 of Pub. L. 98–21 (the Social Security Amendments of 1983) enacted on April 20, 1983 amends section 1612(b)(13) of the Social Security Act as added by section 545 of Pub. L. 97–424. That section, as amended, now provides that certain support and maintenance not be counted when determining an individual's eligibility for and the amount of his or her SSI payments. Therefore, under section 1612(b)(13) certain support and maintenance as well as home energy assistance is not counted for SSI purposes. Regulatory changes needed to implement this recent legislation are now being developed and are not included in these regulations which implement only the home energy provisions of Pub. L. 97–377 and Pub. L. 97–424. The changes needed to implement section 404 of Pub. L. 98–21 will be published as interim rules as soon as possible.

Regulatory Procedures

Executive Order 12291—As a result of the authorizing legislation and these implementing regulations, SSI benefit payments will be greater than they would have been in the absence of legislation (since home energy assistance will in certain cases no longer be treated as income or resources). However, these program costs are due primarily to decisions made in the legislative process. Cost impacts directly resulting from the regulations themselves are minor. For this reason, the Secretary has determined that the regulations are not a "major rule" under Executive Order 12291, and a regulatory impact analysis is not required.

Paperwork Reduction Act—These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—We certify that these regulations, if promulgated, will not have a significant impact on a substantial number of small entities because they primarily affect individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

These regulations are issued under the authority of sections 1102 and 1631 of the Social Security Act, as amended, 42 U.S.C. 1302 and 1383. Section 128 of Pub. L. 97–377 and section 1612(b) as amended by section 545 of Pub. L. 97–424.

(Catalog of Federal Domestic Assistance Program 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: April 12, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: June 23, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1124 is amended by redesignating paragraphs (c) (9), (10), and (11) as pargraphs (c) (11), (12), and (13). Paragraph (c)(12) is redesignated as (c)(9) and new pargraph (c)(10) is added to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) *Other unearned income we do not count.* We do not count as unearned income—* * *

* * * * *

(10) Certain home energy assistance as described in §§ 416.1155 and 416.1156.

2. A new § 416.1155 is added to read as follows:

Home Energy Assistance

§ 416.1155 Home energy assistance.

(a) *General.* Section 128 of Pub. L. 97–377 and section 545 of Pub. L. 97–424 (which adds section 1612(b)(13) to the Social Security Act) provide that certain home energy assistance will not be counted as income. (See § 416.1201(a) regarding resources.) These provisions are effective for different time periods. Section 128 of Pub. L. 97–377 is effective from December 18, 1982 through September 30, 1983, while section 545 of

Pub. L. 97-424 is effective from February 1, 1983 through June 30, 1985. However, for the period February 1, 1983 through September 30, 1983 both provisions are in effect. See § 416.1156 for a detailed discussion of how these provisions are applied.

(b) *Definitions.* For home energy assistance purposes—

"Appropriate State agency" means the agency designated by the chief executive officer of the State to handle the State's responsibilities as set out in § 416.1156.

"Based on need" means the provider of the assistance states that the aid is given for the purpose of home energy assistance (e.g., vouchers for heating or cooling bills, storm doors) and the aid is provided for an SSI claimant, a member of an SSI claimant's household, or an SSI claimant's ineligible spouse, parent, sponsor (or a sponsor's spouse) of an alien, or essential person.

"Home energy assistance" means any assistance related to home energy (e.g., heating cooling, weatherization, blankets, storm doors, etc). It does not include food or clothing.

"Private, nonprofit organization" means a religious, charitable, educational or other organization such as described in section 501(c) of the Internal Revenue Code of 1954. (Actual tax exempt certification by IRS is not necessary.)

"Rate-of-return entity" means an entity whose revenues are primarily received from the entity's charges to the public for goods or services and such charges are based on rates established and regulated by a State or Federal governmental body.

3. A new § 416.1156 is added to read as follows:

§ 416.1156 How we treat home energy assistance.

(a) *Introduction.* We do not count as income certain home energy assistance received by you or your ineligible spouse, parent, sponsor (or a sponsor's spouse) of an alien, or essential person. We also will not consider certain home energy assistance in determining a pro rata share of household operating expenses under § 416.1133. We explain the rules for not counting home energy assistance in paragraphs (b)–(d) of this section.

(b) *December 18, 1982 through January 31, 1983.* We do not count as income home energy assistance, either in cash or in kind, which the appropriate State agency certifies is both based on need and provided by:

(1) A private nonprofit organization; or

(2) A rate-of-return entity.

(c) *February 1, 1983 through September 30, 1983.* We do not count as income home energy assistance, either in cash or in kind, which the appropriate State agency certifies is both based on need and provided by:

(1) A source described in paragraph (b) of this section;

(2) A supplier of home heating gas or oil; or

(3) A municipal utility providing home energy.

(d) *October 1, 1983 through June 30, 1985.* We do not count as income home energy assistance which the appropriate State agency certifies is both based on need and provided by:

(1) A source described in paragraphs (c)(2) or (c)(3) of this section, regardless of whether home energy assistance is in cash or in kind;

(2) A rate-of-return entity which provides home energy regardless of whether home energy assistance is in cash or in kind; or

(3) A private nonprofit organization only if home energy assistance is in kind.

4. In § 416.1161 (a)(17) is added and (b) is revised to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(a) *For an ineligible spouse or parent.* We do not include any of the following types of income (see § 416.1102) of an ineligible spouse or parent:

* * * * *

(17) Certain home energy assistance as described in §§ 416.1155 and 416.1156.

(b) *For an essential person.* We include all of an essential person's income as defined in § 416.1102, except for home energy assistance as described in §§ 416.1155 and 416.1156 and income excluded under Federal laws other than the Social Security Act. (See the appendix to this Subpart.)

* * * * *

5. Section 416.1201 is amended by adding a new sentence at the end of paragraph (a) to read as follows:

§ 416.1201 Resources; general.

(a) *Resources; defined.* * * *

In addition, home energy assistance not counted as income under §§ 416.1155 and 416.1156 will not be considered a resource.

* * * * *

[FR Doc. 83-19717 Filed 7-20-83; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7902]

Income Tax, Taxable Years Beginning After December 31, 1953; Bona Fide Debt Requirement for Bad Debts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the bona fide debt requirement for the allowance of a deduction for bad debts under section 166 of the Internal Revenue Code of 1954.

DATES: The regulations are effective for taxable years beginning after December 31, 1953.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Explanation of Provisions

Section 166 of the Internal Revenue Code of 1954 provides that, in computing taxable income under section 63, a deduction shall be allowed in respect of bad debts owed to the taxpayer. Paragraph (c) of § 1.166-1 of the Income Tax Regulations (26 CFR Part 1) provides that only bona fide debt qualifies for purposes of section 166. Under the regulations, a bona fide debt is predicated on the existence of an enforceable obligation.

The regulations amend pargraph (c) of § 1.166-1 to provide that a debt arising out of the receivables of a taxpayer is deemed to be an enforceable obligation to the extent that it has been taken into income under section 61. For example, a debt arising out of unenforceable gambling receivables which an accrual basis taxpayer includes in income under section 61 is an enforceable obligation for purposes of section 166.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that the regulations promulgated are interpretative and that the notice and public procedure requirements of 5 U.S.C. § 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

The Treasury Department has determined that these final regulations are not subject to review under Executive Order 12291 or the Treasury or OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these regulations is David R. Haglund of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1 through 1.281–4

Income Taxes, Taxable income, Deductions, Exemptions.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended by revising paragraph (c) of § 1.166–1 to read as follows:

§ 1.166–1 Bad debts.

* * * * *

(c) *Bona fide debt required.* Only a bona fide debt qualifies for purposes of section 166. A bona fide debt is a debt which arises from a debtor-creditor relationship based upon a valid and enforceable obligation to pay a fixed or determinable sum of money. A debt arising out of the receivables of an accrual method taxpayer is deemed to be an enforceable obligation for purposes of the preceding sentence to the extent that the income such debt represents have been included in the return of income for the year for which the deduction as a bad debt is claimed or for a prior taxable year. For example, a debt arising out of gambling receivables that are unenforceable under state or local law, which an accrual method taxpayer includes in income under section 61, is an enforceable obligation for purposes of this pargarph. A gift or contribution to capital shall not be considered a debt for purposes of section 166. The fact that a bad debt its not due at the time of deduction shall not of itself prevent is allowance under section 166. For the disallowance of deductions for bad debts owed by a political party, see § 1.271–1.

* * * * *

Because this Treasury decision merely liberalizes the definition of a bona fide debt for purposes of determining whether a bad debt is deductible, it is found unnecessary to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

[This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805)]

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved:

John E. Chapston,

Assistant Secretary of the Treasury.

June 30, 1983.

[FR Doc. 83-19834 Filed 7-20-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-83-14]

Special Local Regulations, St. Joseph Venetian Festival

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the St. Joseph Venetian Festival. This event will be held on the St. Joseph River on 22–24 July 1983. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective and terminate on July 23, 1983.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Bruce Graham, project officer, Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The St. Joseph Venetian Festival will be conducted on the St. Joseph River on 22–24 July 1983. This event will have a power boat race which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, St. Joseph, MI).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35—0914 to read as follows:

§ 100.35—0914 St. Joseph Venetian Festival

(a) *Regulated Area:* That portion of the St. Joseph River from Twin City's Bicentennial Bridge to the downriver end of the Thousand Pier Marina.

(b) *Special Local Regulations:* (1) The above area will be closed to vessel navigation or anchorage from 11:00 a.m. (local time) until 4:30 p.m. on 23 July 1983.

(2) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(3) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) This section is effective from 11:00 a.m. (local time) until 4:30 p.m. on 23 July 1983.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 23, 1983.

Henry H. Bell,

Rear Admiral, Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 83-19767 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD1-83-04]

Special Local Regulations: Swim the Bay '83

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the SWIM THE BAY '83. This event will be held on July 30, 1983 at 8:00 a.m. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective at 8:00 a.m., July 30, 1983 and terminate at 12:30 p.m., July 30, 1983.

FOR FURTHER INFORMATION CONTACT: LT Michael J. Chaplain, USCG, Chief, Boating Standards/Affairs Branch (bc), Room 1102, First Coast Guard District, 150 Causeway Street, Boston, MA 02114 (617) 223-3607.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until May 27, 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT M. J. Chaplain, USCG, project officer, First Coast Guard District Boating Standards/Affairs Branch and LCDR S. C. Ploszaj, project attorney, First Coast Guard District Legal Office.

Discussion of Regulations

The praticipants in this marine event, sponsored by Save the Bay, Inc., include 100 swimmers, each accompanied by a small rowboat. The participants enter the water at Coasters Harbor Island, Newport, Rhode Island, and swim to Potter Cove, Jamestown, Rhode Island, crossing the East Passage of Narragansett Bay just north of the Newport Bridge. The purpose of this regulation is to augment the safety precautions taken by the sponsor to insure the safety of the swimmers and escort rowboats involved in this event. Severe injury to swimmers by boats in the area and swamping the small escort rowboats by wakes generated by power driven vessels in the area of this event constitute the primary threats to participants. The purpose of this regulation is to limit the distance to which non-participating vessels may approach participants and to limit the speed at which vessels may pass through the area of this marine event in order to provide for the safety of life on navigable waters during this marine event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-1-04 to read as follows:

§ 100.35-1-04 Swim the Bay '83

(a) *Regulated Area.* East Passage of Narragansett Bay, bank to bank, and bounded by the Newport Bridge, on the south, and a line drawn from Bishop Rock, Newport, Rhode Island, in position 41°31'05"N, 071°19'54"W, to Fowler Rocks, Conanicut Island, Jamestown, Rhode Island, in position 41°32'00"N, 071°21'48"W.

(b) *Special Local Regulations.* All vessels operating in the regulated area or in the vicinity of participants in this event shall:

(1) Approach no closer than 200 yards from any participant in this event. Participants will be swimming from Coaster's Harbor Island, Newport, Rhode Island, to Potter Cove, Jamestown, Rhode Island, and will be accompanied by a rowboat crewed by a minimum of 2 persons.

(2) Observe a maximum speed limit of five (5) knots, or "No Wake Speed" whichever is less.

(3) Exercise extreme caution when operating in this area.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 22, 1983.

C. E. Robbins,

RADM, USCG, First Coast Guard District.

[FR Doc. 83-19763 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 13-83-10]

Regatta, Columbia Cup Unlimited Hydroplane Race; Establishment of Controlled Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation establishes an area of controlled navigation on the Columbia River at Kennewick, Washington from July 26, 1983, until July 31, 1983. The area of controlled navigation is necessary due to the Columbia Cup Unlimited Hydroplane Races scheduled for this time period as part of the Tri-Cities Water Follies. The intended effect of this action will be to restrict the general navigation in the area for the safety of spectators and participants in this event.

EFFECTIVE DATE: This regulation is effective from July 26, 1983 until July 31, 1983.

FOR FURTHER INFORMATION CONTACT: LCDR John E. Veentjer, Chief, Port Operations Department, 6767 N. Basin Ave., Portland, Oregon, 97217, (503) 240-9317.

SUPPLEMENTARY INFORMATION: On May 19, 1983, the Coast Guard published a proposed rule (Vol. 48 FR 22588) concerning this controlled navigation area. In the notice, interested persons were given until June 15, 1983 to submit comments. No comments were received. Thus, the controlled navigation area is published in this final rule without change to that which was proposed. Minor editorial changes were made in the final rule to improve the overall clarity of the final rule.

Drafting Information

The principal persons involved in the drafting of this proposal are LCDR John E. Veentjer, USCG, Project Officer, CG Group Portland, and LT James R. Woeppel, USCG, Project Attorney, CCGD13 Legal Office.

Discussion of Regulation

Each year, the Tri-Cities Water Follies Association sponsors an unlimited hydroplane race on the Columbia River near Kennewick, Washington. The event draws a large number of spectators to the beaches and waters surrounding the race course. A sizeable portion of the spectators watch the event from a significant number of pleasure craft anchored near the race course. To ensure the safety of both the spectators and the participants, a special navigational regulation providing the

Coast Guard personnel with the authority to control and coordinate general navigation in the waters surrounding the race course during the event is required.

Economic Assessment and Certification

This regulation is considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5). An economic evaluation of this notice has not been conducted since its impact is expected to be minimal. This regulation affects a short section of the Columbia River with only light commercial traffic and will be in effect for only five (5) days, two of those being Saturday and Sunday. On the days of the time trials, 26 July to 30 July 1983, the Patrol Commander will allow commercial traffic to transit the area between time trials. On race day, Sunday, 31 July 1983, all traffic will be excluded. The limited, if any, impact on commercial marine traffic that has occurred in the past is not expected to adversely affect any economic entities in the area during this year's event. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended by adding § 100.35–1310 to read as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

§ 100.35–1310 Columbia Cup/1983 Columbia Cup Unlimited Hydroplane Race.

(a) From July 26, 1983 to July 30, 1983, this regulation will be in effect from 0830 until 1900 Pacific Daylight Time. On July 31, 1983, this regulation will be in effect from 0830 until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation and anchorage by this regulation during the hours it is in effect is the waters of the Columbia River from the western end of Hydro Island to the western end of Clover Island at Kennewick, Washington.

(c) The Coast Guard patrol of the area described in paragraph (b) of this section is under the direction of the Coast Guard Patrol Commander. He is empowered to control the movement of vessels in the area described in paragraph (b) of this section.

(d) The Patrol Commander may authorize vessels to be underway in the area described in paragraph (b) of this section during the hours this regulation is in effect. All vessels, other than race participants and rescue vessels, permitted to be underway in this area shall do so only at speeds which will create minimum wake, seven (7) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: July 15, 1983.

H. W. Parker, Jr.,

Rear Admiral, Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 83-19762 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD13 83-07]

Regatta; Seattle Seafair Sea-Galley Emerald Cup Race; Establishment of Controlled Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation establishes an area of controlled navigation upon the waters of Lake Washington from August 4 until August 7, 1983. This is necessary due to the Unlimited Hydroplane Races scheduled for this time period as part of Seattle's Seafair Sea-Galley Emerald Cup Race. The Coast Guard through this action intends to ensure the safety of spectators and participants in this event.

EFFECTIVE DATES: This regulation is effective from August 4 until August 7, 1983.

FOR FURTHER INFORMATION CONTACT: CAPT P. D. Russell, Chief Search and Rescue Branch, Thirteenth Coast Guard District, (206) 442–5880.

SUPPLEMENTARY INFORMATION: On April 7, 1983, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** for these regulations (48 FR 15163). Interested persons were requested to submit comments and no comments were received

Drafting Information

The drafters of this regulation are CDR D. H. Hagen, USCGR, Project Officer, Thirteenth Coast Guard District, Search and Rescue Branch, and LCDR R. R. Clark, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Comments

No comments were received during the Notice of Proposed Rulemaking for this final rule. Minor editorial changes were made in the final rule to improve the overall clarity of the rule.

Economic Assessment and Certification

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the Regulations affect only spectators and participants in the race and only applies to a small area of Lake Washington. Based upon this assessment it is certified in accordance with section 605(b), of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marihe safety, Navigation (water).

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding § 100.35–1314 to read as follows:

§ 100.35–1314 Lake Washington 1983 Seattle Seafair Sea-Galley Emerald Cup Race.

(a) From August 4 to August 6, 1983, this regulation will be in effect from 0800 until 1700 Pacific Daylight time. On August 7, 1983, this regulation will be in effect from 0800 until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation by this regulation during the hours it is in effect is:

(1) The waters of Lake Washington bounded by the Mercer Island (Lacey V. Murrow) Bridge, the western shore of Lake Washington, and the east/west line drawn tangent to Bailey Peninsula and along the shoreline of Mercer Island.

(c) The area described in paragraph (b) of this section has been divided into two zones. The zones are separated by a log boom and a line from the southeast corner of the boom to the northeast tip of Bailey Peninsula. The western zone is designated Zone I, the Eastern zone, Zone II. (Refer to NOAA chart 1447.)

(d) The Coast Guard patrol of the area described in paragraph (b) of this section is under the direction of the Coast Guard Patrol Commander. He is empowered to control the movement of vessels on the race course and in the adjoining waters during the periods this regulation is in effect.

(e) Only authorized vessels may be allowed to enter Zone I during the hours this regulation is in effect. Vessels within Zone II shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

(f) During the times in which this regulation is in effect, swimming, wading, or otherwise entering the water in Zone I by any person is prohibited.

(g) Vessels (other than race participants and rescue craft in the case of an emergency) proceeding in either Zone I or in Zone II during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, seven (07) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(h) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of seven (07) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(i) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: July 14, 1983.

H. W. Parker,

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

[FR Doc. 83-19768 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD 09-82-06]

Special Anchorage Area; Lake Betsie, Frankfort, MI; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the area description establishing a Special Anchorage Area at Lake Betsie, Frankfort, MI which was published 30 August 1982 (47 FR 38118).

The final rule description of the Special Anchorage Area placed a portion of it extending into a navigation channel used by commercial tugs. The situation poses possible navigation conflicts between the commercial tugs and anchored vessels. This correction is intended to redescribe the boundaries of the Special Anchorage Area so as to eliminate this potential navigation problem. The general shape, size and location of the Special Anchorage Area will remain approximately the same.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Steven J. Boyle, Marine Port and Environmental Safety Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199, or phone (216) 522-7064. Normal office hours are between 8 a.m. and 4 p.m. Monday through Friday, except holidays.

PART 110—[AMENDED]

Accordingly, the Coast Guard is correcting 33 CFR 110.81a to read as follows:

§ 110.81a Lake Betsie, Frankfort, MI.

The area within the following boundaries:

Beginning at latitude 44°37'47" North, longitude 86°13'52.5" West; thence to latitude 44°37'51.4" North, longitude 86°13'49" West; thence to latitude 44°37'46.4" North, longitude 86°13'37.8" West; thence to latitude 44°37'44.2" North, longitude 86°13'37.8" West; thence to latitude 44°37'44.8" North, longitude 86°13'44.2" West; thence to point of beginning.

(Sec. 1, 28 Stat. 647, as amended (33 U.S.C. 258); sec. 6(g)(1)(c) 80 Stat. 937 (49 U.S.C. 1655(g)(1)(c)); 49 CFR 1.46(c)(3); 33 CFR 1.05-1(g) (1) and (2))

Dated: June 21, 1983.

Henry H. Bell,

Rear Admiral, Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 83-19764 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 147

[CCG11-79-02]

Establishment of Safety Zones Around Structures on the Outer Continental Shelf (OCS) and the Navigable Waters of the United States; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects Outer Continental Shelf Safety Zone regulations published as final rules on September 9, 1982 (47 FR 39678). The establishment of "Subpart 147.05–OCS Safety Zones" was made in error. In addition, the regulations establishing and describing various OCS safety zones were numbered incorrectly.

FOR FURTHER INFORMATION CONTACT: LT Mark Hanlon, Office of Chief Counsel (G-LRA), Room 3314, Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593, (202) 426-1534.

The following corrections are made in FR Doc. CCGD11-79-02 appearing on 39678 in the issue of September 9, 1982:

PART 147—[AMENDED]

1. On page 39679, middle of column three, revision 2 is removed.

2. On page 39679, bottom of column three, the heading and index to Subpart 147.05 is removed.

3. On page 39679, column three, and page 39680, columns one and two, the section numbers and headings are corrected to read as follows:

§ 147.1101 Definitions.

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§ 147.1102 Platform GRACE safety zone.

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§ 147.1103 Platform GINA safety zone.

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§ 147.1104 Platform ELLEN & ELLY safety zone.

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§ 147.1105 Platform HONDO safety zone.

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§ 147.1106 Exxon Santa Ynez offshore storage and treatment vessel mooring safety zone.

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§ 147.1107 Platform GILDA safety zone.

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§ 147.1108 Platform EDITH safety zone.

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(43 U.S.C. 1333(d)(1); 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: July 15, 1983.

A. F. Bridgman, Jr.,

Chief, Regulations and Administrative Law Division.

[FR Doc. 83-19017 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP New London, CT Reg. 83-01]

Security Zone Regulations; New London Harbor, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the geographic limits of Security Zone C. Security Zone C encompasses a portion of the Thames River, west of the Naval Submarine Base, New London, CT. The geographic limits of Security Zone C are being revised to include new pier construction at the Naval Submarine Base. Construction of Piers 32 and 33, and additions to Piers 10 and 12, have created a situation where vessels moored at these piers will extend beyond the geographic limits of the present Security Zone C. The present Security Zone C was established to safeguard vessels moored at the Naval Submarine Base from sabotage or other subversive acts, accidents, or other incidents of a similar nature. Only those persons or vessels associated with United States Naval or Coast Guard operations authorized by Captain of the Port New London may enter or remain within Security Zone C.

DATES: This regulation becomes effective on June 17, 1983 at 12:00 noon, E.D.S.T. Comments on this regulation must be received on or before August 31, 1983.

ADDRESS: Comments should be mailed to Captain of the Port New London, USCG Station, c/o Fort Trumbull, New London, CT, 06320. The Comments will be available for inspection and copying at USCG Station New London, COTP Office, Building 45, Naval Underwater Systems Center, New London, CT. Normal office hours are between 8:00 a.m. and 3:45 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander J. R. McElwain, Captain of the Port, USCG Station, New London, Connecticut 06320 (203) 442-4471.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) was not published for this regulation and it is being made effective in less than 30 days from the date of **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the safety and security of military interests of the United States. Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESS"** in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for their comments. Receipt of comments will be acknowledged if a stamped self-addressed postcard or evelope is enclosed. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are Lieutenant (junior grade) K. L. King, Project Officer for Captain of the Port, New London, and Lieutenant Commander J. J. D'Allessandro, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

This regulation revising the geographic limits of Security Zone C is necessary due to the safety and security considerations necessary to safeguard vessels moored at the Naval Submarine Base, New London, CT. New pier construction has created a situation where vessels moored at Piers 10, 12, 32, and 33 will extend beyond the geographic limits of the current Security Zone C. This regulation will ensure that all vessels moored at the Naval Submarine Base will be within Security Zone C.

Lists of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by revising § 165.302(a)(3) to read as follows:

§ 165.302 New London Harbor, Connecticut-security zone.

(a) * * *

(3) *Security Zone C.* The waters of the Thames River, west of the Naval Submarine Base, New London, CT, enclosed by a line beginning at a point on the shoreline at 41°23'15.8" N., 72°05'17.9" W.; then to 41°23'15.8" N., 72°05'22" W.; then to 41°23'25.9" N., 72°05'29.9" W.; then to 41°23'33.8" N., 72°05'34.7" W.; then to 41°23'37.0" N., 72°05'38.0" W.; then to 41°23'41.0" N., 72°05'40.3" W.; then to 41°23'47.2" N., 72°05'42.3" W.; then to 41°23'53.8" N., 72°05'43.7" W.; then to 41°23'59.8" N., 72°05'43.0" W.; then to 41°24'12.4" N., 72°05'43.2" W.; then to a point on the shoreline at 41°24'14.4" N., 72°05'38" W.; then along the shoreline to the point of beginning.

Dated: June 17, 1983.

J. R. McElwain,

Lieutenant Commander, USCG, Captain of the Port, New London, CT.

[FR Doc. 83-19769 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Baltimore Regulation 83-08]

Safety Zone Regulations: Susquehanna River, Havre de Grace, MD

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone at Havre de Grace, MD on the Susquehanna River. The zone is needed to protect both spectator and participant watercraft from a safety hazard associated with the Hydroplane Regatta on August 6 and 7, 1983. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective from 11:00 am to 7:00 pm EDT on both 6 and 7 August 1983. It terminates on 7 August 1983 at 7:00 pm EDT.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander William R. Jurgens, USCG Marine Safety Office, Custom House, Baltimore, MD 21202 (301) 962-5105.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent an accident during the high speed hydroplane race due to a wake or recreational boater intruding on the race

Drafting Information

The drafter of this regulation is Lieutenant (JG) Douglas H. Apirian, project officer for the Captain of the Port.

Discussion of Regulation

The event requiring this regulation will occur on 6 and 7 August 1983. Hydroplane boats will be racing around a 1⅔ mile oval tract at speeds up to 140 mph. This action will prevent a possible accident due to a wake or intruding boat which could threaten both participants and spectators. Boats will be able to pass on the Eastern side of Garrett Island.

Lists of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T0508 to read as follows:

§ 165.T0508 Safety Zone: Susquehanna River, Havre de Grace, MD.

(a) *Location.* The following area is a safety zone: From the Western abutment of the B&O Railroad Bridge, approximate position 39–33–52N 76–05–51W to the Eastern abutment of the B&O Railroad Bridge, approximate position 39–34–03N 76–05–26W. Then following the shoreline of Garrett Island southward to the southern most point of Garrett Island, approx. posn. 39–33–29N 76–05–08W. Then heading due south to the midpoint of the Conrail Bridge, approx. posn. 39–33–16N 76–05–08W. Then to the Western abutment of the Conrail bridge, approx. posn. 39–33–11N 76–05–27W. Then following the shoreline north to the point of beginning.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

[33 U.S.C. 1225 and 1231; 49 CFR 146; 33 CFR 165.3]

Dated: June 15, 1983.

J. C. Carlton,

Captain, Coast Guard, Captain of the Port, Baltimore, MD.

[FR Doc. 83-19766 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 2386-6; EPA No. 1125]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA is approving a revised rule submitted by the State of Missouri as a revision to the State Implementation Plan (SIP). This new rule revises 10 CSR 10–1.010, General Organization, to incorporate changes in the state's Air Pollution Control Program functions and responsibilities.

The purpose of today's action is to approve the above mentioned regulation as part of the Missouri SIP.

EFFECTIVE DATE: This action will be effective September 19, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the state submission are available during normal business hours at the following locations: Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106; Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460; and Missouri Department of Natural Resources, Air Pollution Control Program, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101; and the Office of the Federal Register, Room 8401, 1101 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (816) 374–3791.

SUPPLEMENTARY INFORMATION: On August 25, 1982, the Missouri Air Conservation Commission, after notice and public hearing, adopted new rule 10 CSR 10–1.010, General Organization. This new rule revises old rule 10 CSR 10–1.010 which was part of the rules recodified by the State of Missouri on July 1, 1976 in accordance with the Omnibus State Reorganization Act of 1974.

Rule 10 CSR 10–1.010 sets forth the organization, powers and duties of the Missouri Air Conservation Commission as authorized under the Missouri statutes [Chapter 203, RSMo (1978), and Section 10, subsection 3, of appendix B, RSMo 1978, Omnibus State Reorganization Act of 1974]. The revised rule includes added responsibilities for the Director, Department of Natural Resources. These added responsibilities include recommendations that the Missouri Air Conservation Commission request legal action be taken by the state attorney general.

Revised rule 10 CSR 10–1.010 contains a new Section (3), Public Information, which describes procedures to be followed by the Air Pollution Control Program for providing public notice of public hearings and public participation in the rule making process. Section (3) also states that records retained by the Air Pollution Control Program are considered open for public inspection, except records required to be held confidential or which may be kept confidential under Missouri law. Finally, new Section (3) advises the public about the availability and how to obtain certain permits or other application forms.

Revised rule 10 CSR 10–1.010 was published in the *Missouri Register* on October 1, 1982, and became effective October 11, 1982. The *Missouri Register* publication contains a summary of public comments on the rulemaking and the state response indicates that such comments were clearly considered in the rule as adopted by the Missouri Air Conservation Commission. The public hearing requirements of 40 CFR 51.4 have been satisfied.

EPA approval of revised rule 10 CSR 10–1.010 will not change any deficiencies which are cited in 40 CFR Part 52, Subpart AA–Missouri, nor are any new deficiencies created. The EPA believes there is good cause to approve the submission without prior proposal because it is a noncontroversial change.

The public should be advised that this action will be effective September 19, 1983. However, if notice is received within 30 days that someone wishes to make adverse or critical comments, this action will be withdrawn and two subsequent notices will be published prior to the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of action and establishing a comment period.

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. The reason for this is because it approves a state rule which describes administrative procedures.

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

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of

this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: July 13, 1983.

William D. Ruckelshaus,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(41) to read as follows:

§ 52.1320. Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(39) [Reserved].

(40) [Reserved].

(41) Revised rule 10 CSR 10-1.010, General Organization, was submitted by the Missouri Department of Natural Resources on December 30, 1982.

[FR Doc. 83-19570 Filed 7-20-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Parts 3-7, 3-16, and 3-57

Miscellaneous Amendments to the HHS Procurement Regulations

AGENCY: Department of Health and Human Services.

ACTION: Final rule

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending its procurement regulations by revising and updating the general provisions for use in fixed price and cost-reimbursement type contracts (HHS-314,-315,-315A, and-316) and related miscellaneous amendments. The revisions will result in the consolidation of all additions, removals and revisions to the general provisions. The effect of the amendment will be the updating of the Department's general provisions.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Norman Audi, Division of Procurement Policy (202/245-6154).

SUPPLEMENTARY INFORMATION: On March 28, 1983, the proposed rule on miscellaneous amendments to the HHS procurement regulations was published in the Federal Register (48 FR 12735) and invited public comment by April 27, 1983. As a result, two responses were received—one from a nonprofit organization, the other form an educational association.

The nonprofit organization recommended that the daily rate for contracting officer approval of consultant rates in the Services of Consultants clause be raised to $250 instead of $150. The clause provides for written approval by the contracting officer of daily rates in excess of $150. This may be accomplished by including other daily rates in the special provisions of the contract or by separate written approval as the needs arise during contract performance. We believe this approval is needed to effectively monitor the use of consultants in Department contracts. We, therefore, do not concur with the recommendation to raise the daily rate to $250.

The educational association took exception to paragraph (g)(2) of the Patent Rights (Small Business Firms and Nonprofit Organizations) clause. This provision requires that the title to inventions by other than small business or domestic nonprofits subcontractors flow to the prime contractor. The association recommended that all subcontractors be treated alike.

Also, the General Services Administration published FPR temporary regulation 69 on patents in the Federal Register of Friday, April 15, 1983 (48 FR 16254). The temporary regulation implements the President's memorandum on Government patent policy dated February 18, 1983. The intended effect is to extend in principle the current implementation of Pub. L. 96-517 beyond small businesses and nonprofit organizations. As a result, all recipients of Government contracts for the performance of experimental, developmental, or research work have a first option to retain title to inventions made under contracts.

We are therefore revising paragraph (g) of the Patent Rights (Small Business Firms and Nonprofit Organizations) clause authorizing all subcontractors to retain all rights provided for the contractor. We are also revising the Patent Rights clause which is applicable to contractors which are other than small business firms or nonprofit organizations to conform to the temporary regulation.

The educational association also recommended that we revise the Federal Reports Act clause to conform to the Office of Management and Budget final rule published in the Federal Register of Thursday, March 31, 1983 (48 FR 13666). The final rule implements the Paperwork Reduction Act of 1980 (Pub. L. 96-511) which superceded the Federal Reports Act. We concur, and are revising the clause.

This rule will not have any significant impact on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96-3545, U.S.C. 601, et. seq.)

This is not a major rule as defined by Executive Order 12291 of February 17, 1981.

The provisions of this amendment are issued under 5 U.S.C. 301, 40 U.S.C. 486(c).

List of Subjects in 41 CFR Ch. 3

Government procurement.

It is proposed to amend 41 CFR Chapter 3 in the manner set forth below:

Dated: July 14, 1983.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance, and Logistics.

PART 3-7—[AMENDED]

§§ 3-7.5022 and 3-7.5023 [Reserved]

§§ 3-7.5029 and 3-7.5030 [Reserved]

1. Subpart 3-7.50 of Part 3-7, Contract Clauses is amended by removing and reserving § 3-7.5022, *Withholding of contract payments* and § 3-7.5023, *Excusable delays* and by removing § 3-7.5029, *Final decisions on audit findings*, and § 3-7.5030, *Utilization of small and disadvantaged business.*

PART 3-16—[AMENDED]

2. Part 3-16, Procurement Forms is amended to add § 3-16.000, *Scope of part*, and to remove Subparts 3-16.2, Forms for Negotiated Supply Contracts, and 3-16.8, Miscellaneous Forms.

§ 3-16.000 Scope of part.

This part prescribes the forms and formats for use by HHS in connection with the procurement of supplies, nonpersonal services and construction.

Subpart 3-16.9—Illustration of Forms

3. Section 3-16.950-314 of Subpart 3-16.9 of Part 3-16 is amended as follows:

A. The title and center heading is revised to read:

§ 3-16.950-314 Form HHS-314 (Rev. 7/83), General Provisions for Negotiated Fixed Price Research and Development Contract.

General Provisions for Negotiated Fixed-Price Research and Development Contract

B. Clause 1. Definitions is revised to read:

1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which affect any increases or decreases in the scope of work or which would result in the increase or decrease of the price of this contract or a change in the delivery dates or performance period of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

C. Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Officer's decision.

D. Clause 3. Payment is revised to read:

3. Payments

(Text of this clause is set forth in FPR 1-7.302-2.)

E. Clause 4. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

4. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1-7.103-3.)

* * * * *

F. Clause 6. Pricing of Adjustments is revised to read:

6. Pricing of Adjustments

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any provision of this contract, such costs shall be in accordance with the applicable cost principles and procedures set forth below:

Principles	Types of organizations
(a) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2).	Commercial.
(b) Subpart 1-15.3 of the Federal Procurement Regulations (41 CFR 1-15.3).	Educational.
(c) Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6).	Nonprofit.
(d) Subpart 1-15.7 of the Federal Procurement Regulations (41 CFR 1-15.7).	State, local or federally recognized Indian tribal government.
(e) Appendix E to 45 CFR Part 74.	Hospitals.

G. Clause 7. Accounts, Audit, and Records is amended as follows:

(1) Paragraph (c)(1) is revised to read:

(c) * * *

(1) until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, and

* * * * *

(2) Paragraph (d) is amended by removing "$2,500" and adding "$10,000".

(3) The note following paragraph (d) is removed in its entirety.

H. Clause 8. Changes is revised to read:

8. Changes

(Text of this clause is set forth in FPR 1-7.304-1.)

* * * * *

I. Clause 10. Default is revised to read:

10. Default

(This clause is not applicable if the contract is awarded on the basis of no-profit to an educational or nonprofit institution):

(Text of this clause is set forth in FPR 1-8.710.)

J. Clause 11. Termination for Convenience of the Government is revised to read:

11. Termination for the Convenience of the Government

(The following clause is applicable if the contract is with an educational or nonprofit institution on a no-fee or no-profit basis):

11. Termination for the Convenience of the Government

(Text of this clause is set forth in FPR 1-8.704-1.)

OR

(The following clause is applicable if a profit has been contemplated by the Contractor):

11. Termination for the Convenience of the Government

(Text of this clause is set forth in FPR 1–8.701.)

K. Clause 12. Government Property is revised to read:

12. Government Property

(If this contract is with a profitmaking organization, the following clause is applicable):

12. Government Property

(Text of this clause is set forth in FPR 1–7.303–7(a).)

OR

(In contracts for which the price is not based on: (1) Adequate price competition, (2) established catalog or market prices of commerical items sold in substantial quantities to the general public, or (3) prices set by law or regulations and (4) the price does not include any charges or reserve for insurance (including self insurance) covering damage to Government property, substitute paragraph (g) in FPR 1–7.303–7(b) for paragraph (g) in FPR 1–7.303–7(a).)

OR

(The following clause is applicable when the contract is without fee or profit and is with an educational or nonprofit institution):

12. Government Property (Fixed-Price, Nonprofit)

(Text of this clause is set forth in FPR 1–7.303–7(d).)

* * * * *

L. Clause 15. Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

15. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1–7.103–4.)

M. Clause 16. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "16 A. Copyright and Publication" in its entirety.

N. Clause 17. Patent Rights is revised to read:

17. Patent Rights

(If this contract is with a small business firm, university, or nonprofit organization where a purpose is to perform experimental, developmental, or research work, the following clause is applicable):

17. Patent Rights (Small Business Firms and Nonprofit Organizations) (March 1982)

(a) *Definitions.* (1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firms" means a small business concern as defined at Section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 13 CFR 121.3–12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.*

(1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical details to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided,* That in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief, of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the Department of Health and Human Services, upon written request, title to any subject invention: (i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c) above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c) above: *Provided, however,* That if the Contractor has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceedings on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c) above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Department except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Department to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d) above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief on the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provide the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of their, for experimental, developmental or research work. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the case of subcontracts, at any tier, when the prime award with the Department was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceeding undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that: (1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that: (1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations

engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of: (i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use license are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

(l) *Communications.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

OR

(If this contract is with other than a small business firm or nonprofit organization that has as a purpose the performance of experimental, developmental, or research work, and is to be performed in the United States, its possessions, or Puerto Rico, the following clause is applicable):

17. Patent Rights—Retention by the Contractor

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Allocation of principal rights.* (1) The Contractor may retain the entire right, title, and interest throughout the world or in any country thereof in and to each Subject Invention disclosed pursuant to paragraph (e) (2) (i) of this clause, subject to the rights obtained by the Government in paragraph (c) of this clause. The Contractor shall include with each Subject Invention disclosure an election as to whether he will retain the entire right, title, and interest in the invention throughout the world or any country thereof.

(2) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the Contractor:

(i) Does not elect under paragraph (b) (1) of this clause to retain such rights; or

(ii) Fails to have a United States patent application filed on the invention in accordance with paragraph (j) of this clause, or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.

(3) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government upon request the entire right, title, and interest in any Subject Invention in any foreign country if the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (k) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent, the Contractor shall notify the Contracting Officer not less than 60 days before the expiration period for any action required by the foreign patent office.

(4) A conveyance requested pursuant to paragraph (b) (2) or (3) of this clause shall be made by delivering to the Contracting Officer duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest to enable the Government to apply for and prosecute patent applications covering the invention in this or the foreign country, respectively, or otherwise establish its ownership of the invention.

(c) *Minimum rights acquired by the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States.

(2) Agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances:

(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application, or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(ii) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health, safety or welfare needs, or for other public purposes stipulated in this contract;

(3) Shall submit written reports at reasonable intervals upon request of the Government during the term of the patent on the Subject Invention regarding:

(i) The commercial use that is being made on is intended to be made of the invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing;

(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the invention; and

(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c)(1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information as required by paragraph (c)(3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a Subject Invention.

(d) *Minimum rights to the Contractor.* (1) The Contractor reserves a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of the agency

except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive domestic license retained pursuant to paragraph (d)(1) of this clause may be revoked or modified by the agency to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101–4. 103–3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101–4. 104–3. This license shall not be revoked in that field of use and/or the geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d)(1) of this clause may be revoked or modified at the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d)(2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license, and the Contractor shall be allowed 30 days (or such longer period as may be authorized by the agency for good cause shown in writing by the Contractor) after the notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license.

(e) *Invention, identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and any other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of Subject Inventions, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports at least every 12 months from the date of the contract listing Subject Inventions for that period and certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period; and

(B) All Subject Inventions have been disclosed or that there are no such inventions; and

(iii) A final report within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to disclose to the Contracting Officer within 6 months after the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e)(2)(iii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1)(i) or (1)(ii) of this paragraph (f), the Contractor:

(i) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or

(ii) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(iii) Establishes that the failure to disclose did not result from his fault or negligence.

(3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the Disputes Clause), the Contractor shall be deemed to hold the Invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragrah (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative until the expiration of 3 years after final payment under this contract shall have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions to determine compliance with the requirements of this clause.

(2) The Contracting Officer shall have the right to review all books (including laboratory notebooks), records and documents of the Contractor relating to the conception or the actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e)(1) of this clause; or

(ii) Maintain and follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Withholding of payment (Not applicable to Subcontracts).* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish, maintain, and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or

(iii) Deliver acceptable interim reports pursuant to paragraph (e)(2)(ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

The reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause, and an acceptable final report pursuant to (e)(2)(iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization the maximum amount that may be withheld under this paragraph shall not exceed $50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Government Contracting Officer in any subcontract hereunder where a purpose

of the subcontract is the conduct of experimental, developmental, or research work, the Contractor shall include this patent rights clause modified to identify the parties in a subcontract with other than a small business firm or nonprofit organization; or the patent rights clause of OMB Circular A-124 modified to identify the parties in any subcontract with a small business firm or nonprofit organization. In event of refusal by a subcontractor to accept the proffered clause, the Contractor:

(i) Shall promptly submit a written notice to the Government Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to the Government Contracing Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(5) The Contractor shall promptly notify the Goverment Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing Patent Rights Clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(6) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the Subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government in regard to Subject Inventions.

(j) *Filing of domestic patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e)(2)(i) of this clause or such longer period as may be approved by the Contracting Officer for good cause shown in writing by the Contractor. With respect to the invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

(2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

(i) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed including the filing date and serial number;

(ii) Include the following statement in the second paragraph of the specification on the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. ——— (or Grant No. ———) awarded by the Department of Health and Human Services;

(iii) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly executed and approved instrument on a form specified by the Government fully confirmatory of all rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application filed;

(iv) Provide the Contracting Officer with a copy of the patent within 2 months after a patent is issued on the application; and

(v) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the agency of any decision not to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain principal domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of the invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) *Filing of foreign patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain principal rights in a foreign country pursuant to paragraph (b)(1) of this clause, the Contractor shall have a patent application filed on the invention in that country, in accordance with applicable statutes and regulations, and within one of the following periods:

(i) Eight months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filed, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e)(2)(i) of this clause;

(ii) Six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

(iii) Such longer period as may be approved by the Contracting Officer.

(2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and upon written request shall furnish an English version of the foreign application without additional compensation.

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O. Clause 19. Inspection is revised to read:

19. Inspection

(When the primary objective of the contract is the delivery of drawings, designs, or reports, the following clause is applicable):

19. Inspection

(Text of this clause is set forth in FPR 1-7.302-4(b).)

OR

(When the primary objective of the contract is the delivery of end items other than drawings, designs, or reports, the following clause is applicable):

19. Inspection

(Text of this clause is set forth in FPR 1-7.302-4(a).)

P. Clause 20. Federal Reports Act is revised to read:

20. Paperwork Reduction Act

(a) In the event that it subsequently becomes a contractural requirement to collect or record information calling either for answers to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is outside the scope of their employment, for use by the Federal government or disclosure to third parties, the Paperwork Reduction Act of 1980 (Pub. L. 96-511) shall apply to this contract. No plan, questionnaire, interview guide or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Assistant Secretary for Management and Budget (ASMB) within the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB). Contractors and Project Officers should be guided by the provisions of 5 CFR 1320, Controlling Paperwork Burdens on the Public, and seek the advice of the HHS operating division or Office of the Secretary Reports Clearance Officers to determine the procedures for acquiring ASMB and OMB clearance.

(b) The Contractor shall obtain the required ASMB and OMB clearance through the Project Officer before expending any funds or making public contracts for the collection of data. The authority to expend funds and proceed with the collection of information shall be in writing by the Contracting Officer. The Contractor must plan at least 120 days for ASMB and OMB clearance. Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance

with Clause 10-Default, Subparagraph (c) or Clause 42-Excusable Delays, as applicable.

Q. Clause 21. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11."

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R. Clause 25. Equal Opportunity is revised to read:

25. Equal Opportunity

(Text of this clause is set forth in FPR 1-12.803-2.)

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S. Clause 30. Utilization of Small Business Concerns is revised to read:

30. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern: (i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

* * * * *

T. Clause 32. Utilization of Minority Business Enterprises is revised to read:

32. Utilization of Women-Owned Business Concerns (Over $10,000)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" mean all women business owners.

U. Clause 33. Payment of Interest on Contractor's Claims is revised to read:

33. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

(V.) Clause 34. Listing of Employment Openings is revised to read:

34. Disabled Veterans and Veterans of the Vietnam Era

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirement in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.SC. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system

when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and parttime employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor propose to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

W. Clause 37. Employment of the Handicapped is revised to read:

37. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

X. Clause 38. Standards of Work is revised to read:

38. Standards of Work

[Text of this clause is set forth in FPR 1-7.302-3.]

Y. Clause 39. Competition in Subcontracting is revised to read:

39. Competition in Subcontracting

[Text of this clause is set forth in FPR 1-7.202-30.]

* * * * *

Z. Clause 41 is added as follows:

41. Excusable Delays

[This clause is applicable if the contract is awarded on the basis of no-profit to an educational or nonprofit institution]: (a) Except with respect to failure of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless: (1) The supplies or services to be furnished by the

subcontractor were obtainable from other sources, (2) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (3) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he/she shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.)

AA. Clause 42 added as follows:

42. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

4. Part 3–16 is further amended by amending § 3–16.950–315 as follows:

A. The title and center heading are revised to read:

§ 3–16.950–315 For HHS–315 (Rev. 7/83), General Provisions for Negotiated Cost-Reimbursement Contract with Educational Institutions.

General Provisions for Negotiated Cost-Reimbursement Contract with Educational Institutions

B. Clause 1. Definitions is revised to read:

1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which affect any increases or decreases in the scope of work or which would result in the increase or decrease of the cost of this contract or a change in performance period of this contract. In addition, the Project Officer is not authorized to receive or act upon the Contractor's notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

C. Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95–563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Officer's decision.

D. Clause 3. Limitation of Cost is revised to read:

3. Limitation of Cost

(Text of this clause is set forth in FPR 1–7.202–3(a).)

E. Clause 4. Allowable Cost and Payment is revised to read:

4. Allowable Cost and Payment

(Text of this clause is set forth in FPR 1–7.402–3(b) (1) through (5).)

F. Clause 5. Negotiated Overhead Rates is amended by removing "Allowable Cost," in paragraph (a) of each of the three clauses and adding "Allowable Cost and Payment", and by removing the introductory paragraph and designation for clauses (i), (ii) and (iii) and adding instructions and title for each of the three clauses as follows:

(The following provisions shall be applicable when postdetermined rates are used):

5. Negotiated Overhead Rates—Postdetermined

* * * * *

(The following provisions shall be applicable when predetermined rates are used):

5. Negotiated Overhead Rates—Predetermined

* * * * *

(The following provisions shall be applicable when fixed rates subject to carryforward adjustments are used):

5. Negotiated Overhead Rates—Fixed

* * * * *

G. Clause 6. Standards of Work is revised to read:

6. Standards of Work

(Text of this clause is set forth in FPR 1–7.302–3.)

H. Clause 7. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

7. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1–7.103–3.)

* * * * *

I. Clause 10. Accounts, Audits, and Records is amended as follows:

(1) The title is revised to read "Accounts, Audit, and Records".

(2) Subparagraph (c)(1) is revised to read:

(c) * * *

(1) until the expiration of 3 years after final payment under this contract or such lesser

time specified in the Federal Procurement Regulations Part 1–20, and

* * * * *

(3) Paragraph (d) is amended by removing "$2,500" and adding "$10,000".

(4) The note following paragraph (d) is removed in its entirety.

* * * * *

J. Clause 15. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "15. Copyright and Publication" in its entirety.

* * * * *

K. Clause 18, Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

18. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1–7.103–4.)

* * * * *

L. Clause 20, Patent Rights—Deferred (Short Form) is revised to read:

20. Patent Rights (Small Business Firms and Nonprofit Organizations) (March, 1982)

(Where a purpose of the contract is to perform experimental, developmental, or research work, the following clause is applicable):

(a) *Definitions.* (1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 13 CFR 121.3–12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.* (1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided,* That in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the Department of Health and Human Services, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c), above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c), above: *Provided, however,* That if the Contractor has filed a patent application in a country after the times specified in (c), above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceedings on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Department except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Department to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions

and decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to: (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d), above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief of the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provide the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the case of subcontracts, at any tier, when the prime award with the Department was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceeding undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that: (1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field or use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to

subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education.

(l) *Communications.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

M. Clause 21. Key Personnel is revised to read:

21. Key Personnel

(Text of this clause is set forth in FPR 1–7.304–6.)

N. Clause 22. Litigation and Claims is amended as follows:

(1) The first sentence is amended by removing "Allowable Cost." and adding "Allowable Cost and Payment".

(2) The third sentence is amended by removing "or" after policy and adding "of".

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O. Clause 24. Payment of Overtime Premium is revised to read:

24. Payment for Overtime Premium

(Text of this clause is set forth in FPR 1–7.202–29.)

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P. Clause 26. Federal Reports Act is revised to read:

26. Paperwork Reduction Act

(a) In the event that it subsequently becomes a contractural requirement to collect or record information calling either for answers to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is outside the scope of their employment, for use by the Federal government or disclosure to third parties, the Paperwork Reduction Act of 1980 (P.L. 96–511) shall apply to this contract. No plan, questionnaire, interview guide or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Assistant Secretary for Management and Budget (ASMB) within the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB). Contractors and Project Officers should be guided by the provisions of 5 CFR 1320, Controlling Paperwork Burdens on the Public, and seek the advice of the HHS operating divisions or Office of the Secretary Reports Clearance Officers to determine the procedures for acquiring ASMB and OMB clearance.

(b) The Contractor shall obtain the required ASMB and OMB clearance through the Project Officer before expending any funds or making public contracts for the collection of data. The authority to expend funds and proceed with the collection of information shall be in writing by the Contracting Officer. The Contractor must plan at least 120 days for ASMB and OMB clearance. Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with Clause 46-Excusable Delays.

Q. Clause 27. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11".

R. Clause 28. Services of Consultants is amended in paragraph (b) by removing "$100" and adding "$150".

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S. Clause 32. Equal Opportunity is revised to read:

32. Equal Opportunity

(Text of this clause is set forth in FPR 1–12.803–2.)

T. Clause 33. Convict Labor is revised to read:

33. Convict Labor

(Text of this clause is set forth in FPR 1–12.204.)

U. Clause 34. Officials not to benefit is revised to read:

34. Officials Not To Benefit

(Text of this clause is set forth in FPR 1–7.102–17.)

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V. Clause 37. Utilization of Small Business Concerns is revised to read:

37. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

* * * * *

W. Clause 39. Utilization of Minority Business Enterprises revised to read:

39. Utilization of Women-Owned Business Concerns (Over $10,000)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concerns means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" means all women business owners.

X. Clause 40. Payment of Interest on Contractor's Claims revised to read:

40. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

Y. Clause 41. Listing of Employment Openings is revised to read:

41. Disabled Veterans and Veterans of the Vietnam Era

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in

regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive orders or regulations regrading nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openinigs which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listings would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

Z. Clause 43. Competition in Subcontracting is revised to read:

43. Competition in Subcontracting

(Text of this clause is set forth in FPR 1-7.202-30.)

* * * * *

AA. Clause 45. Employment of the Handicapped is revised to read:

45. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which

the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant order of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulation, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

BB. Clause 46 is added as follows:

46. Excusable Delays

(a) Except with respect to failures of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor

(b) Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless: (1) The supplies or services to be furnished by the subcontractor were obtainable from other sources, (2) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (3) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he/she shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

CC. Clause 47 is added as follows:

47. Final Decisions on Audit Findings

For the purpose of issuing final decisions under the Disputes Article of this contract concerning monetary audit findings, the Contracting Officer shall be that person with ultimate responsibility for making that decision in accordance with chapter 1-105, Resolution of Audit Findings, of the Department's Grants Administration Manual.

DD. Clause 48 is added as follows:

48. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

5. Part 3-16 is further amended by amending § 3-16.950-315A as follows:

A. The title and center heading are revised to read:

§ 3-16.950-315A Form HHS-315A (Rev. 7/83), General Provisions for Negotiated Cost-Reimbursement Contract With Nonprofit Institutions Other Than Educational Institutions.

General Provisions for Negotiated Cost-Reimbursement Contract With Nonprofit Institutions Other Than Educational Institutions

B. Clause 1. Definitions is revised to read:

1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer, and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which affect any increases or decreases in the scope of work or which would result in the increase or decrease of the cost of this contract or a change in performance period of this contract. In addition, the Project Officer is not authorized to receive or act upon the Contractor's notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

C. Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certificate that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed

by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Office's decision.

D. Clause 3. Limitation of Costs is revised to read.

3. Limitation of Costs

(Text of this clause is set forth in FPR 1-7.202-3(a).)

E. Clause 4. Allowable Cost and Payment is amended by removing paragraph (a) and adding the following:

(a) For the performance of this contract, the Government shall pay to the Contractor:

(1) The fixed fee, if any, as may be provided for in the Schedule; and

(2) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with the terms of this contract and with the applicable cost principles in effect on the date of this contract:

(i) 45 CFR Appendix E for hospitals; or

(ii) Subpart 1-15.7 of the Federal Procurement Regulations (41 CFR 1-15.7 for State, local and federally recognized Indian tribal governments; or

(iii) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2) for nonprofit organizations identified in § 1-15.603-3, except that costs of Independent Research and Development and its proportionate share of indirect costs shall not be allowed; or

(iv) Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6) for nonprofit organizations other than those identified in § 1-15.603-3. In addition, the following shall apply:

(A) *Bid and proposal costs.* Bid and proposal costs are the immediate costs of preparing bids, proposals, and applications for potential Federal and non-Federal grants, contracts, and agreements, including the development of scientific, cost, and other data needed to support the bids, proposals and applications. Bid and proposal costs of the current accounting period are allowable as indirect costs. Bid and proposal costs of past accounting periods are unallowable in the current period. However, if the organization's established practice is to treat these costs by some other method, they may be accepted if they are found to be reasonable and equitable. Bid and proposal costs do not include independent research and development costs covered by the following paragraph, or preaward costs covered by Paragraph 33 of Attachment B to OMB Circular A-122 (see § 1-15.603-2).

(B) *Independent research and development costs.* Independent research and development is research and development conducted by an organization which is not sponsored by Federal or non-Federal grants, contracts, or other agreements. Independent research and development shall be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development. The costs of independent research and development, including its proportionate share of indirect costs, are unallowable.

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F. Clause 5. Negotiated Overhead Rates is revised to read:

5. Negotiated Overhead Rates

(The following clause shall be applicable when postdetermined rates are used):

5. Negotiated Overhead Rates—Postdetermined

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment", the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than six (6) months after the close of its fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles set forth in Clause No. 4—"Allowable Cost and Payment", as in effect on the date of the contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify: (1) The agreed final rate, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the contract, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively: (1) Provisional rates may, at the request of either party, be revised by mutual agreement, and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates specified in the contract shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(g) Submission of proposed provisional and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his/her duly authorized representative, and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his/her duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e) above.

OR

(The following clause shall be applicable when fixed rates subject to carryforward adjustments are used):

5. Negotiated Overhead Rates—Fixed

(a) Notwithstanding the provisions of the clause of this contract entitled, "Allowable Cost and Payment" the allowable indirect costs under this contract shall be obtained by applying negotiated fixed overhead rates for the applicable period(s) to bases agreed upon by the parties, as specified below. A negotiated fixed rate(s) is based on an estimate of the costs which will be incurred during the period for which the rate(s) applies. When the application of the negotiated fixed rates against the actual base(s) during a given fiscal period produces an amount greater or less than the indirect costs determined for such period, such greater or lesser amount(s) will be carried forward to a subsequent period.

(b) The Contractor, as soon as possible but no later than six (6) months after the close of its fiscal year, or such other period as may be specified in the contract, shall submit to the Secretary, or his/her duly authorized representatives, with a copy to the cognizant audit activity, a proposed fixed overhead rate or rates based on the Contractor's actual cost experience during the fiscal year, including adjustment, if any, for amounts carried forward together with supporting cost data. Negotiation of fixed overhead rates, including carry-forward adjustments, if any, by the Contractor and the Secretary , or his/her duly authorized representatives, shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6), as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify: (1) The agreed fixed

overhead rates, (2) the bases to which the rates apply, (3) the fiscal year, unless the parties agreed to a different period, for which the rates apply, and (4) the specified items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of fixed overhead rates for any fiscal year or different period agreed to by the parties, the contractor shall be reimbursed either at the rates fixed for the previous fiscal year or other period or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rate for that fiscal year or other period are established.

(f) Any failure of the parties to agree on any fixed overhead rate or rates or to the amount of any carry forward adjustment under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period specified in the contract, the parties fail to agree to a fixed overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates Postdetermined" clause set forth in Section 1-3.704-2(a) of the Federal Procurement Regulations, as in effect on the date of this contract.

(g) Submission of proposed fixed, provisional, and/or final overhead rates, together with appropriate date in support thereof, to the Secretary or his/her duly authorized representative; and agreements on fixed, provisional, and/or final overhead rates entered into between the Contractor and the Secretary or his/her duly authorized representatives, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e), above.

G. Clause 6. Standards of Work is revised to read:

6. Standards of Work

(Text of this clause is set forth in FPR 1-7.302-3.

H. Clause 7. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

7. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1-7.103-3)

* * * * *

I. Clause 10. Accounts, Audit, and Records is amended as follows:

(1) Subparagraph (c)(1) is revised to read:

(c) * * *

(1) until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, and

* * * * *

(2) Paragraph (d) is amended by removing "$2,500" and adding "$10,000".

(3) The note following paragraph (d) is removed in its entirety.

* * * * *

J. Clause 15. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "15. Copyright and Publication" in its entirety.

* * * * *

K. Clause 18. Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

18. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1-7.103-4.)

* * * * *

L. Clause 20. Patent Right—Deferred (Short Form) is revised to read:

20. Patent Rights (Small Business Firms and Nonprofit Organizations (March, 1982)

(Where a purpose of the contract is to perform experimental, developmental, or research work, the following clause is applicable):

(a) *Definitions.* (1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.* (1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it is writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided*, That in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the Department of Health and Human Services, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c), above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c), above: *Provided, however,* That if the Contractor has filed a patent application in a country after the times specified in (c), above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contact was awarded. The license is transferable only with the approval of the Department except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Department to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d), above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief of the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provide the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the case of subcontracts, at any tier, when the prime award with the Department was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceeding undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible

applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) if this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that: (1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

(l) *Communications.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

M. Clause 21. Key Personnel is revised to read:

21. Key Personnel

(Text of this clause is set forth in FPR 1-7.304-6.)

N. Clause 22. Litigation and Claims is amended in the first sentence by removing "Allowable Cost." and adding"Allowable Cost and Payment".

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O. Clause 24. Payment of Overtime Premium is revised to read:

24. Payment for Overtime Premium

(Text of this clause is set forth in FPR 1-7.202-29.)

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P. Clause 26. Federal Reports Act is revised to read:

26. Paperwork Reduction Act

(a) In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answers to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is outside the scope of their employment, for use by the Federal government or disclosure to third parties, the Paperwork Reduction Act of 1980 (Pub. L. 96-511) shall apply to this contract. No plan, questionnaire, interview guide or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Assistant Secretary for Management and Budget (ASMB) within the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB). Contractors and Project Officers should be guided by the provisions of 5 CFR 1320, Controlling Paperwork Burdens on the Public, and seek the advice of the HHS operating division or Office of the Secretary Reports Clearance Officers to determine the procedures for acquiring ASMB and OMB clearance.

(b) The Contractor shall obtain the required ASMB and OMB clearance through the Project Officer before expending any funds or making public contracts for the collection of data. The authority to expend funds and proceed with the collection of information shall be in writing by the Contracting Officer. The Contractor must plan at least 120 days for ASMB and OMB clearance. Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with Clause 46-Excusable Delays.

Q. Clause 27. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11".

R. Clause 28. Services of Consultants is amended in paragraph (b) by removing "$100" and adding "$150."

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S. Clause 33. Convict Labor is revised to read:

33. Convict Labor

(Text of this clause is set forth in FPR 1-12.204.)

T. Clause 34. Officials Not To Benefit is revised to read:

34. Officials Not To Benefit

(Text of this clause is set forth in FPR 1-7.102-17.)

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U. Clause 37. Utilization of Small Business Concerns is revised to read:

37. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration

pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

* * * * *

V. Clause 39, Utilization of Minority Business Enterprises is revised to read:

39. Utilization of Women-Owned Business Concerns (Over $10,000.)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women mean all women business owners.

W. Clause 40, Payment of Interest on Contractor's Claim is revised to read:

40. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

X. Clause 41, Listing of Employment Openings is revised to read:

41. Disabled Veterans and Veterans of the Vietnam Era

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor, issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and rights of applicants and employees.

(l) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

* * * * *

Y. Clause 45. Employment of the Handicapped is revised to read:

45. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provision of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

Z. Clause 46 is added as follows:

46. Excusable Delays

(a) Except with respect to failure of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless: (1) The supplies or services to be furnished by the subcontractor were obtainable from other sources, (2) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources and (3) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he/she shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.)

AA. Clause 47 is added as follows:

47. Final Decision on Audit Findings

For the purpose of issuing final decisions under the Disputes Article of this contract concerning monetary audit findings, the Contracting Officer shall be that person with ultimate responsbility for making that decision in accordance with Chapter 1-105, Resolution of Audit Findings, of the Department's Grants Administration Manual.

BB. Clause 48 is added as follows:

48. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

6. Part 3-16 is further amended by amending § 3-16.950-316 as follows:

A. The title and center heading are revised to read:

§ 3-16.950-316 Form HHS-316 (Rev. 7/83), General Provisions for Negotiated Cost-Plus-A-Fixed-Fee Contract.

General Provisions for Negotiated Cost-Plus-A-Fixed-Fee Contract

B. Clause 1. Definitions is revised to read:

1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer, and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which affect any increases or decreases in the scope of work or which would result in the increase or decrease of the cost of this contract or a change in performance period of this contract. In addition, the Project Officer is not authorized to receive or act upon the Contractor's

notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

C. Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000, or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000 the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Officer's decision.

D. Clause 3. Limitation of Costs is revised to read:

3. Limitation of Costs

(Text of this clause is set forth in FPR 1-7.202-3(a).)

E. Clause 4. Allowable Cost, Fixed Fee and Payment is amended to add the following paragraph (h) to read:

(h) Independent research and development cost, including its proportionate share of indirect cost, shall be unallowable unless otherwise expressly provided for in the contract.

F. Clause 5. Negotiated Overhead Rates is amended as follows:

(1) The first sentence under (a) is amended to remove "Allowable Cost and Fixed Fee," and add "Allowable Cost, Fixed Fee and Payment",

(2) Paragraph (c) is revised to read:

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles set forth in Clause No. 4—"Allowable Cost, Fixed Fee and Payment", as in effect on the date of this contract.

(3) The last sentence in paragraph (e) is amended to remove "or" and add "of".

G. Clause 6. Standards of Work is revised to read:

6. Standards of Work

(Text of this clause is set forth in FPR 1-7.302-3.)

H. Clause 7, Accounts, Audit, and Records is amended as follows:

(1) Subparagraph (c)(1) is revised to read:

(c) * * *

(1) until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, and

* * * * *

(2) Paragraph (d) is amended by removing "$2,500" and adding "$10,000".

(3) The note following paragraph (d) is removed in its entirety.

I. Clause 8. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

8. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1-7.103-3.)

* * * * *

J. Clause 16. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "16. Copyright and Publication" in its entirety.

* * * * *

K. Clause 18. Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

18. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1-7.103-4.)

* * * * *

L. Clause 20. Patent Rights—Deferred (Long-Form) is revised to read:

20. Patent Rights

(If this contract is with a small business firm, university or nonprofit organization where a purpose is to perform experimental, developmental, or research work, the following clause is applicable):

20. Patent Rights (Small Business Firms and Nonprofit Organizations) (March 1982)

(a) *Definitions.* (1) "Invention" means any invention or discovery which is, or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firms" means a small business concern as defined at Section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United

States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.* (1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Office shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, or sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided,* That in any case where publication, or sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the Department of Health and Human Services, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c), above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c), above: *Provided, however,* That is the Contractor has filed a patent application in a country after the times specified in (c), above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Department except when tranferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Department to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d), above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief of the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceedings on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provide the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work. The subcontractor will retain all rights provided for the Contractor in this clause, and the

Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the case of subcontracts, at any tier, when the prime award with the Department was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceedings undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

(l) *Communication.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

OR

(If this contract is with other than a small business firm or nonprofit organization that has as a purpose the performance of experimental, developmental, or research work, and is to be performed in the United States, its possessions, or Puerto Rico, the following clause is applicable):

20. Patent Rights—Retention by the Contractor

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Allocation of principal rights.* (1) The Contractor may retain the entire right, title, and interest throughout the world or in any country thereof in and to each Subject Invention disclosed pursuant to paragraph (e)(2)(i) of this clause, subject to the rights obtained by the Government in paragraph (c) of this clause. The Contractor shall include with each Subject Invention disclosure an election as to whether he will retain the entire right, title, and interest in the invention throughout the world or any country thereof.

(2) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights; or

(ii) Fails to have a United States patent application field on the invention in accordance with paragraph (j) of this clause,

or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.

(3) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government upon request the entire right, title, and interest in any Subject Invention in any foreign country if the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (k) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forefeiture of the patent application or patent, the Contractor shall notify the Contracting Officer not less than 60 days before the expiration period for any action required by the foreign patent office.

(4) A conveyance requested pursuant to paragraph (b)(2) or (3) of this clause shall be made by delivering to the Contracting Officer duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest to enable the Government to apply for and prosecute patent applications covering the invention in this or the foreign country, respectively, or otherwise establish its ownership of the invention.

(c) *Minimum rights acquired by the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States.

(2) Agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances:

(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application, or that the invention has been made available for licensing royalty-fee or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(ii) To the extent that the invention is required for public use by the governmental regulations or as may be necessary to fulfill public health, safety or welfare needs, or for other public purposes stipulated in this contract;

(3) Shall submit written reports at reasonable intervals upon request of the Government during the term of the patent on the Subject Invention regarding:

(i) The commercial use that is being made or is intended to be made of the invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing;

(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the invention; and

(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c)(1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information as required by paragraph (c)(3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a Subject Invention.

(d) *Minimum rights to the Contractor.* (1) The Contractor reseves a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of the agency except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive domestic license retained pursuant to paragraph (d)(1) of this clause may be revoked or modified by the agency to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101–4.103–3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101–4.104–3. This license shall not be revoked in that field of use and/or the geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d)(1) of this clause may be revoked or modified at the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d)(2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license, and the Contractor shall be allowed 30 days (or such longer period as may be authorized by the agency for good cause shown in writing by the Contractor) after the notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license.

(e) *Invention, identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and any other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of Subject Inventions, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports at least every 12 months from the date of the contract listing Subject Inventions for that period and certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period; and

(B) All subject Inventions have been disclosed or that there are no such inventions; and

(iii) A final report within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to disclose to the Contracting Officer within 6 months after the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e) (2) (iii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1)(i) or (1)(ii) of this paragraph (f), the Contractor:

(i) Prepared a written decision based upon a review of the record that the invention was

neither conceived nor first actually reduced to practice in the course of or under the contract; or

(ii) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(iii) Established that the failure to disclose did not result from his fault or negligence.

(3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the Disputes Clause), the Contractor shall be deemed to hold the Invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative until the expiration of 3 years after final payment under this contract shall have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions to determine compliance with the requirements of this clause.

(2) The Contracting Officer shall have the right to review all books (including laboratory notebooks), records and documents of the Contractor relating to the conception or the actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e)(1) of this clause; or

(ii) Maintain and follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Withholding of payment (Not applicable to Subcontracts).* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish, maintain, and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or

(ii) Dislcose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or

(iii) Deliver acceptable interim reports pursuant to paragraph (e)(2)(ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

The reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause, and an acceptable final report pursuant to (e)(2)(iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization the maximum amount that may be withheld under this paragraph shall not exceed $50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Government Contracting Officer in any subcontract hereunder where a purpose of the subcontract is the conduct of experimental, developmental, or research work, the Contractor shall include this patent rights clause modified to identify the parties in a subcontract with other than a small business firm or nonprofit organization; or the patent rights clause of OMB Circular A-124 modified to identify the parties in any subcontract with a small business firm or nonprofit organization. In event of refusal by a subcontractor to accept the proffered clause, the Contractor:

(i) Shall promptly submit a written notice to the Government Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to the Government Contracting Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(5) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing Patent Rights Clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(6) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the Subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government in regard to Subject Inventions.

(j) *Filing of domestic patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e)(2)(i) of this clause or such longer period as may be approved by the Contracting Officer for good cause shown in writing by the Contractor. With respect to the invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

(2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

(i) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed including the filing date and serial number;

(ii) Include the following statement in the second paragraph of the specification on the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. —— [or Grant No. ——] awarded by the Department of Health and Human Services;

(iii) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly executed and approved instrument on a form specified by the Government fully confirmatory of all rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application filed;

(iv) Provide the Contracting Officer with a copy of the patent within 2 months after a patent is issued on the application; and

(v) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the agency of any decision not

to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain principal domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of the invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) *Filing of foreign patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain principal rights in a foreign country pursuant to paragraph (b)(1) of this clause, the Contractor shall have a patent application filed on the invention in that country, in accordance with applicable statutes and regulations, and within one of the following periods:

(i) Eight months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filed, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e)(2)(i) of this clause;

(ii) Six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

(iii) Such longer period as may be approved by the Contracting Officer.

(2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and upon written request shall furnish an English version of the foreign application without additional compensation.

* * * * *

M. Clause 22. Key Personnel is revised to read:

22. Key Personnel

(Text of this clause is set forth in FPR 1–7.304–6.)

N. Clause 23. Litigation and Claims is amended in the first sentence by removing "Allowable Cost and Fixed Fee." and adding "Allowable Cost, Fixed Fee, and Payment."

* * * * *

O. Clause 25. Payment for Overtime is revised to read:

25. Payment for Overtime Premium

(Text of this clause is set forth in FPR 1–7.202–29.)

* * * * *

P. Clause 27. Federal Reports Act is revised to read:

27. Paperwork Reduction Act

(a) In the event that it subsequently becomes a contractural requirement to collect or record information calling either for answers to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is outside the scope of their employment, for use by the Federal government or disclosure to third parties, the Paperwork Reduction Act of 1980 (Pub. L. 96–511) shall apply to this contract. No plan, questionnaire, interview guide or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Assistant Secretary for Management and Budget (ASMB) within the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB). Contractors and Project Officers should be guided by the provisions of 5 CFR 1320, Controlling Paperwork Burdens on the Public, and seek the advice of the HHS operating division or Office of the Secretary Reports Clearance Officers to determine the procedures for acquiring ASMB and OMB clearance.

(b) The Contractor shall obtain the required ASMB and OMB clearance through the Project Officer before expending any funds or making public contracts for the collection of data. The authority to expend funds and proceed with the collection of information shall be in writing by the Contracting Officer. The Contractor must plan at least 120 days for ASMB and OMB clearance. Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with Clause 14—Excusable Delays.

Q. Clause 28. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11".

R. Clause 29. Services of Consultants is amended in paragraph (b) by removing "$100.00" and adding "$150."

* * * * *

S. Clause 35. Convict Labor is revised to read:

35. Convict Labor

(Text of this clause is set forth in FPR 1–12.204.)

T. Clause 36. Officials Not To Benefit is revised to read:

36. Officials Not To Benefit

(Text of this clause is set forth in FPR 1–7.102–17.)

* * * * *

U. Clause 39. Utilization of Small Business Concerns is revised to read:

39. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or small business concern owned and controlled by socially and economically disadvantaged individuals.

* * * * *

V. Clause 42. Utilization of Minority Business Enterprises is revised to read:

42. Utilization of Women-Owned Business Concerns (Over $10,000.)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" means all women business owners.

W. Clause 43. Payment of Interest on contractor's Claims is revised to read:

43. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

X. Clause 44. Listing of Employment Opening is revised to read:

44. Disabled Veterans and Veterans of the Vietnam Era

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occuring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 day's duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer/union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The Contractor will notify each labor union or representative or workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of

the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

Y. Clause 47. Employment of the Handicapped is revised to read:

47. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

Z. Clause 48 is added as follows:

48. Final Decisions on Audit Findings

For the purpose of issuing final decisions under the Disputes Article of this contract concerning monetary audit findings, the Contracting Officer shall be that person with ultimate responsibility for making that decision in accordance with Chapter 1-105, Resolution of Audit Findings, of the Department's Grants Administration manual.

AA. Clause 49 is added as follows:

49. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

* * * * *

7. Subpart 3-16.50, Forms for negotiated procurement, is amended as follows:

§ 3-16.5002-4 [Amended]

A. Section 3-16.5002-4(b) is revised to read:

* * * * *

(b) The following are the applicable General Provisions to be used in contracts covered by this Subpart 3-16.50.

(1) Form HHS-314 (Rev. 7/83), General Provisions for Negotiated Fixed-Price Research and Development Contract. It is noted that, with the removal of Clause 17, "Patent Rights", the form should be used with other types of nonpersonal services contracts, e.g., studies, surveys, and demonstrations in socio-economic areas.

(2) Form HHS-315 (Rev. 7/83), General Provisions for Negotiated Cost-Reimbursement Contract with Educational Institutions.

(3) Form HHS-315A (Rev. 7/83), General Provisions for Negotiated Cost-Reimbursement Contract with Nonprofit Institutions Other than Educational Institutions.

(4) Form HHS-316 (Rev. 7/83), General Provisions for Negotiated Cost-Plus-A-Fixed-Fee Contract.

* * * * *

§ 3-16.5002-7 [Amended]

B. Section 3-16.5002-7(c) is revised to read:

c. Remove 4, Allowable Cost, and Payment and substitute the clause entitled "Allowable Cost, Fixed Fee and Payment" (See FPR 1-7.202-4 for text of this clause). However, the following paragraph (a) shall be used instead of paragraph (a) in the clause:

(a) For the performance of this contract, the Government shall pay to the Contractor:

(1) The fixed fee, if any, as may be provided for in the Schedule; and

(2) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with the terms of this contract and with the applicable cost principles in effect on the date of this contract:

(i) 45 CFR 74 Appendix E for hospitals; or

(ii) Subpart 1-15.7 of the Federal Procurement Regulations (41 CFR 1-15.7) for State, local and federally recognized Indian tribal governments; or

(iii) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2) for nonprofit organizations identified in § 1-15.603-3, except that costs of Independent Research and Development and its proportionate share of indirect costs shall not be allowed; or

(iv) Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6) for nonprofit organizations other than those identified in § 1-15.603-3. In addition, the following shall apply:

(A) *Bid and proposal costs.* Bid and proposal costs are the immediate costs of preparing bids, proposals, and applications for potential Federal and non-Federal grants, contracts, and agreements, including the development of scientific, cost, and other data needed to support the bids, proposals and applications. Bid and proposal costs of the current accounting period are allowable as indirect costs. Bid and proposal costs of past accounting periods are allowable in the current period. However, if the organization's established practice is to treat these costs by some other method, they may be accepted if they are found to be reasonable and equitable. Bid and proposal costs do not include independent research and development costs covered by the following paragraph, or preaward costs covered by Paragraph 33 of Attachment B to OMB Circular A-122 (see § 1-15.603-2).

(B) *Independent research and development costs.* Independent research and development is research and development conducted by an organization which is not sponsored by Federal or non-Federal grants, contracts, or other agreements. Independent research and development shall be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development. The costs of independent research and development, including its proportionate share of indirect costs, are unallowable.

C. Section 3-16.5002-7(d) is removed.

D. Section 3-16.5003 Additions, modifications, and substitutions to general provisions is revised to read:

§ 3-16.5003 Additions, modifications, and substitutions to general provisions.

Contracting officers shall include additional clauses or substitute alternate clauses for those included in the form General Provisions (Forms HHS-314-316) in accordance with applicable instructions in § 3-7.50 and the FPR. Written deviation requests shall be submitted through procurement channels, to the Director, Division of Procurement Policy (DPP); Office of Procurement and Assistance Policy (OPAP); Office of Procurement,

Assistance and Logistics (OPAL); Office of the Assistant Secretary for Management and Budget, (OASMB-OS). The Director, (DPP), will inform the Contracting Officer through procurement channels, of the disposition of the request. In the event expeditious action is required, contracting officers are authorized to request oral or written approval directly from the Director, (DPP), who will notify the contracting officer of the disposition of the request.

§ 3-57.104-3 [Amended]

8. Subsection 3-57.104-3, Contract clauses of § 3-57.104, *Withholding of contract payment*, Contract payment, of Subpart 3-57.1, Contact Monitoring, of Part 3-57, Contract Administration, is removed.

[FR Doc. 83-19616 Filed 7-20-83; 8:45 am]
BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6419

[I-15303]

Idaho; Public Land Order No. 6357; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6357 of March 3, 1983.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Kleng, Idaho State Office, 208-334-1736.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secetary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

In FR Doc. 83-5353 published at page 9008 in the issue of Thursday, March 3, 1983, the land description is corrected as follows:

In FR Doc. 83-5353 published at page 9008 in the issue of Thursday, March 3, 1983, the land description is corrected as follows:

On page 9009, under T. 5 S., R. 40 E., the line reading "Sec. 6, SE¼SW¼" should read, "Sec. 6, SE¼SE¼."

Garrey E. Carruthers,
Assistant Secretary of the Interior.
July 11, 1983.

[FR Doc. 83-19680 Filed 7-20-83; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6420

[C-028040]

Colorado; Revocation of a Forest Service Administrative Site

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order which withdrew 40 acres of public land for use by the Forest Service as an administrative site. This action will open the land to surface entry and mining. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1947, dated August 18, 1959, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 1 S., R. 78 W.,
Sec. 34, SE¼SW¼.

The area described aggregates 40 acres in Grand County.

2. At 10:00 a.m. on August 16, 1983, the land shall be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on August 16, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on August 16, 1983, the land will be opened to location and entry under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
July 11, 1983.

[FR Doc. 83-19683 Filed 7-20-83; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6421

[OR-19577 (WASH), OR-19832 (WASH)]

Washington; Opening of Land Subject to Section 24 of the Federal Power Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order opens 0.05 acre of land in Powersite Reserve No. 72 and Power Project No. 2144, subject to the provisions of Section 24 of the Federal Power Act. This action is necessary to facilitate disposal of the land under the Recreation and Public Purposes Act.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-210-Washington, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 72, is hereby modified to permit disposal under the Recreation and Public Purposes Act, subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818) as to the following described land:

Willamette Meridian

T. 39 N., R. 43 E.,
Sec. 28, those portions of lots 8 and 9 of block 5 of Metaline Townsite lying within the boundary of Power Project No. 2144.

The area described contains approximately 0.05 acre in Pend Oreille County.

2. The Federal Energy Regulatory Commission in DA-210-Washington has determined that disposal of the 0.05-acre parcel in Power Project No. 2144, subject to the provisions of Section 24 in the Federal Power Act, would not be

inconsistent with the license for Power Project No. 2144.

3. At 9:30 a.m. on August 16, 1983, the land will be opened to disposal under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), subject to the provisions of Section 24 of the Federal Power Act.

4. The land has been and remains closed to location and entry under the United States mining laws, but open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19682 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6422

[I-18948]

Idaho; Partial Revocation of Reclamation Project Withdrawn

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Bureau of Land Management order insofar as it affects 160 acres of land withdrawn for the Bureau of Reclamation, Southwest Idaho Water Management Study Area. This action will restore the lands to surface entry and mining location. They have been and remain open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Bureau of Land Management Order dated January 28, 1952, which withdrew lands for the Bureau of Reclamation's, Southwest Idaho Water Management Study Area is hereby revoked insofar as it affects the following described lands:

Boise Meridian

T. 3 S., R. 4 E.,
Sec. 1, SW ¼.

The area described above contains 160 acres in Elmore County.

2. At 9:00 a.m. on August 16, 1983, the public lands described above will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on August 16, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9:00 a.m. on August 16, 1983, the public lands will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands have been and will remain open to applications and offers under the mineral leasing laws.

Inquires concerning the lands should be addressed to the Chief, Branch of Lands and Mineral Operations, Idaho State Office, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Dated: July 11, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-19814 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6423

[I-13218]

Idaho; Revocation of Asotin Dam and Reservoir Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes PLO No. 4040 which withdrew 191.50 acres of public lands for use by the Department of the Army, Corps of Engineers for the Asotin Dam and Reservoir Project. This action will open the lands to operation of the public land laws, including the mining laws. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, 208-334-1735.

SUPPLEMENTARY INFORMATION:

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4040 of June 17, 1966, which withdrew lands for the Asotin Dam and Reservoir Project, is hereby revoked insofar as it affects the following described lands:

Boise Meridian, Idaho

T. 32 N., R. 5 W.,
Sec. 11, SE¼NW¼;
Sec. 15, lots 2, 3, NW¼SE¼;
Sec. 29, lot 1;
Sec. 34, lot 3.

The area described contains a total of 191.50 acres in Nez Perce County.

2. At 9:00 a.m. on August 16, 1983, the lands will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on August 16, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9:00 a.m. on August 16, 1983, the lands will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Idaho State Office, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19681 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6424

[OR-17241]

Oregon; Revocation of Cape Lookout Lighthouse Reservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes one Executive order in its entirety and partially revokes another as to approximately 975 acres of public land withdrawn for lighthouse purposes. The land has been conveyed from United States ownership, and will not be open to surface entry, mining or mineral leasing.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of June 8, 1866, and Executive Order No. 3571 of November 1, 1921, withdrew certain public land for use by the U.S. Coast Guard for lighthouse purposes. The November 1, 1921, order is hereby revoked in its entirety and the June 8, 1866, order is partially revoked insofar as they affect the following described land:

Willamette Meridian

Cape Lookout Lighthouse Reservation

T. 3 S., R. 11 W.,
Sec. 1, unsurveyed in fractional N½;
Sec. 2, unsurveyed in fractional section;
Sec. 3, unsurveyed in fractional section.

The area described contains approximately 975 acres in Tillamook County.

2. The land has been conveyed from United States ownership and will not be restored to operation of the public land laws, including the United States mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19077 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6425

[I-15309]

Idaho; Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order which withdrew 274.75 acres of land for stock driveway purposes. It will restore the land to surface entry. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208–334–1597.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of January 23, 1929, which withdrew the following described land for use and designation as Stock Driveway No. 194, is hereby revoked in its entirety:

Boise Meridian, Idaho

T. 12 N., R. 19 E.,
Sec. 13, SE¼NW¼, N½SE¼, N½SE¼, SW¼SE¼.
T. 12 N., R. 20 E.,
Sec. 18, lot 5.

The area described contains 274.75 acres in Custer County.

2. At 9 a.m. on August 16, 1983, the land described above will be opened to operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on August 16, 1983, shall be considered simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land has been and will remain open to the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19078 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6426

[I-18750]

Idaho; Partial Revocation of the Secretarial Order of November 9, 1937

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial order as to 320 acres of land withdrawn for the Owyhee Reclamation Project. This action will restore the land to such forms of disposition as may by law be made of national forest lands including mining. It will also permit consummation of the pending Forest Service land exchange with the State of Idaho. All affected land has been and remains open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208–334–1735.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of November 9, 1937, which withdrew lands for the Owyhee Reclamation Project, is hereby revoked insofar as it affects the following described land:

Boise Meridian

Boise National Forest

T. 10 N., R. 4 E.,
Sec. 20, N½.

The area described contains 320 acres in Boise County.

2. At 9:00 a.m. on August 16, 1983, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land shall be opened to such forms of disposition as may by law be made of national forest lands, including location and entry under the United States mining laws.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has

provided for such determination in local courts.

3. The land has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of lands and Minerals Operation, Idaho State Office, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983

[FR Doc. 83-19679 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6427

[OR-19188]

Oregon; Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Secretarial orders which withdrew 492.06 acres of land for reclamation purposes. This action will restore 160 acres to surface entry and approximately 430 acres to mining. Approximately 62.06 acres remain closed to mining and 332.06 acres to surface entry by existing powersite classifications and Forest Service roadside zone withdrawals. The entire acreage has been and remains open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The two Secretarial Orders of March 6, 1943, which withdrew the following described lands for use by the Bureau of Reclamation in connection with the North Pacific Basin Project are hereby revoked in their entirety:

Willamette Meridian

North Pacific Basin Project

T. 30 S., R. 2 W.,
Sec. 12, SE¼NE¼.

Umpqua National Forest

T. 30 S., R. 1 W.,
Sec. 4, lot 4, N½SW¼NW¼, and SW¼SW¼NW¼;
Sec. 8, N½NW¼, N½SW¼NW¼, SE¼NW¼, and NW¼SW¼;
Sec. 20, NE¼NE¼.

T. 32 S., R. 3 W.,
Sec. 2, SW¼.

The areas described aggregate 492.06 acres in Douglas County.

2. The lands in T. 30 S., R. 1 and 2 W., are included in Powersite Classification No. 198 of February 15, 1928, and Powersite Classification No. 315 of January 6, 1940, and withdrawn from operation of the public lands laws generally.

3. Portions of the land in Lot 4, and the N½SW¼NW¼ and SW¼SW¼NW¼ of section 4, and the N½NW¼ and N½SW¼NW¼ of Section 8, T. 30 S., R. 1 W., are included in a Forest Service Roadside Zone withdrawal and remain withdrawn from operation of the United States mining laws.

4. At 9:30 a.m. on August 16, 1983, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land in T. 32 S., R. 2 W., will be open to such forms of surface disposition as may by law be made of national forest lands.

5. At 9:30 a.m. on August 16, 1983, the lands described in paragraph 1, except as provided in paragraph 3, will be open to mineral location and entry under the United States mining laws, subject to valid existing rights, the requirements of applicable regulations, and the provisions of the Mining Claims Rights Restoration Act of 1955.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

All land described in paragraph 1 has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 19674 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6428

[OR-19014, OR-19115, OR-19118, OR-19127]

Oregon; Powersite Restoration No. 770; Partial Revocation of Powersite Reserve Nos. 661, 664, and 730; Partial Revocation of Water Power Designation No. 14

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes two Executive orders and a Secretarial order as to 2,257 acres of land withdrawn for powersite reserve and water power designation purposes. This action will restore 2,019.89 acres to such forms of disposition as may by law be made of national forest lands and Revested Oregon and California Railroad Grant Lands. Of the balance, 160 acres remain closed to surface entry and mining by an existing withdrawal. The remaining 77.11 acres have been conveyed from Federal ownership and will not be affected by this action. All of the federally owned land has been and remains open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA–570–Oregon, it is ordered as follows:

1. The Executive Order of December 12, 1917, which created Powersite Reserve Nos. 661 and 664; the Secretarial Order of December 12, 1917, which created Water Power Designation No. 14, and the Executive Order of February 19, 1920, which created Powersite Reserve No. 730 are hereby revoked insofar as they affect the following described lands:

Willamette Meridian

Powersite Reserve No. 661

Water Power Designation No. 14

T. 3 S., R. 5 E.,
Sec. 19, lot 3 and SE¼SW¼.

Powersite Reserve No. 664

T. 3 S., R. 5 E.,
Sec. 28, NW¼SW¼.

Revested Oregon and California Railroad Grant Land

Powersite Reserve No. 661

Water Power Designation No. 14

T. 4 S., R. 4 E.,
Sec. 13, E½SE¼.
T. 3 S., R. 5 E.,
Sec. 27, S½SW¼ and NE¼SE¼.

Powersite Reserve No. 730

Water Power Designation No. 14

T. 4 S., R. 5 E.,
Sec. 7, lot 1, SE¼SW¼ and SE¼.

Mt. Hood National Forest

Powersite Reserve No. 730

Water Power Designation No. 14

T. 4 S., R. 5 E.,
Sec. 17, SW¼NE¼ and W½SE¼;
Sec. 19, SW¼NE¼ and NE¼NW¼;
Sec. 21, S½N½ and S½;
Sec. 23, NE¼NE¼, NW¼SW¼ and S½SW¼;
Sec. 27, N½NE¼, and SE¼NE¼;
Sec. 31, lots 5, 6, and 7, NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼.
T. 4 S., R. 6 E.,
Sec. 27, S½NW¼;
Sec. 31, lots 4 and 5;
Sec. 33, N½SW¼.

Water Power Designation No. 14

T. 4 S., R. 5 E.,
Sec. 10, lot 1.

The area described aggregates 2,257 acres in Clackamas County.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. Lot 3 and the SE¼SW¼, Section 19, T. 3 S., R. 5 E., has been conveyed from United States ownership and will not be affected by this action.

4. The S½SW¼ and NE¼SE¼, Section 27, and the NW¼SW¼, Section 28, T. 3 S., R. 5 E., are included in a U.S. Fish and Wildlife Service Fish Cultural Station withdrawal and will not be opened to operation of the public land laws, including mining laws.

5. At 9:30 a.m. on August 16, 1983, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in parargraph 1, except as described in paragraphs 3 and 4, will be opened to such forms of disposition as may by law be made of national forest lands and Revested Oregon and California Railroad Grant Land.

6. The lands described in paragaph 1, except as described in paragraphs 3 and 4 have been and continue to be open to location and entry under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

7. The lands described in paragraph 1, except as described in paragraph 3, have been and remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19675 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6429

[OR-19227]

Oregon; Partial Revocation of Naval Facility Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order as to 90.36 acres of land withdrawn for use by the Navy Department as a naval facility. This action will restore the land to surface entry and mining. It has been and remains open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 14, 1884, which withdrew certain land for use by the War Department, and subsequently transferred to the Navy Department for use as a naval facility, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

Coos Head Naval Facility

T. 26 S., R. 14 W.,
Sec. 2, those portions of lot 1 and the SW¼NW¼ as delineated upon the official records of the Oregon State Office, Bureau of Land Management;
Sec. 3, those portions of lots 1, 2, SE¼NE¼, and unsurveyed accretions thereto as delineated upon the official records of the Oregon State Office, Bureau of Land Management.

The area described contains approximately 90.36 acres in Coos County.

2. At 9:30 a.m. on August 16, 1983, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m. on August 16, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9:30 a.m. on August 16, 1983, the land will be open to location and entry under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19686 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6430

[U-15263]

Utah; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order

SUMMARY: This order partially revokes various Secretarial, Executive and Commissioners' orders as they affect 39,288.47 acres of public and nonpublic land withdrawn for the Colorado River Storage Project. This action will restore 2,682 acres to surface entry and mining and 3,260 acres to such forms of disposition as may by law be made of national forest land. The remaining land is located within the Flaming Gorge National Recreation Area and thus will remain closed to surface entry and mining. The public land has been and will remain open to mineral leasing.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office, 801–524–4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Orders dated February 17, 1909, November 17, 1958, and October 4, 1967; Commissioners' Orders dated October 20, 1952, July 2, 1956, and December 6, 1956; and Executive Order dated May 14, 1915, which withdrew certain lands for use by the Bureau of Reclamation for the Colorado River Storage Project are hereby partially revoked insofar as they affect the following described lands:

Salt Lake Meridian, Utah

T. 2 N., R. 20 E.,
Sec. 1, W½, and SE¼;
Sec. 4, lots 1, 2, 3, and 4, S½NW¼, W½E½SW¼, and W½SW¼;
Sec. 9, lot 3, and NW¼NW¼;
Sec. 10, W½E½SW¼, and W½SW¼;
Sec. 12, N½N½;
Sec. 13, NW¼NW¼SW¼, S½NW¼SW¼, and SW¼SW¼;
Sec. 14, S½;
Sec. 15, W½E½NW¼, W½NW¼, and S½;
Sec. 24, SW¼NE¼, SE¼NW¼, S½NE¼NW¼, NW¼NE¼NW¼, W½NW¼, SW¼, W½SE¼, and SE¼SE¼.

T. 3 N., R. 20 E.,
Sec. 22, S½SE¼;
Sec. 25, S½ of lot 1, lot 2, S½ of lots 3 and 4, S½N½, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, and SW¼SE¼SE¼;
Sec. 26, lots 1, 2, 3, and 4, S½N½, and N½S½;
Sec. 34, W½NE¼, NW¼, N½SW¼, and SW¼SW¼;

T. 2 N., R. 21 E.,
Sec. 1;
Sec. 2
Sec. 3, E½NE¼, SW¼NE¼, NW¼, W½SW¼, SE¼SW¼, and SE¼;
Sec. 4;
Sec. 5, NE¼, E½W½, SW¼SW¼, W½SE¼, and NE¼SE¼;
Sec. 6, lots 13, 14, and 15, and S½SE¼;
Sec. 7;
Sec. 8;
Sec. 9;
Sec. 10, N½, SW¼, N½SE¼, SW¼SE¼, and W½SE¼SE¼;
Sec. 11, N½, and NW¼SW¼;
Sec. 12, W½NE¼, and NW¼;
Sec. 13, SW¼NE¼, S½SE¼NW¼, SW¼, NW¼SE¼, W½SW¼SE¼, SE¼SW¼SE¼, and SW¼SE¼SE¼;
Sec. 14, SE¼SE¼ except that portion in H.E.S. No. 60;
Sec. 15, N½NW¼, SW¼NW¼, W½SE¼ NW¼, NW¼NE¼SW¼, S½NE¼SW¼, W½SW¼, and SE¼SW¼;
Sec. 16, N½, N½S½, and SE¼SE¼;
Sec. 17;
Sec. 18, lots 1 to 8, incl., lots 11, and 12, and E½;
Sec. 20, S½NW¼SW¼, SW¼SW¼, S½S½SE¼SW¼, and S½S½SE¼;
Sec. 21, N½NE¼NE¼, E½NW¼SW¼, SW¼SW¼, E½SW¼, SW¼SE¼, and S½SE¼SE¼;
Sec. 22, N½NW¼, and N½S½NW¼;
Sec. 23, E½ except those portions in H.E.S. Nos. 60 and 65, E½NW¼, and SW¼;
Sec. 30, Except the NE¼ and E½NW¼.

T. 3 N., R. 21 E.,
Sec. 23, S½SE¼;
Sec. 24, S½S½;
Sec. 25;
Sec. 26, E½E½, S½SW¼, and SW¼SE¼;
Sec. 30, lot 3;
Sec. 32, SW¼, S½SE¼;
Sec. 33, S½;
Sec. 34, E½, E½NW¼, and SW¼;
Sec. 35;
Sec. 36.

T. 2 N., R. 22 E.,
Sec. 1, N½N½NW¼NW¼;
Sec. 3, N½N½, and N½S½N½;
Sec. 4, N½N½, N½S½NE¼, S½NW¼, and SW¼;
Sec. 5, E½, NW¼, and E½SW¼;
Sec. 6, N½;
Sec. 8, NE¼NE¼, W½NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 9, N½NW¼;
Sec. 16, SW¼;
Sec. 17, E½SW¼, E½SW¼SW¼, NW¼SE¼, W½NE¼SE¼, SE¼NE¼SE¼, and S½SE¼;
Sec. 19, lots 1 to 9, incl., N½NE¼, and E½W½;
Sec. 20, lots 1 to 4, incl., N½, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 21, NW¼, and S½;
Sec. 22, E½, E½NW¼, and SW¼;
Sec. 23;
Sec. 24.

T. 3 N., R. 22 E.,
Sec. 18;
Sec. 19;
Sec. 29;
Secs. 30 to 36 incl.

T. 2 N., R. 23 E.,
Secs. 6 to 10 incl;
Sec. 15, lots 1 to 4, incl., lots 7 and 8, [now lots 11 and 12) N½N½, and SE¼SE¼;
Secs. 16 to 20 incl;
Sec. 21, N½, SW¼, W½SE¼, and NE¼SE¼;
Sec. 22, E½, and E½SW¼.

T. 2 N., R. 25 E.,
Sec. 22, SE¼;
Sec. 27, E½, E½W½, and NW¼NW¼;
Sec. 28, W½E½, and W½.

The areas described, including both public and nonpublic lands, aggregate 39,268.47 acres in Dagget County.

2. At 10 a.m. on August 16, 1983, the public lands described below shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on August 16, 1983, shall be considered as simultaneously filed at that time.

Salt Lake Meridian, Utah

T. 3 N., R. 20 E.,
Sec. 22, S½SE¼.

T. 3 N., R. 22 E.,
Sec. 29, lot 1, E½, E½NW¼.

T. 2 N., R. 23 E.,
Sec. 21, N½, SW¼, W½SE¼, and NE¼SE¼;
Sec. 22, E½, and E½SW¼.

T. 2 N., R. 25 E.,
Sec. 22, SE¼;
Sec. 27, E½, and E½W½;
Sec. 28, W½E½, and W½.

The area described aggregates approximately 2,682 acres in Daggett County.

3. At 10 a.m. on August 16, 1983, the lands described in paragraph two will also be open for location under the United States mining laws. Appropriation of lands under the genreal mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. At 10:00 a.m. on August 16, 1983, the following described land, lying within the Ashley National Forest, shall be open to such forms of disposition as may be law be made of national forest lands including location under the United States mining laws, subject to valid existing rights and the requirements of applicable regulations.

Salt Lake Meridian, Utah

T. 3 N., R. 22 E.,
Sec. 33, N½;
Sec. 34, N½;
Sec. 35, all;
Sec. 36, all.

T. 2 N., R. 23 E.,
Sec. 6, lots 1 through 13, NE¼SW¼, SE¼;
Sec. 9, N½;
Sec. 10, N½.

The area described aggregates approximately 3,260 acres in Daggett County.

5. The remaining land located within the Flaming Gorge National Recreation Area is managed by the Forest Service and will remain closed to surface entry and location under the mining law. All of the remaining public land located within the Flaming Gorge Unit, Colorado River Storage Project, has been and will remain open to mineral leasing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau

of Land Management, 136 East South Temple, University Club Building, Salt Lake City, Utah 84111.

July 11, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR. Doc. 83-19684 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6431

[M 39868 and M 41845]

Montana; Opening of Land Subject to Section 24 of the Federal Power Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order opens a 160-acre parcel of land withdrawn for Powersite Reserve No. 100, subject to Section 24 of the Federal Power Act. This action is necessary to facilitate a Forest Service exchange.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-201, Montana, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 100, is hereby modified to permit disposal by land exchange, subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818) as to the following described land:

Principal Meridian

Helena National Forest

Powersite Reserve No. 100

T. 14 N., R. 10 W.,
Sec. 32, NE¼.

The area described contains 160 acres in Powell County.

2. At 8 a.m. on August 16, 1983, the land will be open to disposal by land exchange, subject to the provisions of Section 24 of the Federal Power Act.

3. The land has been and remains open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (30 U.S.C. 621).

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19685 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6432

[CA 8183 WR, CA 8184 WR]

California; Revocation of Stock Driveway Withdrawal No. 235

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes three Secretarial orders which withdrew approximately 129,027 acres for use as stock driveways. This action opens 126,883 acres of public land to surface entry. They have been and will remain open to mining and mineral leasing. The surface and subsurface estate of the remaining 2,144 acres are privately owned.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Morrison, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of January 21, 1933, as amended, which established Stock Driveway Withdrawal No. 235, and the Secretarial Orders of December 18, 1933 and April 17, 1934, which enlarged the said driveway, are hereby revoked in their entirety. This action involves approximately 129,027 acres of land in Inyo and Kern Counties. Land descriptions are available in the California State Office and in the California Desert District Office.

2. At 10 a.m. on August 16, 1983, 126,883 acres of public land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on August 16, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands, unless otherwise withdrawn or reserved, have been and continue to be open to applications and offers under the mineral leasing laws and to location under the United States mining laws.

4. The privately owned lands, totaling 2,144 acres, are not subject to disposition under the public land laws.

Inquiries concerning these lands should be directed to the State Director, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 11, 1983.

[FR Doc. 83-19676 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6433

[AA-45552]

Alaska; Revocation of Public Land Order No. 478; Classification for Selection of Lands by the State of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: The purpose of this order is to totally revoke Public Land Order No. 478 and make approximately 3,539 acres of national forest lands available for State selection, if such lands are otherwise available.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Beaumont C. McClure, Washington, D.C. (202) 343-6411,

or

Robert W. Faithful, IV, Alaska State Office (907) 271-5768.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Subsection 204(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1714(a)), it is ordered as follows:

1. Public Land Order No. 478 of May 7, 1948, which withdrew the following described lands near Delta Creek in the Tongass National Forest in aid of timber cutting operations, is hereby revoked in its entirety.

Tract A

Beginning at a point one and one-half miles north of the mouth of Cascade Creek at latitude 57°01'10" N., longitude 132°48'20" W., thence east one and three-fourths miles;

south four miles; west two and one-half miles; north approximately one mile to the southwest shore of Thomas Bay at the mouth of a creek draining two small lakes, located approximately one and one-half miles west of the west shore of Patterson River; easterly and northerly along the shore of Thomas Bay to the point of beginning, excepting, however, from the area described those lands described in Power Site Classfiicaton Nos. 9 and 192 approved August 20, 1921, and November 14, 1927, respectively, by the Secretary of the Interior as construed by Interpretation No. 174 of August 20, 1931, of the Secretary of the Interior and the withdrawal of January 19, 1922, under Federal Power Commission Project No. 275.

The tract described contains approximately 2,000 acres.

Tract B

Beginning at the northwest corner of Homestead Entry Survey No. 202 on the east bank of Muddy River at latitude 56°54'50" N., longitude 132°49' W., thence east one and one-half miles; south four miles; west approximately one-half mile to a point on the east shore of Frederick Sound; northerly along the shore of Frederick Sound at line of mean high tide to the south side of the mouth of Muddy River; up stream along the south bank of Muddy River to the point of beginning;

The tract described contained approximately 1,750 acres.

The lands described in Tracts A and B aggregate approximately 3,750 acres, 210.71 acres of which are private lands.

2. Subject to valid existing rights, the above described lands are hereby made available for selection by the State of Alaska under the provisions of Subsecton 6(a) of the Alaska Statehood Act (72 Stat. 339 et seq.; 48 U.S.C. prec. 21), if such lands are otherwise available. Under the provisions of Subsection 6(g) the Alaska Statehood Act, the State of Alaska is provided a preferred right of selection for the lands herein described until 10:00 a.m., Alaska Daylight Saving Time on October 14, 1983. After that time and date, those lands not selected by the State of Alaska shall be open to such forms of disposition as may by law be made of national forest lands, including mineral location and entry under the United States mining laws, subject to valid existing rights and the requirements of applicable regulations. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C Sec. 38 shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

July 15, 1983.

Garrey E. Carruthers,

Asssistant Secretary of the Interior.

[FR Doc. 83-19786 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 233

Aid to Families With Dependent Children; Home Energy Assistance

AGENCY: Social Security Administration, HHS.

ACTION: Interim regulations with request for comments.

SUMMARY: These regulations provide that certain home energy assistance will be excluded in determining eligibility for and the amount of Aid to Families With Dependent Children (AFDC) payments. These rules reflect the following two statutory provisions. First, section 128 of Pub. L. 97–377, effective December 18, 1982 through September 30, 1983, mandates that no funds provided thereunder be used to reduce or deny AFDC payments because of the receipt of certain home energy assistance. Second, section 545 of Pub. L. 97–424 added a new section 402(a)(36) to the Social Security Act which provides that, at State option, certain home energy assistance received from February 1, 1983 through June 30, 1985 may be excluded for AFDC purposes.

DATES: These interim regulations are effective July 21, 1983. Written comments may be submitted by September 19, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203. Comments received may be inspected between 8:00 a.m. and 4:30 p.m. on regular business days at the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, by contacting the person shown below.

FOR FURTHER INFORMATION CONTACT: Mr. David Siegel, Room B–442, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20201, (202) 245–2736.

SUPPLEMENTARY INFORMATION:

Justification for Dispensing With Notice of Proposed Rulemaking

Section 128 of Pub. L. 97–377, enacted December 21, 1982 became effective December 18, 1982, while section 545 of Pub. L. 97–424, enacted January 6, 1983 became effective February 1, 1983. In view of the short time period between the enactment of the legislation and the effective dates, it was not feasible to issue these regulations under a Notice of Proposed Rulemaking as this would have delayed issuance of final regulations well past the effective dates of the two laws. These regulations are needed immediately to carry out the legislative mandate to exclude certain home energy assistance as income or resources under the AFDC program and to permit States the option of excluding other home energy assistance under certain circumstances. Since the provisions of section 128 of Pub. L. 97–377 and section 545 of Pub. L. 97–424 will require changes in State AFDC plans and agency procedures, States must have some reasonable assurance that new Federal regulations under which these provisions are to be implemented will not change in "mid-stream." The only way to assure States that significant changes in Federal policy will not be made after they have begun to implement the provisions of these new statutes is to issue interim regulations.

Accordingly, we believe that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed regulations would be impracticable and contrary to the public interest. Moreover, immediate implementation of the regulations is advantageous to AFDC applicants and recipients who receive home energy assistance.

While Notice of Proposed Rulemaking is being waived, we are interested in comments regarding these interim regulations. We will review the comments and will revise these rules, if appropriate, based on the comments received.

The Statutory Provisions

Section 128 of Pub. L. 97–377

Under this provision, home energy assistance, either in cash or in kind, which the appropriate State agency (designated by the chief executive officer of the State) certifies is based on need will not be counted as income or

resources, if the assistance is provided by a private nonprofit organization, or by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body. This provision is effective from December 18, 1982 through September 30, 1983 and applies to home energy assistance provided during that period. However, the language of section 128 of Pub. L. 97–377 restricts the use of funds appropriated under the FY 1983 continuing budget resolution for the Department of Health and Human Services by prohibiting the use of such funds to reduce or deny AFDC assistance due to receipt of certain home energy assistance during that period. Therefore, home energy assistance provided prior to December 18, 1982 will also not be counted as income or resources if it affects AFDC eligibility or payment amount determinations made after December 17, 1982 and prior to October 1, 1983. For example, income received by a recipient in November 1982 would usually be counted in determining the January 1983 assistance payment under retrospective budgeting. If the income is home energy assistance which is certified as based on need, and is furnished by an appropriate source, the home energy assistance must be excluded even though it was received prior to December 18, 1982.

Section 545 of Pub. L. 97–424

Under this provision, which added a new section 402(a)(36) to the Social Security Act, States have the option to exclude home energy assistance which the appropriate State agency (designated by the chief executive officer of the State) certifies is based on need and: (1) Is provided either in cash or in kind by a supplier of home heating gas or oil, a municipal utility providing home energy, or an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body; or (2) is provided in kind by a private nonprofit organization. This provision is effective for such home energy assistance received from February 1, 1983 through June 30, 1985.

Discussion of the Regulatory Provisions

The regulations implementing the new statutory provisions are contained in §§ 233.20 and 233.53. Section 233.20 is being amended to add a new subparagraph (a)(3)(xvi) which requires that home energy assistance be treated in accordance with the rules set forth in § 233.53. Section 233.53 contains the State plan requirements and definitions governing the treatment of home energy assistance under the AFDC program.

The rules in § 233.53 (a) and (b) reflect the general statutory provisions and provide applicable definitions. The rules in § 233.53(c) discuss how home energy assistance is treated during different time periods and set forth the applicable State plan requirements. There are periods of time during which only one statutory provision or the other is effective. Accordingly, for the time period December 18, 1982 through January 31, 1983 only section 128 of Pub. L. 97–377 is in effect. The special rules governing this perod are set out in § 233.53(c)(3). For the time period October 1, 1983 through June 30, 1985, only section 545 of Pub. L. 97–424 is in effect. The special rules governing this period are set out in § 233.53(c)(5). For the time period in which these two provisions overlap (February 1, 1983 through September 30, 1983), both provisions are in effect. The special rules for this overlapping time period are set out in § 233.53(c)(4).

Discussion of Options

A discussion follows of the options we considered in developing the regulations implementing section 128 of Pub. L. 97–377 and section 545 of Pub. L. 97–424. Since these statutory provisions apply to the Supplementary Security Income (SSI) program as well as to the AFDC program, generally, we have selected options for treatment of home energy assistance which are consistent for both programs.

Definition of Terms

The terms related to excluding certain home energy assistance are not defined in the statute. Therefore, we have defined such terms as broadly as possible to insure the fullest implementation of the statutory mandates. We have defined "home energy assistance" as any assistance that is related to home energy except food or clothing. For purposes of section 128 of Pub. L. 97–377 which requires that need be determined by the provider of home energy assistance, we have defined "based on need" generally in terms of whether the home energy assistance was provided to or on behalf of an AFDC applicant or recipient rather than in terms of whether the home energy assistance was provided to or on behalf of an individual with limited income. We defined based on need as such since it is implicit that if home energy assistance was provided to or on behalf of an AFDC applicant or recipient, it was provided to an individual with limited income. In the interest of uniformity between the two programs, we have elected to use exactly the same definitions as the SSI program with one exception, the definition of based on need for section 545 of Pub. L. 97–424. The rationale for this difference is discussed in the next section.

Implementation of Section 545 of Pub. L. 97–424

The most significant difference in the provisions of section 545 of Pub. L. 97–424 which pertain to the AFDC and SSI programs is that home energy assistance is required to be excluded under the SSI program, but the exclusion under the AFDC program is at State option. In developing these regulations, we considered whether States should be allowed to impose limitations within the parameters of the optional exclusion, or whether States should be required to disregard all excludable home energy assistance if they chose to implement the provisions of section 545 of Pub. L. 97–424. We decided to allow maximum flexibility for States in selecting the types, amounts and sources of home energy assistance they will exclude in keeping with the President's commitment to assure States adequate flexibility in developing their own programs. This approach is also consistent with the position we took in developing the regulations implementing the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) and the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–35) where the statute authorized the Secretary to prescribe definitions. Each State may establish limits on the exclusion of home energy assistance depending upon its own policy and administrative considerations. For example, a State may wish to limit the exclusion to home energy assistance which is furnished in kind. On the other hand, a State may wish to exclude assistance in cash or in kind up to a dollar maximum.

Similarly, since section 545 of Pub. L. 97–424 does not require that the determination of need must be made by the home energy assistance provider, as section 128 of Pub. L. 97–377 does, we considered whether this determination should be made by the States. Under section 545 of Pub. L. 97–424, the Secretary is authorized to promulgate regulations regarding whether home energy assistance is furnished based on need. We decided that the States should be given maximum flexibility in this area as well. Accordingly, the regulations provide that the States may either establish criteria on which the determination that AFDC applicants and recipients need home energy assistance will be made or may continue to rely upon the providers for the determination

of need. Where the State agency establishes its own criteria, the certifying agency will make its decision in accordance with those criteria.

Although we are generally allowing maximum flexibility, we have limited the rate-of-return entities that can provide excludable home energy assistance to those which supply home energy in order to conform to the SSI statutory provisions which restrict rate-of-return entities to those providing home energy. Nothing in the legislative history indicates the Congress intended a broader exclusion for rate-of-return entities under the AFDC program than is provided under the SSI program. Furthermore, since the exclusion in section 545 of Pub. L. 97–424 is optional in AFDC, but mandatory in SSI, we have considered the issue of the treatment of energy assistance provided joint AFDC/SSI households. We have concluded that, where the State does not elect to exclude home energy assistance, the State will be required to prorate the home energy assistance furnished to the household in order to determine what portion is attributable to the AFDC members of the household.

Further Considerations

Section 545 of Pub. L. 97–424 is silent as to the treatment of home energy assistance as a resource. Therefore, we considered the question of how home energy assistance which is not counted as income should be treated for resource purposes under the AFDC program. It is clear that the purpose of the statutory provision is to ensure that an individual's eligibility for and amount of AFDC payments are not affected because that individual receives home energy assistance. In order to carry out this legislative intent, the regulations provide that home energy assistance will not be considered as a resource. To do otherwise and consider such home energy assistance as a resource could, in effect, defeat the intended purpose of the statutory mandate.

Social Security Amendments of 1983

Section 404 of Pub. L. 98–21 (the Social Security Amendments of 1983) enacted on April 20, 1983 amends section 402(a)(36) of the Social Security Act as added by section 545 of Pub. L. 97–424. That section, as amended, now provides that, at the State's option, certain support and maintenance not be counted when determining an individual's eligibility for and the amount of his or her AFDC payments. Therefore, under section 402(a)(36), at the State's option, certain support and maintenance as well as home energy assistance is not counted for AFDC purposes. Regulatory changes needed to implement this recent legislation are now being developed and are not included in these regulations which implement only the home energy provisions of Pub. L. 97–377 and Pub. L. 97–424. The changes needed to implement section 404 of Pub. L. 98–21 will be published as interim rules as soon as possible.

Regulatory Procedures

Executive Order 12291—As a result of the authorizing legislation and these implementing regulations, AFDC benefit payments will be greater than they would have been in the absence of legislation (since home energy assistance will in certain cases no longer be treated as income or resources). However, these program costs are due primarily to decisions made in the legislative process. Cost impacts directly resulting from the regulations themselves are minor. For this reason, the Secretary has determined that the regulations are not a "major rule" under Executive Order 12291, and a regulatory impact analysis is not required.

Paperwork Reduction Act—In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in these interim regulations will be submitted for approval by the Office of Management and Budget (OMB). These provisions are the State plan requirements in § 233.20(a)(3)(xvi) and 233.53(c). These reporting requirements will not be effective until approved by OMB.

Regulatory Flexibility Act—We certify that these regulations, if promulgated, will not have a significant impact on a substantial number of small entities because they primarily affect State governments and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

These regulations are issued under the authority of section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302, section 128 of Pub. L. 97–377 and section 402(a)(36) as added by section 545 of Pub. L. 97–424.

(Catalog of Federal Domestic Assistance Program 13.808, Public Assistance Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 233

Aid to families with dependent children, Aliens, Family assistance, Grant programs—social programs, Public assistance programs, Reporting requirements.

Dated: April 12, 1983.

Approved: June 23, 1983.

John A. Svahn,

Commissioner of Social Security.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 233—[AMENDED]

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. Section 233.20 is amended by adding a new paragraph (a)(3)(xvi) to read as follows:

§ 233.20 Need and amount of assistance.

(a) Requirements for State plans. * * *

(3) Income and resources. * * *

(xvi) Home energy assistance in AFDC. For AFDC, provide that in considering the availability of income and resources, home energy assistance will be taken into account in accordance with § 233.53.

* * * * *

2. A new § 233.53 is added to read as follows:

§ 233.53 Home energy assistance in AFDC.

(a) *General.* Section 128 of Pub. L. 97–377 provides that, from December 18, 1982 through September 30, 1983, home energy assistance furnished under certain circumstances must be excluded as income and resources. Additionally, section 402(a)(36) of the Social Security Act (added by section 545 of Pub. L. 97–424) provides that, from February 1, 1983 through September 30, 1985, States may exclude home energy assistance as income and resources under certain circumstances. The rules under which States will operate during time periods these two provisions are in effect are explained in paragraph (c) of this section. However, under both provisions, in order for home energy assistance to be excluded from income and resources an appropriate State agency must certify to the agency administering the AFDC program that such assistance was provided based on need. The home energy assistance must also be furnished to or on behalf of a person applying for or receiving AFDC, or a person whose needs or income are considered in determining the eligibility of an assistance unit.

(b) *Definitions.* The following definitions are limited to the home energy assistance provisions of this section.

"Appropriate State agency" means the agency designated by the chief executive officer of the State to handle the State's responsibilities with respect

to home energy assistance under paragraph (c) of this section.

"Based on need" means that with respect to paragraphs (c)(3) and (c)(4)(i) of this section the provider of the assistance states that the aid is given for the purpose of home energy assistance (e.g., vouchers for heating or cooling bills, storm doors) and the aid is provided to or on behalf of a person applying for or receiving AFDC, or to on behalf of a person whose needs or income is considered in determining the eligibility of an AFDC assistance unit. With respect to paragraphs (c)(4)(ii) and (c)(5) of this section, "based on need" means, at State option, either (1) the definition specified in the preceding sentence, or, (2) the aid is given to or on behalf of an applicant or recipient for the purpose of home energy and meets the State's criteria established for purposes of determining the need for such aid.

"Home energy assistance" means any assistance related to home energy (e.g., heating, cooling, home weatherization, blankets, storm doors, etc.). It does not include food or clothing.

"Private, nonprofit organization" means a religious, charitable, educational, or other organization such as described in section 501(c) of the Internal Revenue Code of 1954. (Actual tax exempt certification by IRS is not necessary).

"Rate-of-return entity" means an entity whose revenues are primarily received from the entity's charges to the public for goods or services, and such charges are based on rates established and regulated by a State or Federal governmental body.

(c) *Requirements for State Plans.* A State plan for AFDC must as specified below:

(1) Provide that an appropriate State agency will be designated to certify that home energy assistance is based on need (as defined in paragraph (b) of this section), and that such certifications will be accepted for purposes of determining eligibility for and the amount of payments under the AFDC program.

(2) Provide that in joint AFDC/SSI households, home energy assistance furnished to the household which is not excluded under this paragraph, will be prorated on a reasonable basis to determine the amount provided to the AFDC assistance unit. The State plan must describe the method that will be used to prorate the assistance in these circumstances.

(3) *From December 18, 1982 through January 31, 1983,* provide that home energy assistance, either in cash or in kind which the appropriate State agency certifies is based on need will be excluded as income and resources under the following conditions:

(i) The assistance is received during the period, December 18, 1982 through January 31, 1983; or assistance was received prior to December 18, 1982 but it affects eligibility or payment determinations made from December 18, 1982 through January 31, 1983; and

(ii) The assistance is furnished by:

(A) A private nonprofit organization; or

(B) A rate-of-return entity.

(4) *From February 1, 1983 through September 30, 1983,*

(i) Provide that home energy assistance, either in cash or in kind, which the appropriate State agency certifies is based on need will be excluded as income and resources if the assistance is furnished during such period or before such period if it affects eligibility or payment determinations during such period, and is furnished by:

(A) A private nonprofit organization; or

(B) A rate-of-return entity.

(ii) Provide that the State may exclude as income and resources, home energy assistance, either in cash or in kind, which the appropriate State agency certifies is based on need if the assistance is furnished during such period and is furnished by:

(A) A supplier of home heating gas or oil; or

(B) A municipal utility providing home energy.

(iii) Provide that if the State agency elects to exclude any assistance described in paragraph (c)(4)(ii) of this section, the State plan must:

(A) Specify what definition of need will be used and, if the State elects to establish its own criteria, describe the criteria that will be used to determine the need for home energy assistance;

(B) Identify the types and amounts of assistance that will be excluded; and

(C) Provide that any limitations will be made on a reasonable basis.

(5) *From October 1, 1983 through June 30, 1985,*

(i) Provide that the State may exclude as income and resources, home energy assistance, which the appropriate State agency certifies is based on need if the assistance is furnished during such period and is furnished by:

(A) A supplier of home heating gas or oil, regardless of whether assistance is in cash or in kind; or

(B) A municipal utility providing home energy, regardless of whether assistance is in cash or in kind; or

(C) A rate-of-return entity which provides home energy, regardless of whether assistance is in cash or in kind; or

(D) A private nonprofit organization, but only if such assistance is in kind.

(ii) Provide that if the State elects to exclude any assistance described in paragraph (c)(5)(i) of this section, the State plan must:

(A) Specify what definition of need will be used and, if the State elects to establish its own criteria, describe the criteria that will be used to determine the need for home energy assistance;

(B) Identify the types and amounts of assistance that will be excluded; and

(C) Provide that any limitations will be made on a reasonable basis.

[FR Doc. 83-19716 Filed 7-20-83; 8:45 am]
BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-826; RM-4221]

TV Broadcast Stations in Paris, Texas, and Hugo, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 36 to Paris, Texas, as its second television assignment, in response to a petition filed by Holt Robinson of Texas, Inc. The Commission also reassigned Channel 42 from Paris-Hugo, Texas, to Paris, to reflect its use there.

DATE: Effective September 12, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations. (Paris, Texas, and Hugo, Oklahoma) BC Docket No. 82-826, RM-4221.

Adopted: June 8, 1983.
Released: July 12, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 843, published January 7, 1983, which invited comments on a proposal to assign UHF Television Channel 36 to Paris, Texas, in response to a petition filed by Holt Robinson of Texas, Inc.

("petitioner"). Petitioner submitted comments in support of the proposal and expressed its interest in applying for the channel, if assigned.

2. We believe that the petitioner has demonstrated the need for a second television assignment to Paris, Texas, and that the public interest would be served by assigning UHF commercial television Channel 36 to that community. Also, the *Notice* proposed to specify Paris as the city of assignment with regard to the hyphenated assignment for Channel 42 in Paris (Texas)-Hugo (Oklahoma). The Table of Assignments will be changed to reflect this.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is ordered, that effective September 12, 1983, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the communities listed below:

Cities	Channel No.
Hugo, Oklahoma—Paris, Texas	
Paris, Texas—Hugo, Oklahoma	
Paris, Texas	36+, 42+

4. It is further ordered, that this proceeding is terminated.

5. For further information, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-19657 Filed 7-20-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 16)]

Iron Sulphate Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules (Exemption).

SUMMARY: The Commission is exempting from regulation, on a nationwide basis, the rail transportation of iron sulphate pursuant to 49 U.S.C. 10505. Exemptions will allow competition for the transportation of iron sulphate to establish reasonable rates and level of service for its transportation by rail. Regulation of this commodity is not needed to protect shippers from the abuse of market power.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275–7245

or

Karen Osterloh, (202) 275–7483.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

Authority.—49 U.S.C. 10505, 5 U.S.C. 553.

Decided: July 12, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1039—[AMENDED]

§ 1039.11 [Amended]

Title 49 of the Code of Federal Regulations, § 1039.11(a), is amended by adding the following commodity to the list of miscellaneous commodities exempt from regulation:

(a) * * *

STCC No.	STCC tariff	Commodity
28, 195, 27-30, and 68-69.	6001-J, eff. 1-1-1982.	Iron Sulphate.

* * * * *

[FR Doc. 83-19671 Filed 7-20-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 141
Thursday, July 21, 1983

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness for Production and Utilization Facilities; Frequency and Participation of Exercises

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend its regulations in order to provide flexibility for exercise participants in regard to the required frequency and extent of participation in emergency preparedness exercises conducted for nuclear power reactor facilities. The proposed rule would retain the presently required annual full-participation exercise with the proviso that if all major elements in the emergency plan are performed in a satisfactory manner during the annual exercise, a finding may be made that another full participation exercise with State and local governments would not be required for a period of up to two years.

DATES: The comment period expires September 19, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule change and/or the supporting Regulatory Analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of the Regulatory Analysis and of the comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Human Factors Branch, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 443-5890.

SUPPLEMENTARY INFORMATION: On August 19, 1980, the NRC published revised emergency preparedness regulations which became effective on November 3, 1980 (45 FR 55402). The regulations required nuclear power reactor licensees to submit upgraded emergency plans by January 2, 1981; to submit implementing procedures by March 1, 1981; and to implement the plans by April 1, 1981.

With regard to conducting exercises of emergency plans, Appendix E, Section IV.F., of 10 CFR Part 50 now requires:

> . . . Each licensee shall exercise at least annually the emergency plan for each site at which it has one or more power reactors licensed for operation. Both full-scale and small-scale exercises shall be conducted and shall include participation by appropriate State and local government agencies as follows:
>
> 1. A full-scale exercise which tests as much of the licensee, State, and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted:
>
> a. For each site at which one or more power reactors are located and licensed for operation, at least once every five years and at a frequency which will enable each State and local government within the plume exposure pathway EPZ to participate in at least one full-scale exercise per year and which will enable each State within the ingestion pathway to participate in at least one full-scale exercise every three years.
>
> b. For each site at which a power reactor is located for which the first operating license for that site is issued after the effective date of this amendment, within one year before the issuance of the operating license for full power, which will enable each State and local government within the plume exposure EPZ and each State within the ingestion pathway EPZ to participate.

The Commission believes that the regulations determining the frequency of emergency preparedness exercises, as currently written in 10 CFR Part 50, Appendix E, should be modified in order to provide greater flexibility in implementation. Since the current regulation was published in the **Federal Register** on August 19, 1980, the NRC and FEMA staffs have observed and evaluated more than 100 exercises around nuclear power reactors. These exercises have included the participation of licensees, State and local governmental officials, and, in some instances, have also included the participation of Federal agencies. It has become apparent that a disproportionate amount of Federal, State, local government and licensee resources are being expended in order to conduct and evaluate emergency preparedness exercises at the presently required frequency. As a result of the substantial expenditure of resources for these emergency preparedness exercises, fewer resources are available to establish and maintain the very important day-to-day upgraded state of emergency preparedness. In addition, necessary resources for correcting any deficiencies that surface during the exercises are being reduced.

Two petitions for rulemaking that have been filed with the Commission which directly relate to this area of concern are described below.

1. National Emergency Management Association (NEMA)

On March 17, 1982, the Commission received a petition for rulemaking (PRM-50-33) from NEMA which is an organization comprised of directors of State emergency services programs. NEMA believes that the current requirement for an annual exercise at each nuclear power plant site within a State is imposing an overwhelming burden on State resources.

NEMA specifically requested that 10 CFR Part 50, Appendix E, Section IV.F.1, be revised to reduce the frequency for full participation by State and local governments in emergency preparedness exercises from annually to biennially.

A Notice of Receipt of Petition for Rulemaking was published in the **Federal Register** on July 6, 1982 (47 FR 29252), requesting public comment. To date, 36 comment letters have been received and evaluated by the staff. Five comments oppose relaxing the frequency of exercises while 31 commenters were in favor of relaxing the frequency of exercises (many with their own unique methods of accomplishing the same). Those commenters opposing the petition included a private citizen, an environmental group, and three governmental agencies from one State. Those commenters in favor of the

petition are, for the most part, utilities, legal firms and consulting firms representing utilities, and a number of State and local governmental agencies.

2. Adjutant General of the State of South Carolina, Emergency Preparedness Division

On August 30, 1982, the Commission received from the State of South Carolina a petition for rulemaking (PRM–50–34) which requested that the NRC reduce the frequency that local governments must participate in full-scale emergency preparedness exercises.

The State of South Carolina's rationale was that local county governments rely heavily on trained volunteer citizens to respond on a day-to-day basis to natural and technical emergencies that occur within the county. The requirement for an annual full-scale exercise by counties was stated to impose an undue burden on these volunteers who, in many cases, would have to be exercise participants on their own time.

In its petition, the State of South Carolina stated that: "The requirement for offsite planning and response capability exists for those counties partially or wholly within the 10-mile EPZ where a nuclear power reactor is *not* located as for the county where a nuclear reactor *is* located. The point here being, of course, that the county in which a nuclear power reactor is located derives revenue from the reactor owner, which should help offset exercise cost. The other affected county(ies) derive little or no revenue from the reactor owner and the cost of an annual full-scale exercise is an annual additional expense to the county. Most of these counties have a low economic base and the requirement for a full-scale exercise places an undue financial burden on county resources."

Finally, the State of South Carolina stated that, "None of the counties located partially or wholly within a 10-mile EPZ question the need for appropriate plans, exercises, and training to respond to a reactor radiological accident or a natural disaster, but they have questioned the need for an annual full-scale exercise. For the continuing enthusiastic participation by the counties and county volunteer emergency response personnel, the petitioner requests the NRC to reevaluate the requirement for local governments to participate in an annual full-scale exercise."

The Commission notes that the distribution of the revenues varies from State to State and that the situation described by the petitioner, while not untypical, is not uniformly true at all sites.

A Notice of Receipt of Petition for Rulemaking was published in the **Federal Register** on November 10, 1982 (47 FR 50918), requesting public comment. To date, 10 comment letters have been received and evaluated by the staff. One letter opposes relaxing the frequency of exercises while nine letters were in favor of relaxing the frequency of exercises.

By adoption of a final rule similar to this proposed rule, the Commission would grant the petitions for rulemaking cited above.

The Commission is considering changing its requirements concerning emergency preparedness exercises in order to provide flexibility in its regulations. The proposed rule would retain the presently required annual full-participation exercise, with the proviso that if all major elements in the emergency plan are performed in a satisfactory manner during the annual exercise, FEMA may recommend and the NRC may find that another exercise with State and local governmental participation is not required for a period of up to two years.

The proposed rule would not relax in any manner the onsite exercise that each licensee is required to conduct which includes exercising control room, technical support center, and emergency operating facility functions. A partial or full-participation exercise would satisfy the licensee's annual requirement for an onsite exercise as full licensee participation is required for either type of exercise.

The minimum frequency of exercises in which a State would participate for a particular site would be relaxed from the present once every five years to once every seven years. This change would assure that States with the greater number of nuclear power plant sites will not be required to exercise in a full-participation mode more often than about once a year. The minimum frequency of opportunity for Federal participation at each site would also be extended to once every seven years to be consistent with the proposed change in the State participation frequency. Although not specifically required by the rule, the Commission expects that Federal participation, including participation by an NRC site team, would occur in an exercise in which the State fully participates at least once every seven years at each site.

In early 1982, some Interorganizational Advisory Committee (IOAC) members expressed concern that single-site States might need more than a biennial exercise in certain instances. A provision has therefore been added to require licensees to conduct exercises annually with full State participation if requested by the State. It should be noted that this provision establishes a precedent in that it permits a State to require the conduct of joint exercises with greater frequency than might be required by NRC. In the Commission's view, this provision is desirable in light of the strong State role in emergency preparedness.

In reviewing the emergency preparedness exercise experience the staff notes that within the last year, the NRC and FEMA have evaluated 52 emergency preparedness exercises involving a utility, State and local governments. These evaluations have identified deficiencies related to a number of the planning standards in 10 CFR 50.47. In almost all cases, the evaluations did not identify fundamental defects in the way that the emergency plan was conceived or implemented such that it called into question whether a finding could be made that a state of emergency preparedness existed which would provide reasonable assurance that appropriate protective measures could and would be taken in the event of an emergency.

A new footnote to Section IV.F of Appendix E is also proposed which would specifically allow the use of site-specific control room simulators or computers to aid in realism of reactor parameters and their interplay in the scenario.

Additionally, in § 50.47 and Appendix E an editorial change is being proposed in order to delete the existing footnote in the emergency preparedness regulations relating to NUREG–0654; FEMA–REP–1, Rev. 1, November 1980. This deletion was made because the NUREG is now endorsed by Regulatory Guide 1.101, Rev. 2.

The Commission believes that adoption of these rule changes will more effectively focus available resources on the pertinent issues and problems in establishing and maintaining an upgraded and effective day-to-day state of emergency preparedness. Additionally, the added flexibility will be an incentive for licensees and State and local governmental agencies to perform emergency preparedness exercises in a satisfactory manner which will assist in ensuring appropriate protection of the health and safety of the public.

Because FEMA is directly involved in the evaluation of offsite emergency preparedness exercises and, therefore, would be affected by the promulgation of a final rule, the NRC consulted with

FEMA during the development of this proposed rule.

The following tables illustrate the minimum frequency for the participation of State and local governments in emergency exercises that could result if FEMA were to recommend and the NRC were to find that the results of each exercise are such that a subsequent exercise is not required for up to two years. Exercises could be more frequent than indicated on these tables if a satisfactory finding could not be made by NRC.

For planning purposes, exercises should be scheduled in a manner which results in all State and local governments within the plume exposure Emergency Planning Zone fully participating in some exercise on an annual basis. When a favorable recommendation from FEMA along with a favorable finding from NRC is received, appropriately scheduled exercises can be cancelled to conform to the biennial frequency.

Example Exercise Frequencies for State and Local Governments for Various Numbers of Nuclear Sites if an NRC Finding Permits an Exercise Every 2 Years

F=Full participation by State and local governmental agencies and licensee
X=Full participation by licensee and local governmental agencies and partial participation by States within plume exposure EPZ
Blank or L=Licensee only

CASE 1.—ONE SITE WITH PLUME EXPOSURE EPZ WITHIN ONE STATE

[4F, 3L]

Year	1	2	3	4	5	6	7
Site:							
A	F		F		F		F.

CASE 2.—TWO SITES* WITH BOTH PLUME EXPOSURE EPZ'S WITHIN ONE STATE

[4F, 3X, 7L]

Year	1	2	3	4	5	6	7
Site:							
A	F		F		X		X.
B		X		F		F	

*Where there are two licensees at one location, these are considered as two sites. Where one licensee has more than one reactor at one location, it is considered as one site.

CASE 3.—THREE SITES WITH ALL PLUME EXPOSURE EPZ'S WITHIN ONE STATE

[4F, 7X, 11L]

Year	1	2	3	4	5	6	7
Site:							
A	F		X		X		X.
B		X		F		F	
C	X		F		X		X.

CASE 4.—FOUR SITES WITH ALL PLUME EXPOSURE EPZ'S WITHIN ONE STATE

[4F, 10X, 14L]

Year	1	2	3	4	5	6	7
Site:							
A	F		X		X		X.
B		X		F		X	
C	X		F		X		X.
D		X		X		F	

CASE 5.—FIVE SITES WITH ALL PLUME EXPOSURE EPZ'S WITHIN ONE STATE

[5F, 13X, 17L]

Year	1	2	3	4	5	6	7
Site:							
A	F		X		X		X.
B		X		F		X	
C	X		F		X		X.
D		X		X		F	
E	X		X		X		F.

CASE 6.—SEVEN SITES WITH ALL PLUME EXPOSURE EPZ'S WITHIN ONE STATE

[7F, 18X, 24L]

Year	1	2	3	4	5	6	7
Site:							
A	F		X		X		X.
B		F		X		X	
C	X		F		X		X.
D		X		F		X	
E	X		X		F		X.
F		X		X		F	
G	X		X		X		F.

CASE 7.—EXAMPLE FOR BOUNDARY SITES—THREE STATES

[4F, 7X, 11L]

Year	1	2	3	4	5	6	7
Site:							
A_1	F		X		X		X.
B_1		X		F		X	
C_2	X		F		X		F.
D_2		F		X		F	
E_3	X		F		X		X.
F_3		X		X		F	

Subscript 1=State 1, 4 sites (4F, 10X).
Subscript 2=State 2, 2 sites (3F, 5X).
Subscript 3=State 3, 2 sites (3F, 3X) (21L Total).

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. section 605(b), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule concerns the frequency and extent of conducting full-scale exercises of emergency plans for nuclear power plants. The electric utility companies owning and operating these nuclear power plants are dominant in their service areas and do not fall within the definition of a small business found in Section 3 of the Small Business Act, 15 U.S.C. section 632, or within the Small Business Size Standards set forth in 13 CFR Part 121. Although part of the burden for the conduct of emergency preparedness exercises falls on State and local governments, the proposed rule would lesson this burden by possibly decreasing the frequency of these exercises. Thus, the proposed rule would impose no significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act of 1980.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying, for a fee, at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443–5890.

Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Requirements Act of 1980 (44 U.S.C. 3501 et seq.).

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 50.47 [Amended]

2. In § 50.47, Footnote 1 is deleted.

* * * * *

3. In Appendix E, Section IV.F is revised to read as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities

IV. Content of Emergency Plans

* * * * *

F. Training

The program to provide for (1) the training of employees and exercising, by periodic drills, of radiation emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties, and (2) the participation in the training and drills by other persons whose assistance may be needed in the event of a radiation emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

a. Directors and/or coordinators of the plant emergency organization;

b. Personnel responsible for accident assessment, including control room shift personnel;

c. Radiological monitoring teams;

d. Fire control teams (fire brigades);

e. Repair and damage control teams;

f. First aid and rescue teams;

g. Medical support personnel;

h. Licensee's headquarters support personnel;

i. Security personnel.

In addition, a radiological orientation training program shall be made available to local services personnel; e.g., local Civil Defense, local law enforcement personnel, local news media persons.

The plan shall describe provisions for the conduct of emergency preparedness exercises as follows. Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communications networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties.

1. A full participation exercise which tests as much of the licensee, State and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted for each site at which a power reactor is located for which the first operating license for that site is issued after the effective date of this amendment. This exercise shall be conducted within one year before the issuance of the operating license for full power, and shall include participation by each State and local government within the plume exposure EPZ and each State within the ingestion pathway EPZ.

2. Each licensee at each site shall:

a. Annually exercise its emergency plan.[5]

b. Except as provided in paragraph 3 below, include in its annual exercise:

(i) Annual full participation[6] by local government agencies.

(ii) Annual full or partial participation[7] by States within the plume exposure EPZs.

c. At least once every 7 years, conduct its exercise with simultaneous full participation by local government agencies within the plume exposure EPZ and full participation by States within the plume exposure and ingestion pathway EPZs.

3. The exercise provided for in paragraph 2b above may be held less frequently than annually if FEMA recommends and NRC makes a finding that all major elements in the emergency plans were performed satisfactorily during the exercise and that another exercise is not needed for up to 2 years, unless an annual exercise is specifically requested by the State in which the site is located. This provision notwithstanding, each State within a plume exposure pathway EPZ shall fully participate in an exercise at least once every 2 years at some site.

4. The plan shall describe provisions for involving Federal emergency response agencies in an emergency preparedness exercise involving State and local authorities by each licensee at each site at which one or more power reactors are located and licensed for operation at least once every 7 years.

5. All training, including exercises, shall provide for formal critiques in order to identify weak or deficient areas that need corrections. Any weaknesses or deficiencies that are identified shall be corrected.

* * * * *

Appendix E—[Amended]

4. In Appendix E, Footnotes 1 and 4 are removed

* * * * *

Dated this 14th day of July, 1983

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-19755 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[5] Use of site specific simulators or computers is acceptable for any exercise.

[6] "Full participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite local and State authorities and licensee personnnel physically and actively take part in testing their integrated capability to adequately access and respond to an accident at a commercial nuclear power plant. "Full participation" includes testing the major observable portions of the onsite and offsite emergency plans and mobilization of State, local and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario.

[7] "Partial participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite authorities shall actively take part in the exercise sufficient to: (1) test direction and control functions; i.e., (a) protective action decisionmaking related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee; and (2) retest any major deficiency(ies) from the preceding exercise.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANM-7]

Proposed Alteration of Transition Area; Billings, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to reduce the 700-foot transition area at Billings, Montana, to bring it into compliance with established national guidelines. The reduced 700' transition area will eliminate unnecessary restrictions on Visual Flight Rules (VFR) operations but will accommodate Instrument Flight Rules (IFR) arrivals, departures, and holding aircraft, where applicable, within controlled airspace.

DATE: Comments must be received on or before September 10, 1983.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel Office and an informal docket may be examined in the Airspace & Procedures Branch at the same address. For further information contact Kathy Paul, Airspace Technician, ANM-535. The telephone number is (206) 431-2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-

ANM-7." The postcard will be date/time stamped and returned to the commenter. All communications received before September 10, 1983, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace & Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700-foot transition area located at Billings, Montana. This proposal is necessary to reduce the transition area, thereby eliminating unnecessary restrictions on VFR operations.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend § 71.181 of Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Billings, Montana

Delete words, "That airspace extending upward from 700 feet above the surface within a 29-mile radius of Logan Field Airport (lat. 45°48'25" N., long. 108°31'55" W.); and insert, "That airspace extending upward from 700' above the surface within an 18-mile radius of Billings Logan International Airport (lat. 45°48'25" N., long. 108°31'55" W.);" * * *

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); § 11.65, Federal Aviation Regulations (14 CFR 11.65))))

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

Issued in Seattle, Washington on July 18, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-19496 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ANM-6]

Proposed Alteration of Transition Area; Helena, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to reduce the 700-foot transition area at Helena, Montana, to bring it into compliance with established national guidelines. The reduced 700' transition area will eliminate unnecessary restrictions on Visual Flight Rules (VFR) operations but will accommodate Instrument Flight Rules (IFR) arrivals, departures, and holding aircraft, where applicable, within controlled airspace.

DATE: Comments must be received on or before September 10, 1983.

ADDRESSES: Send comments to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel Office and an informal docket may be examined in the Airspace & Procedures Office at the same address. For further information contact Kathy Paul, Airspace Technician, ANM-535. The telephone number is (206) 431-2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ANM-6." The postcard will be date/time stamped and returned to the commenter. All communications received before September 10, 1983, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace & Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700-foot transition area located at Helena, Montana. This proposal is necessary to reduce the transition area, thereby eliminating unnecessary restrictions on VFR operations.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Helena, Montana

Delete words, "That airspace extending upward from 700 feet above the surface within a 22-mile radius of the Helena VORTAC (lat. 46°36'25" N., long. 111°57'09" W.);" and insert, "That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Helena, Montana VORTAC (lat. 46°36'25" N., long. 111°57'09"" W.), and within 6 miles northwest and 4 miles southeast of the Helena VORTAC 066° radial and extending from the 12-mile radius area to a point 21 miles northeast of the Helena VORTAC;"* * *.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); § 11.65, Federal Aviation Regulations (14 CFR 11.65))))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under

Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on July 18, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-19497 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA-870; File No. S7-984]

Proposed Rescission of a Rule Excluding From Registration as Investment Advisers Certain Persons Who Offer Investment Advice to Employee Benefit Plans Sponsored by Their Employers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rescission of a rule.

SUMMARY: The Commission is requesting public comments on the proposed rescission of a rule under the Investment Advisers Act of 1940 which rule excludes from the definition of investment adviser a person who offers investment advice to an employee benefit plan (as defined in the Employee Retirement Income Security Act of 1974) sponsored by an employer of such person, if such person is not engaged in the business of providing investment advice or management to others, and does not hold himself out generally to the public as an investment adviser. Rescission of the rule would permit a person providing investment advice to an employee benefit plan sponsored by his employer to register voluntarily with the Commission even though registration of such person under the Advisers Act may not be required.

DATE: Comments should be received on or before August 22, 1983.

ADDRESSES: Comments should be submitted in triplicate to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-984. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, Room 1026, 450 Fifth Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Forrest R. Foss, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, (202) 272-2079.

SUPPLEMENTARY INFORMATION:

I. Introduction

Rule 202-1 [17 CFR 275.202-1] under the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. 80b-1 *et seq.*] generally prohibits persons who serve as in-house investment managers of employee benefit plans from registering as investment advisers under the Advisers Act.[1] The Commission has concluded that Rule 202-1 no longer is necessary or appropriate in the public interest and, accordingly, the Commission proposes to rescind it.

II. Discussion

The Employee Retirement Income Security Act of 1974 [29 U.S.C. Section 1001 *et seq.*] ("ERISA"), which took effect in January 1975, provides a comprehensive system of regulation for private sector employee benefit plans. As a result of certain provisions of ERISA, the Commission, after enactment of ERISA, received a number of applications for investment adviser registration from in-house asset managers of employee benefit plans. Generally, the investment advisory activities of such persons consisted solely of giving advice to an ERISA-covered employee benefit plan sponsored by their employers.

It is not uncommon for an employee benefit plan to manage all or a portion of the plan's assets internally rather than engage an outside manager for such assets. Employee benefit plans managing pension plan assets "in-house" typically utilize the services of employees of the employer-sponsor or of its affiliates (companies controlling, controlled by or under common control with the employer sponsor) to manage plan assets. Although an employee providing investment advisory services to the plan sponsored by his employer might fall within the Advisers Act definition of investment adviser, the advisory activities of such person would typically be limited to services performed for the employer and its employee benefit plans, and the employee therefore would generally be exempt from registration pursuant to Section 203(b)(3) of the Advisers Act [15 U.S.C. 80-3(b)(3)] because he would have had fewer than 15 clients in the preceding year and would not be holding himself out to the public as an investment adviser. An affiliate whose business is limited to providing investment advisory services to fewer than 15 companies and employee benefit plans within the control group generally also would be excepted from registration under Section 203(b)(3).[2] Nevertheless, following the passage of ERISA, a number of in-house asset managers of employee benefit plans whose registration under the Advisers Act was not required sought to register voluntarily with the Commission.

It appeared that the motive for such voluntary registration was to enable an in-house investment adviser to an employee benefit plan covered under Title I of ERISA to qualify as an "investment manager" under Section 3(38) of ERISA [29 U.S.C. 1002(38)]. That section defines investment manager to include investment advisers registered with the Commission under the Advisers Act, banks as defined in the Advisers Act, and certain insurance companies. Under Section 405(d)(1) [3] of ERISA [29 U.S.C. 1105(d)(1)], if an investment manager as defined in Section 3(38) is appointed for the plan, plan trustees are not liable for the acts or omissions of such manager nor are they obliged to invest or manage plan assets subject to the management of the investment manager. In some cases it appeared that employers were encouraging or even requiring employees who gave investment advice to employee benefit

[1] Rule 202-1 provides: "The term 'investment adviser,' in Section 202(a)(11) of the [Advisers] Act, shall not include any person who offers investment advice to an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974, sponsored by an employer of such person, if such person is not engaged in the business of providing investment advice or management to others and does not hold himself out generally to the public as an investment adviser. For purposes of this rule 'person' shall include a natural person, or a company which is controlled by or under common control with the employer, and 'employer' shall include any company controlling, controlled by or under common control with a person."

[2] Other bases for excluding such employees and affiliates from Commission regulation under the Advisers Act also may exist, depending on the facts and circumstances. For example, in some cases such persons might not be deemed to be engaged in the business of providing investment advice to others and, therefore, would not be investment advisers under the Section 202(a)(11) definition.

[3] ERISA Section 405(d)(1) provides that: "If an investment manager or managers have been appointed under Section 402(c)(3) of this title [29 U.S.C. 1102(c)(3)], then, notwithstanding subsections (a) (2) and (3) and subsection (b) of this section, no trustee shall be liable for the acts of omissions of such investment manager or managers, or be under an obligation to invest or otherwise manage any asset of the plan which is subject to the management of such investment manager."

plans covered under ERISA to register voluntarily as investment advisers with the Commission, notwithstanding the fact that such registration was not required under the Advisers Act.

The Commission was concerned that its registration process under the Advisers Act not be used in a manner which would be detrimental to the protections afforded to plans and their participants under ERISA and, in March of 1976, adopted Rule 202–1, which generally excludes from the definition of investment adviser persons whose only investment advisory activities consisted of giving advice to an employee benefit plan sponsored by their employer.[4] After adoption of Rule 202–1, most in-house plan managers who appeared to have voluntarily registered with the Commission as investment advisers withdrew their registrations at the request of the Commission staff. A number of such persons, however, continued to be registered with the Commission because they had or intended to seek clients other than employee benefit plans.[5]

The Commission has considered the continued need for Rule 202–1 and determined to propose that the rule be rescinded. The Commission believes that doing so would not undermine the concept of "investment manager" as defined in Section 3(38) of ERISA. In concluding that investment advisers registered under the Advisers Act could qualify as "investment managers", Congress presumably determined that the protections for employee benefit plans and their participants[6] provided by the Advisers Act justified permitting plan trustees who appoint an "investment manager" to manage plan assets to limit their responsibility for the investment adviser and to limit their liability for the acts or omissions of such managers, pursuant to Section 405(d)(1) of ERISA. In this regard, the Commission is not aware of anything in ERISA or its legislative history which suggests that an in-house asset manager of an employee benefit plan should be treated differently under ERISA from an outside asset manager with respect to qualification as an "investment manager". Moreover, it is important to note that, even in those situations in which the plan trustees appoint an "investment manager", thereby benefiting from the limitations on their responsibility and liability provided in Section 405(d)(1), they remain subject to their fiduciary duties under ERISA, which include acting prudently and solely in the interest of plan participants and beneficiaries in selecting and monitoring the performance of such asset manager.[7] Accordingly, it would not appear to be necessary for the protection of the employee benefit plan clients of in-house plan managers for the Commission to exclude such persons from registration under the Advisers Act.

Finally, in certain circumstances, the effect of Rule 202–1 may be to diminish the effectiveness of the Commission's efforts to administer the Advisers Act in the public interest and for the protection of investors. The Commission staff conducts periodic examinations of the records and operations of registered investment advisers. These inspections often uncover deficiencies in an adviser's operations relating to its compliance with the Advisers Act or its adherence to its fiduciary duties to its clients. Some of these deficiencies, if not corrected, could result in significant harm to clients including loss of client assets. In most cases when deficiencies are uncovered, the Commission staff and the registrant agree informally to appropriate remedial action. However, a difficult situation arises if it appears that the registrant should be excluded from registration by virtue of Rule 202–1. Deregistration in such circumstances, while consistent with Rule 202–1, would deny the Commission the opportunity to monitor the adviser's activities to determine whether the deficiencies recurred, a result which would not appear to be in the public interest or consistent with the protection of investors. For the foregoing reasons the Commission seeks public comment on the proposed rescission of Rule 202–1 under the Investment Advisers Act.

[4] Advisers Act Release No. 503 [41 FR 12878, March 29, 1976]. Rule 202–1 was proposed in Advisers Act Release No. 478 [40 FR 46116, October 6, 1975].

[5] By its terms, the exclusion from the definition of investment adviser provided by Rule 202–1 is not available to persons engaged in the business of providing investment advice to others or holding themselves out to the public as investment advisers. Because Section 203(c)(1) of the Advisers Act provides that an investment adviser "or any person who presently contemplates becoming an investment adviser" may register with the Commission, a person who represents that he intends to engage in activities not covered by Rule 202–1 would be permitted to register. Since the adoption of Rule 202–1, several in-house managers have been permitted to register where it appeared that the existing or proposed activities of such persons might cause them not to fall within the terms of Rule 202–1.

[6] Persons who voluntarily register under the Advisers Act, in circumstances where their registration may not be required, are, of course, subject to all the provisions and rules under the Advisers Act applicable to persons required to register. See letter re Weiss, Barton Asset Management, available March 12, 1981.

[7] See ERISA Conference Report, H.R. Rep. No. 93–1280, 93d Cong. 2d Sess. (1974) at 302.

Regulatory Flexibility Act

The Chairman of the Commission has certified that the proposed amendments, if adopted, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting requirements, Securities.

Commission Action

It is proposed to amend Part 275 of Chapter II of the Code of Federal Regulations under the Investment Advisers Act of 1940 by removing §275.202–1.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

§ 275.202–1 Exclusion of certain persons who offer investment advice to their employer-sponsored employee benefit plans.

§ 275.202–1 [Removed].

Statutory Authority

The Commission hereby proposes to rescind Rule 202–1 pursuant to the authority contained in Section 211(a) of the Advisers Act (15 U.S.C. 80b–11(a)).

By the Commission.

Dated: July 15, 1983.

Shirley E. Hollis,

Assistant Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the rescission of Rule 202–1 under the Investment Advisers Act of 1940 ("Advisers Act") will not have a significant economic impact on any entity, and therefore will not have a significant impact on a substantial number of small entities. The reason for this certification is that rescission of Rule 202–1 will permit, but not require, the voluntary registration of certain persons as investment advisers. In this regard, the costs of registration are not such that persons choosing to voluntarily register would be deterred in doing so, and those advisers who chose not to register would of course not incur any cost. Accordingly, rescission would not be expected to have any significant economic effect on these persons.

Dated: July 14, 1983.

John S. R. Shad,

Chairman.

[FR Doc. 83-19663 Filed 7-20-83; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release No. 34-19969; File No. S7-983A]

Obligations of Self-Regulatory Organizations With Respect to Final Disciplinary Actions, Denials, Bars, or Limitations Respecting Membership, Association, Participation or Access to Services, and Summary Suspensions

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend its rules to permit self-regulatory organizations to submit to the Commission plans specifying minor disciplinary infractions which would not be reported to the Commission or which would be reported in abbreviated form, provided the Commission approves such plans.

DATES: Comments should be submitted on or before September 19, 1983.

ADDRESSES: Persons wishing to submit written views should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. All submissions should refer to File No. S7-983A and will be available for public inspection at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Judith L. Levy, Esq., (202) 272-2066, Division of Market Regulations, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION:

I. Background

Rule 19d-1, which was adopted in 1977 pursuant to Section 19(d)(1) of the Securities and Exchange Act of 1934 ("Act"),[1] requires self-regulatory organizations[2] ("SROs") to report to the Commission notice of final disciplinary actions and prescribes the content of such notices.[3] Notices filed with the Commission pursuant to the rule and Section 19(d)(1) of the Act are subject to review by the Commission on its own motion or upon application by any aggrieved person under Section 19(d)(2) of the Act.[4]

Subsection (c) of Rule 19d-1, which the Commission is proposing to amend, requires any SRO for which the Commission is the appropriate regulatory agency that takes "any final disciplinary action"[5] with respect to any person to file promptly a notice thereof with the Commission.[6]

Rule 19d-1(c) was amended in August 1980 [7] to provide that, with respect to violations of exchange rules concerning personal decorum on a trading floor,[8] a disciplinary action resulting in a fine of not more than $500 or suspension of floor privileges of a clerical employee for not more than five days shall not be considered "final", and therefore need not be reported to the Commission, unless the member seeks to adjudicate the sanction or otherwise to exhaust his administrative remedies. In amending Rule 19-1 in 1980, the Commission determined that, in the three years that the rule had then been in effect, reports of summary uncontested sanctions for violations of trading floor decorum regulations had been of little, if any, value in discharging the Commission's oversight responsibilities over the exchanges. Thus, in exempting uncontested trading floor decorum violations, the Commission found that the exemption in no way compromised the objectives of Rule 19d-1.[9] Underlying this determination was the fact that floor decorum violations represented the most trivial aspect of trading, financial responsibility or other matters which the Commission regarded as vital for the protection of investors.

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[1] Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36412 (July 14, 1977). Section 19(d) was enacted as part of the Securities Acts Amendments of 1975, Pub. Law 94-29 (June 4, 1975).

[2] Section 3(A)(26) of the Act defines self-regulatory organization as any national securities exchange, registered securities association or registered clearing agency, or (solely for purposes of sections 19(b), 19(c) and 23(b) of the Act) the Municipal Securities Rulemaking Board.

[3] Section 19(d)(1) of the Act, 15 U.S.C. 78s(d)(1), provides: "If any self-regulatory organization imposes any final disciplinary sanction on any member thereof or participant therein, denies membership or participation to any applicant, or prohibits or limits any person in respect to access to services offered by such organization or member thereof or if any self-regulatory organization (other than a registered clearing agency) imposes any final disciplinary sanction on any person associated with a member, or bars any person from becoming associated with a member, the self-regulatory organization shall promptly file notice thereof with the appropriate regulatory agency for the self-regulatory organization and (if other than the appropriate regulatory agency for the self-regulatory organization) the appropriate regulatory agency for such member, participant, applicant, or other person. The notice shall be in such form and contain such information as the appropriate regulatory agency for the self-regulatory organization, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this title."

[4] 15 U.S.C. 78s(d)(2).

[5] For the purposes of Rule 19d-1(c), a "final disciplinary action" means: "the imposition of any final disciplinary saction pursuant to Section 6(b)(6), 15A(b)(7), or 17A(b)(3)(G) of the Act or other action of a self-regulatory organization which, after notice and opportunity for hearing, results in any final disposition of charges of:

(1) One or more violations of —

(i) The rules of such organization;

(ii) the provisions of the Act or rules thereunder; or

(iii) in the case of a municipal securities broker or dealer, the rules of the Municipal Securities Rulemaking Board;

(2) acts or practices constituting a statutory disqualification of a type defined in subparagraph (D) or (E) (except prior convictions) of Section 3(a)(39) of the Act; or

(3) in the case of a proceeding by a national securities exchange or registered securities association based on section 6(c)(3)(A)(ii), 6(c)(3)(B)(ii), 15A(g)(3)(A)(ii) or 15A(g)(3)(B)(ii) of the Act, acts or practices inconsistent with just and equitable principles of trade."

[6] Subsection (d) of Rule 19-1, which prescribes the content of notices of final disciplinary action filed pursuant to subsection (c), requires that a notice of final disciplinary action set forth, "as appropriate," the name and last known business address of the respondent; a statement of the origin of the action; the specific charges and bases thereof; a statement of the findings of fact and a conclusion as to whether the respondent is deemed to have committed the alleged violation including a statement by the SRO in support of its findings; a statement describing any sanctions imposed and the reasons therefore; and such other information as the SRO deems to be relevant.

[7] Securities Exchange Act Release No. 17085 (August 22, 1980), 45 FR 57707 (August 29, 1980).

The 1980 amendment followed a petition by the American Stock Exchange Inc. ("Amex") that the Commission re-evaluate the requirement under Rule 19d-1 that *all* final disciplinary actions taken by the Amex be reported to the Commission, and, specifically, that the Commission create an exemption under the rule for uncontested floor decorum violations. The Amex contended that infractions of these rules are "purely administrative" and the requirement that they be reported to the Commission "may impose unnecessary administrative burdens, yet fail to yield any appreciable regulatory benefits." *See* letter from Norman S. Poser, Executive Vice President, Amex, to George A. Fitzsimmons, Secretary, SEC, dated March 15, 1979.

[8] Trading floor decorum violations include running on the trading floor, using abusive language, consuming food and liquids on the floor, smoking in unauthorized areas, throwing objects and obstructions on the floor, bringing unauthorized guests on the floor, failing to wear an identifization badge and using member facilities without authorization.

[9] Securities Exchange Act Release No. 17085 (August 22, 1980), 45 FR 57707 (August 29, 1980). When the Commission adopted Rule 19d-1, it expresly considered SRO comments that reporting minor disciplinary sactions would be of limited value for puroses of Commission review or oversight, would not serve any significant regulatory proposes, and would entail excessive costs to the SROs in light of the *de minimis* nature of the violations and sanctions. The Commission rejected these arguments on the grounds that the Act required SROs to give the Commission notice of all disciplinary sactions and that the Commission needed certain minimum information regarding each matter covered by Rule 19d-1 in order to be adequately informed of the particular matter and to be able to take appropriate action on its own motion or take other remedial action in the exercise of its more general oversight responsibilities. Securities Exchange Act Release No. 13726, (July 8, 1977), 42 FR 36412 (July 14, 1977). In amending Rule 19d-1 in 1980, the Commission determined that, while its prior construction of Section 19(d)(1) was not inconsistent with the legislative history of the Act, the legislative history of Section 19d(1) did not require that result.

II. Proposed Amendment to Rule 19d–1(c)

The Commission is proposing to amend Rule 19d–1(c) [10] to relieve the SROs of the obligation to report certain minor disciplinary violations by members by permitting SROs to submit plans to the Commission specifying minor disciplinary infractions, for which the sanctions imposed do not exceed a fine of $1000 [11] that would be exempted from the existing reporting requirements of Rule 19d–1. The Commission anticipates that such plans could be used to replace separate reporting of individual minor infractions with abbreviated, periodic reporting of such infractions.[12]

[10] The proposed amendment includes: (1) proposed paragraph (c)(2), which would permit an SRO to submit to the Commission an appropriate plan for its approval; (2) revisions to the floor decorum violations exemption in Rule 19d–1(c), including (a) an increase from $500 to $1000 as the maximum fine that would not be required to be reported, and (b) deletion of the word "summarily"; and (3) technical renumbering and cross referencing amendments to Rules 19d–1(c) and 19d–1(d).

The Commission believes that an increase in the maximum fine that would not be reportable under the minor floor decorum violation exemption of the rule is appropriate to take account of inflation and to provide for future increases in SRO fines for floor decorum violations.

[11] The Commission views $1000 as an appropriate fine ceiling because it is likely to encompass the kinds of minor violations which, based on minor disciplinary infraction fine systems currently implemented by the SROs, we anticipate would be included in SRO plans submitted under the rule. In addition, the proposed fine ceiling is set at $1000 to provide for potential future fine increases that SROs may impose under their minor disciplinary infraction plans.

[12] By letter dated August 7, 1981, Amex requested that an exemption from the notice provision of Rule 19d–1 be granted for uncontested minor rule violations covered by its existing minor disciplinary infraction fine system and its fee system for certain reporting violations. *See* letter from Richard O. Scribner, Executive Vice President, Amex, to Michael A. Cline, Branch Chief, Division of Market Regulation, dated August 7, 1981. The Amex currently utilizes an "automatic fine" system under its summary disciplinary procedure for the disposition of certain minor rule violations. Minor rule violations under this procedure fall under two categories: (1) any act or omission tending to disrupt the orderly conduct of business on the Amex trading floor or which causes serious interference with the personal comfort or safety of other persons on the floor ("floor decorum violations"), and (2) any failure of a member or member organization to comply with any on-floor or off-floor operational procedure established by the Exchange ("operational violations").

A typical on-floor operational violation would be a specialist's failure to be properly represented at the trading post at scheduled times to answer inquiries regarding the status of orders and to resolve equity DK contested trade notices. Off-floor operational violations include the failure to submit options trade data to the Amex by specified deadlines, the failure to be represented in the Amex's options reconciliation room at scheduled times to resolve rejected options trades, the failure to provide the required options audit trail information on trade comparison input, or a specialist's failure to respond to inquiries regarding unreported market orders sent through the Amex's automated order routing system.

The Amex fee system for certain reporting violations under Amex Rule 30, approved by the Commission in Securities Exchange Act Release No. 18827, (June 21, 1982), 47 FR 18190 (June 29, 1982) (SR–Amex–81–15), provides for the imposition of a fee of $50 per day for the late filing of such reports as the Amex may periodically specify. If the member or member organization chooses to contest the violation or fails to pay the fee when due, the matter will be referred to the Disciplinary Committee for hearing and adjudication.

In its letter, the Amex suggested that both of these systems, like that applicable to floor decorum, give the Amex a simple, straightforward and effective method of achieving compliance with rules that are essentially administrative in nature, without resorting to formal disciplinary proceedings. It also urged that, like floor decorum violations, the reporting of these sanctions is of limited value for purposes of Commission review or oversight, yet entails costs to the Exchange and stigmatization of the members involved which are unwarranted in light of the *de minimis* nature of the violations.

Other exchanges have similar minor disciplinary infraction systems. The New York Stock Exchange Inc., ("NYSE"), for example, has implemented "Guidelines for Floor Conduct and Safety." Under the NYSE's procedures, officials are authorized to impose on-the-spot penalties against any member or floor clerical employee of a member or member organization found in violation of the Guidelines in accordance with the schedule of penalties specified in the Guidelines. Any action taken by a floor official may be appealed to a committee of three NYSE floor governors. This appeal is in addition to the right of appeal to the NYSE Board provided under Article III, Section I of the NYSE Constitution.

[13] Prior to the 1975 Amendments, the Commission did not have authority to review disciplinary actions of exchanges. In 1963, in the *Report of the Special Study of Securities Markets of the Securities and Exchange Commission*, H. Doc. 95, 88th Cong., 1st Sess. (1963) ("*Special Study*"), the Commission urged that the lack of authority for Commission or judicial review of those actions presented a grave threat to the scope and vitality of self-regulation and should be corrected. The *Special Study* noted that regular reporting of formal disciplinary actions taken as well as of "other aspects of regulatory enforcement and discipline" (for example, the "disposition of disciplinary matters on an informal basis, on the staff level") were equally important for effective Commission oversight. *Id.*, Pt. IV at 707, 708, 724; *see also* Pt. V at 199.

Subsequently, in 1973, the Senate Subcommittee on Securities issued its Securities Study, which was the genesis of the 1975 Amendments. Securities Industry Study Report, S. Rep. No. 13, 93d Cong., 1st Sess. (1973) ("Industry Study"). The Industry Study recommended, among other things, that the Commission be granted authority to review all SRO disciplinary proceedings, and that all such formal disciplinary actions be publicly disclosed. The Industry Study referred to the power of SROs to impose a disciplinary sanction as a method for ensuring that self-regulation was diligently performed as well as a "method of guarding against the capricious and arbitrary exercise of governmental power by a self-regulatory organization." *Id.* at 149–153, 171–180.

The purpose of Section 19(d) is to ensure that SRO enforcement of the federal securities laws and the SRO's rules is performed diligently, and not unfairly or arbitrarily.[13] In adopting Rule 19d–1, one of the Commission's primary objectives was to obtain information regarding proceedings sufficient to enable the Commission to determine whether the case should be called up for review pursuant to Section 19(d)(2) and to ascertain whether the SRO is adequately carrying out its responsibilities under the Act.[14]

Based upon the Commission's experience over the past six years in administering Rule 19d–1, the Commission believes that the proposed amendments would not compromise the oversight responsibilities that Rule 19d–1 was intended to further. The Commission has found that separate, detailed reports of uncontested violations of the type covered by the Amex minor rule infraction system are of limited value for purposes of Commission oversight of the enforcement and disciplinary activities of SROs, yet impose a substantial administrative burden on both the Commission and the SROs. In light of the limited utility of these notices of minor rule violations, the Commission believes that the amount of time that SROs must devote to preparing Rule 19d–1 filings concerning violations and the amount of time the Commission's staff must devote to processing and reviewing these filings is excessive and inappropriate.

The proposed amendments provide that SROs may file with the Commission plans which would designate certain rule violations as minor and not subject to current reporting to the Commission under Rule 19d–1 (although the SRO involved would be required by other Commission rules to maintain internally records with respect to such violations for inspection purposes). After appropriate notice and opportunity for comment, the amendments provide that the Commission may, by order, declare such plans effective if it finds that such plans are consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission recognizes that, unlike personal decorum infractions, on and off floor operational violations, if improperly regulated, may impact upon aspects of trading, market making and other SRO activities which the Commission deems to be important in fulfilling SRO regulatory responsibilities. However, the commission believes that periodic reporting of these violations,[15]

[14] Securities Exchange Act Release No. 13726, *supra* note 1, 42 FR at 36411.

[15] The amendment is specifically designed to eliminate the requirement that SROs individually report each minor rule violation as it occurs. The Commission contemplates that plans filed pursuant to the amendment will nonetheless provide for some

combined with the Commission's vigorous inspection program,[16] will ensure satisfactory Commission oversight without imposing unnecessary burdens on the SROs and their members. Moreover, the proposed amendment expressly exempts from the reporting requirement only those categories of violations designated as minor rule violations in the plans submitted by the SROs, and only under such terms and conditions, and for such time period, as the Commission deems appropriate.[17] The proposed amendment also would permit the Commission to restrict the categories of violations to be designated as minor rule violations.[18]

Regardless of what other conditions the Commission may subsequently deem to be useful, the Commission believes that it is appropriate to continue to require SROs to file notices of minor rule violations in two situations: first, when a member contests a summarily imposed sanction by seeking an adjudication or otherwise exhausts his administrative remedies with the SRO, and, second, when a sanction is imposed in the context of a hearing or adjudication, whether formal or otherwise.[19] Reporting under these circumstances is consistent with the purposes of Section 19(d) and will provide the Commission with information necessary to perform its oversight of the fairness of SRO enforcement and disciplinary activities.

Accordingly, the Commission requests comment on whether the proposed amendments provide the appropriate balance between removing reporting burdens on SROs and ensuring that the Commission receives sufficient information to properly conduct oversight of SRO disciplinary actions.

III. Regulatory Flexibility Act Consideration

The Regulatory Flexibility Act, which became effective on January 1, 1981, imposes new procedural steps applicable to agency rulemaking which has a significant economic impact on a number of small entities.[20] The Chairman of the Commission has certified pursuant to the Regulatory Flexibility Act that the proposed amendments to Rule 19d–1, if adopted, would not have a significant economic impact on a substantial number of small entities, or any other entities. Specifically, the proposed amendment would apply only to SROs and is permissive in nature. While the amendment has the potential to reduce the costs and burdens associated with the SRO preparation of notices required under current reporting requirements, it would not have a significant economic impact on small SROs.

IV. Statutory Basis

The proposed amendments to Rule 19d–1 would be adopted under the Act, 15 U.S.C. 78f, 78k–1, 78*o*, 78*o*–3, 78q, 78q–1, 78s and 78w.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendment

On the basis of the above discussion and analysis, the Commission is proposing to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulation by revising paragraph (c) and the introductory text of paragraph (d) of § 240.19d–1 as follows:

Note.—The text of the following proposed amendments uses ► arrows to indicate additions and [ ] brackets to indicate deletions.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§240.19d–1—Notices by Self-Regulatory Organizations of Final Disciplinary Actions, Denials, Bars or Limitations Respecting Membership, Association, Participation, or Access to Services, and Summary Suspensions.

* * * * *

(c) ►(1)◄ Any self-regulatory organization for which the Commission is the appropriate regulatory agency that takes any final disciplinary action with respect to any person shall promptly file a notice thereof with the Commission in accordance with paragraph (d) hereof. For the purposes of this rule, a "final disciplinary action" shall mean the imposition of any final disciplinary sanction pursuant to Section 6(b)(6),

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type of simple, periodic reporting, of minor rule violations (e.g., quarterly or on a tabular basis). Although the proposed amendment does not specifically require tabular reporting, the Commission expects that this type of reporting is likely to be most useful.

[16] The Commission notes that SROs are still required by Rule 17a–1(a) to keep a record of disciplinary actions for a period of five years which could be reviewed in the course of Commission oversight. The Commission believes that this recordkeeping, in conjunction with the formal reporting of contested cases and any periodic reporting resulting from the plans filed by the SROs, should afford the Commission sufficient information to adequately perform its oversight of the SROs with respect to uncontested sanctions for violations of its minor disciplinary rules.

[17] The Commission notes that in connection with the Amex's proposed rule change relating to a fee system for uncontested reporting violations, (see note 12, *supra*), the Amex requested that it be relieved from the full notice requirements of Rule 19d–1. *See* letter from J. Bruce Ferguson, Assistant Vice President, Amex, to Dennis Shea, Assistant Director, Division of Market Regulation, dated June 16, 1982. The Amex proposed that it be permitted to file a tabular report of such uncontested actions on a quarterly basis, showing for each the name of the member or member organization, the nature and date(s) of the violation(s), the sanction imposed, and the date of disposition. The Division of Market Regulation has granted the Amex request, and has indicated to Amex that quarterly tabular reports of such uncontested actions, beginning October 1, 1982, would provide adequate information for the Commission's oversight of disciplinary activity in the affected violation areas.

[18] The Commission believes that it is neither feasible nor desirable for the Commission to draft an all-inclusive rule listing all categories of minor infractions which might be exempted from the full reporting requirement. The Commission believes that the proposed approach gives both the SROs and the Commission the flexibility necessary to tailor the coverage of any exemptive relief as appropriate.

In addition, the Commission believes that a uniform SRO plan under proposed 19d–1(c)(2) would provide the most desirable means for each SRO to relieve itself of certain reporting obligations under the rule. Such a uniform plan would ensure that designated minor rule violations and reporting requirements are consistent among the SROs, and would thereby simplify Commission review of SRO reports made under Rule 19d–1. In addition, a uniform plan would likely expedite implementation by the SROs of the reduced reporting requirements under the rule insofar as the Commission could act more quickly in approving a single, uniform plan instead of a number of individual (and potentially inconsistent) plans. Therefore, the SROs (and especially the national securities exchanges) are encouraged to engage in a joint effort to prepare and submit a uniform plan for Commission consideration. Of course, no SRO is required to submit a plan under the proposed amended rule. If a plan were not in effect, an SRO would remain subject to existing reporting requirements for minor disciplinary infractions but would continue to be exempt from reporting uncontested floor decorum violations under 19d–1(c).

The Commission expects that any approval of a plan under 19d–1(c)(2) would be conditional on the Commission's retaining the authority to revoke the plan if, for example, it appeared that serious deficiencies in SRO disciplinary procedures warranted that an SRO not be relieved of current reporting requirements under Rule 19d–1(c).

[19] The proposed exemption would not affect the requirement of subsection (i) of the rule that summary suspensions of membership or summary limitations of access to services, for whatever reason, be reported to the Commission within 24 hours of the effectiveness of those sanctions. 17 CFR 240.19–k(i).

[20] Although Section 601(6) of the Regulatory Flexibility Act, 5 U.S.C. 601(6), defines the term "small entity", the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for purposes of Commission rule-making in accordance with the Regulatory Flexibility Act. These definitions, as relevant to this proposed rule-making, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18452 (January 28, 1982), 47 FR 5215 (February 4, 1982). A national securities exchange under Rule 0–10 is a "small business" or "small organization" if it has been exempted from the reporting requirements of § 240.11Aa3–1. Of the 10 exchanges registered with the Commission, only the Spokane and Intermountain Stock Exchanges have such an exemption. No registered clearing agency or registered securities association currently qualifies as a "small entity" for purposes of the Regulatory Flexibility Act.

15A(b)(7), or 17A(b)(3)(G) of the Act or other action of a self-regulatory organization which, after notice and opportunity for hearing, results in any final disposition of charges of:

[1] ►(i)◄ one or more violations of [i] ►(A)◄ the rules of such organization;

[ii] ►(B)◄ the provisions of the Act or rules thereunder; or

[iii] ►(C)◄ in the case of a municipal securities broker or dealer, the rules of the Municipal Securities Rulemaking Board;

[2] ►(ii)◄ acts or practices constituting a statutory disqualification of a type defined in subparagraph (D) or (E) (except prior convictions) of Section 3(a)(39) of the Act; or

[3] ►(iii)◄ in the case of a proceeding by a national securities exchange or registered securities association based on Section 6(c)(3)(A)(ii), 6(c)(3)(B)(ii), 15A(g)(3)(A)(ii), or 15A(g)(3)(B)(ii) of the Act, acts or practices inconsistent with just and equitable principles of trade.

Provided, however, That in the case of a disciplinary action in which a national securites exchange [summarily] imposes a fine not exceeding [$500] ►$1000◄ or suspends floor privileges of a clerical employee for not more than five days for violation of any of its regulations concerning personal decorum on a trading floor, the disposition shall not be considered "final" for purposes of this paragraph if the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the exchange with respect to the matter. Provided further, that this exemption from the notice requirement of this paragraph shall not be available where a decorum sanction is imposed at, or results from, a hearing on the matter.

►(2) Any disciplinary action, (other than a decorum sanction not deemed "final" under paragraph (c)(1) hereof), taken by a self-regulatory organization for which the Commission is the appropriate regulatory agency against any person for violation of a rule of the self-regulatory organization which has been designated as a minor rule violation pursuant to a plan or any amendment thereto filed with and declared effective by the Commission under this paragraph, shall not be considered "final" for purposes of paragraph (c)(1) hereof if the sanction imposed consists of a fine not exceeding $1000 and the sanctioned person has not sought an ajudication, including a hearing, or otherwise exhausted his administrative remedies at the self-regulatory organization with respect to the matter. After appropriate notice of the terms of substance of the filing or a description of the subjects and issues involved and opportunity for interested persons to submit written comment, the Commission may, by order, declare such plan or amendment effective if it finds that such plan or amendment is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the plan (including abbreviated reporting of selected minor rule violations) and to the period of its effectiveness which it deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.◄

(d) Contents of notice required by paragraph (c)►(1)◄. Any notice filed pursuant to paragraph (c)►(1)◄ hereof shall consist of the following, as appropriate:

* * * * *

V. Solicitation of Comments

All interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should submit six copies thereof to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C., not later than September 10, 1983. Reference should be made to file No. S7-983A. All submissions will be made available for public inspection at the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C., 20549.

By the Commission.

Dated: July 14, 1983.

Shirley E. Hollis,

Assistant Secretary.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendment to Rule 19d-1 set forth in Securities Exchange Act Release No. 19969, if promulgated, will not have a significant economic impact on a substantial number of small entities as contemplated by the Act. Specifically, the proposed amendment would apply only to SROs and is permissive in nature. While the amendment has the potential to reduce the costs and burdens associated with the SRO preparation of notices required under current reporting requirements, it would not have a significant economic impact on small SROs.

John S. R. Shad,

Chairman.

[FR Doc. 83-19965 Filed 7-20-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

Withdrawal of Proposed Customs Regulations Amendments To Establish Fees For Commercial Aircraft

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws the proposed amendment to the Customs Regulations to establish fees to be charged and collected for specific services provided by Customs officers to commercial aircraft. That proposal would have amended the Customs regulations to authorize Customs to establish a schedule for commercial aircraft fees and provide for periodic publication of a revised schedule to reflect increased costs.

DATE: Withdrawal effective July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Kevin P. Cummings, Office of Inspection and Control, (202-566-2147), U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION: On May 27, 1982, Customs published a notice in the **Federal Register** (47 FR 23182), proposing to establish by regulation a new schedule of fees to be charged and collected for specific services provided by Customs officers to commercial aircraft. Specifically, the document invited the public to comment on a proposal to amend Part 6, Customs Regulations (19 CFR Part 6), by adding a new § 6.26 to authorize the Customs Service to establish a schedule for commercial aircraft fees. It also provided that a General Notice would be published in the **Federal Register** and Customs Bulletin periodically to revise the fees to reflect changes in the rate of compensation paid to the Customs officers performing the service.

The public was invited to submit comments on or before July 26, 1982. The numerous comments received in response to the notice were consistently negative. Commenters based their objections upon legal, operational, economic, and administrative considerations.

After consideration of the comments received, and upon further review of the matter, it has been determined to withdraw the proposal.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Edward F. Kwas,

Acting Commissioner of Customs.

Approved: June 14, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-19760 Filed 7-20-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Parts 19 and 144

Advance Notice of Proposed Customs Regulations Amendments Relating to Duty-Free Stores

AGENCY: Customs Service, Treasury.

ACTION: Advance notice of proposed rule.

SUMMARY: This document gives the public advance notice that Customs has under consideration various actions in regard to the administration of duty-free stores. Those actions range from a regulatory project to designate duty-free stores as a new class of Customs bonded warehouse with revised procedures, to outright abolition of duty-free stores. Customs believes that a reappraisal of duty-free stores is necessary to increase the overall efficiency of Customs administration and address enforcement problems associated with the stores. This document requests comments from interested parties on the several actions under consideration, as well as on duty-free store operations in general.

DATE: Comments must be received on or before September 19, 1983.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention, Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: John R. Holl, Cargo Enforcement and Facilitation Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

A "duty-free store" is a Customs bonded warehouse operating under special procedures in which a variety of merchandise is offered for sale without the payment of Customs duties and taxes. The merchandise is sold to travellers on the condition that it will be used by them after exportation from the United States. Customs duties and taxes will be assessed on the merchandise if it is returned, *i.e.*, re-imported, into this country. Duty-free stores were first established at airports in the United States and on the land borders with Mexico and Canada in the early 1960's with the express purpose of providing duty and tax-free merchandise for the personal use abroad of individuals about to leave the country. These stores continue to service individuals who purchase items for their personal use abroad, following long-established administrative procedures tailored to accommodate that type of sale.

It is important to note that duty-free stores are not specifically mentioned in either statute or the Customs Regulations. Those stores were created by Customs interpretation of several provisions of law relating to bonded warehouses (19 U.S.C. 1555, 1557, 1562), and have been administered through internal directives and other Customs issuances. They exist as bonded warehouses, albeit with certain procedures that are not generally applicable to other bonded warehouses, *e.g.*, after a blanket withdrawal from warehouse, merchandise may be manipulated into packaged units for export by individuals under appropriate controls.

There are now 125 duty-free stores in operation throughout the United States; 43 on the Canadian border, 33 on the Mexican border, and 49 at airports. There are no "duty-free stores," as defined above, in operation aboard cruise or other vessels and aircraft, because duty and tax-free sales of merchandise may be made to individual passengers from "vessel supplies," pursuant to the exemption contained in sections 309, 317, and 446, Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317 and 1446).

Precise information on the economic impact of duty-free stores is lacking because Bureau of the Census foreign trade statistics are provided for all bonded warehouses, with no breakout for duty-free stores. However, it is apparent that the duty-free store at Honolulu, Hawaii, contributes significantly to the State economy, whereas stores on the Mexican border impact correspondingly on local economies, Mexican and domestic.

As part of Customs overall program of increasing its efficiency of operation, a reduction in the staffing commitment to bonded warehouses has been implemented by the audit-inspection procedures set forth in T.D. 82-204, published in the **Federal Register** on November 1, 1982 (47 FR 49355). However, that amendment did not encompass some 40 positions for the supervision of exports from duty-free stores. In addition, 15 staff-years are expended on ancillary duty-free store functions, such as entry processing, audits, and inspections on a spot-check basis. In line with the program described above, Customs would like to reduce even further the staffing commitment to bonded warehouse transactions relating to duty-free stores.

Over the years, duty-free stores have presented problems—enforcement, legal, and political—to Customs and the general public which Customs believes could be dissipated if duty-free stores were operated under more stringent controls. Of course, those same problems, at least in relation to stores, could be eliminated completely if stores were abolished. Some of the principal problems posed by duty-free stores are the following:

1. *Smuggling of goods into other countries, illegal re-entry (diversion) of goods into United States; loss of sales by domestic retailers and loss of revenue to states and the Federal Government.*

These problems, while significant individually, are closely inter-related and will be treated together for that reason. Customs has discovered that duty-free shops, especially on the United States-Mexican border, have become major wholesale suppliers of certain goods, using the procedures designed to effect small, personal use sales to individuals. Moreover, a substantial quantity of that merchandise purchased in duty-free stores is introduced into Mexico illegally without the payment of Mexican Customs duties, then smuggled back into the United States to be entered into the commerce of this country without payment of United States duties and taxes. The result is a substantial loss of revenue to retailers, state governments, and the United States.

The smuggling of duty-free store merchandise into Mexico is an issue of particular delicacy to, and of constant concern between, the governments of the United States and Mexico. A joint landing certificate (proof of exportation) program was instituted in 1973 and fortified in 1979 (T.D. 79-1) to dispel the problem, but the illegal activity has continued through avoidance of the landing certificate requirement. It is possible that Customs may have to

strengthen further landing certificate requirements to hamper smuggling, although at an increased paperwork burden to the agency and exporters.

The associated difficulty of the illegal re-introduction or diversion of duty-free merchandise into the United States is more acute at land border points than at airports. In some Mexican border communities, the smuggling of cigarettes, alcoholic beverages, and luxury items purchased from duty-free stores back into the United States is a constant source of friction between Customs and retail merchants (and their political supporters). This is apart from the need for Customs to devote an otherwise unnecessarily large complement of officers to supervise delivery and exportation of duty-free store merchandise.

By definition, sales of merchandise made by duty-free stores are sales lost to retailers, and are made without collection of any state or Federal duties or merchandise taxes. Retail liquor and cigarette dealers located in proximity to a land border complain that sales of duty-free store merchandise "unfairly" reduce their sales and profits. When that same duty-free merchandise is smuggled back into the United States and sold at sharply reduced prices, the twice-lost sale exacerbates the retailer's competitive disadvantage. In addition, revenue loss to border states and the Government occurs in each instance of smuggling.

2. *Disputes over duty-free stores operating rights.* In many cases, the very limited space available for the operation of duty-free stores, including delivery, is controlled by public or quasi-public authorities. Customs approves or denies bonded warehouse applications, which gives the agency substantial control over establishment of any duty-free store. Therefore, Customs often becomes embroiled in legal disputes over operating rights between prospective stores, existing stores, and public authorities. Customs does not want to be subjected to political pressure nor be subject to unfavorable court decisions which might inadvertently allow a duty-free store operation of dubious integrity.

3. *Complaints of purchasers of duty-free store merchandise.* Although Customs does not regulate the sales practices and pricing of duty-free stores, formal authorization of their operation does result in Customs being drawn into consumer disputes which may tend to reflect unfavorably on the Government, particularly at airport stores. Due to the captive market of departing passengers at airports, some stores take advantage of the "duty-free" image of the merchandise they sell, and price that merchandise at retail market value or higher. When that pricing policy is discovered by their customers, ill-will is engendered toward everyone involved with the stores. This problem has attracted the interest of state and Federal authorities in regard to possible antitrust violations. These authorities, in turn, are inclined to alleviate the situation by encouraging increased competition, *i.e.*, more stores, thus further straining already limited space and placing an even greater burden on Customs budget and personnel resources.

All of the above problems militate for decisive Customs action to ensure to the greatest extent possible that no further diversion of merchandise occurs, and to curtail the use of scarce Customs resources to resolve avoidable difficulties.

Courses of Action Under Consideration

Customs has under consideration various courses of action which would alter significantly the current administration and status of duty-free stores.

1. Abolition

a. *Total.* An alternative to increased regulation is the outright abolition of the "duty-free store," which is solely a creature of internal Customs directives. That action would eliminate the problems duty-free stores have posed for Customs and the public.

b. *Partial.* Another alternative to more stringent regulation of duty-free stores, or abolition of all stores, would be for Customs to determine to attack the most pressing problem—smuggling of duty-free store merchandise—and abolish only stores located on land borders where smuggling is rife; leaving duty-free stores at airports to operate under modified procedures. Customs could then proceed to devote increased attention to the type of legal and public relations problems primarily involving airport stores.

2. Location

A second alternative would be to limit the application of Customs resources to duty-free stores by permitting the stores only in locations where the merchandise can be delivered to purchasers beyond the exit point from the United States, *i.e.*, the point beyond which the purchaser has no practical alternative but to proceed into another country and can re-enter the United States only through a Customs inspection station. This would allow the elimination of an estimated 40 Customs positions. It would undoubtedly result in the elimination of some airport and land border duty-free stores in locations where it is not logistically feasible to provide delivery beyond the exit point. It could also have an adverse economic effect on some border communities presently experiencing difficulties as a result of problems besetting the Mexican economy.

3. Increased Regulation

If Customs ultimately determines to continue the existence of the duty-free store, the question then becomes to what extent does the agency wish to regulate the store activity. Customs already regulates the stores by law as part of its overall bonded warehouse program. However, the special nature of the stores and their procedures has become increasingly difficult to "contain" within the other categories of bonded warehouses. It is clear from the serious nature of the smuggling described above and its economic consequences, that Customs is impelled to institute additional controls in this area.

A regulatory project could be initiated to provide for a comprehensive incorporation of duty-free store operating procedures into the Customs Regulations, beginning with Customs formal recognition, and specific designation of the duty-free store as a new class of Customs bonded warehouse. Existing administrative procedures will have to be structured to reduce Customs staffing requirements in accord with the audit-inspection procedures recently applicable to all other bonded warehouses.

The goals to be achieved by such a project to increase Customs regulations of duty-free stores are a curtailment of illegal activities, a concomitant increase in revenue, and a reduction in Customs staffing needs.

Comments

Customs invites written comments (preferably in triplicate) from all interested parties on the possible courses of action regarding administration of duty-free stores that Customs is considering, or on other alternatives that Customs should consider.

Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service, Headquarters, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Executive Order 12291; Regulatory Flexibility Act

Any proposal developed from this advance notice may result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291. Therefore, a preliminary and final regulatory impact analysis may be necessary.

Any proposal may have a significant economic impact on a substantial number of small entities. Therefore, the provisions of the Regulatory Flexibility Act relating to preparing an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), may be applicable.

Customs is in the process of determining whether any analysis within the purview of E.O. 12291 and/or the Regulatory Flexibility Act is indeed necessary. If it is decided to proceed with this matter, the notice of proposed rulemaking will contain the appropriate analysis, or a statement of certification that the analysis is not required.

Authority

This document is issued under authority of R.S. 251, as amended, sections 556, 565, 623, and 624, 46 Stat. 743, 747, 759, as amended (19 U.S.C. 66, 1556, 1565, 1623, 1624).

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 19

Exports, Freight, Surety bonds, Tobacco, Warehouses, Wheat.

19 CFR Part 144

Warehouses.

William von Raab,
Commissioner of Customs.

Approved: July 5, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 83-19761 Filed 7-21-83; 8:45 am]
BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[LR-261-76]

Deductions for Business Use or Rental of a Dwelling Unit; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document amends proposed regulations published on August 7, 1980, relating to the deductibility of expenses incurred in connection with the business use, or the rental to others, of a dwelling unit that the taxpayer is deemed to have used for personal purposes during the taxable year. The amendments in this document clarify and modify the earlier proposed regulations in several respects and conform that notice to the recent amendments to Code section 280A.

DATES: Written comments must be delivered or mailed by September 20, 1983. A public hearing on the August 7, 1980, notice of proposed rulemaking, as amended by this document, will be held on October 4, 1983; for further information, see the notice of public hearing published elsewhere in this issue of the **Federal Register**. The amendments are proposed to be effective for taxable years beginning after 1975.

ADDRESS: Send comments (and requests for copies of the August 7, 1980 notice of proposed rulemaking) to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-261-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Donald W. Stevenson, (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to a notice of proposed rulemaking that was published in the **Federal Register** on August 7, 1980 (45 FR 52399). This document will refer to that notice of proposed rulemaking as "the 1980 notice." The 1980 notice proposed to amend the Income Tax Regulations (26 CFR Part 1) under the Internal Revenue Code of 1954 to provide regulations under section 280A, which was added to the Code by section 601 of the Tax Reform Act of 1976 (90 Stat. 1569) and amended by section 306 of the Tax Reduction and Simplification Act of 1977 (91 Stat. 152) and by section 701(h) of the Revenue Act of 1978 (92 Stat. 2904). For more information regarding the 1980 notice, see the preamble to that notice.

Since publication of the 1980 notice, Code section 280A has been further amended by section 113 of the Black Lung Benefits Revenue Act of 1981 (95 Stat. 1641). The amendments in this document modify certain rules set out in the 1980 notice and conform that notice to the recent amendments to Code section 280A. These proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Repair and Maintenance

The 1980 notice provided certain rules for determining whether the use of a dwelling unit by a taxpayer constituted use for purposes of repair and maintenance and consequently would not be treated as personal use by the taxpayer. In general, the 1980 notice required that both the taxpayer and all other individuals on the premises who were capable of working perform work on a substantially full-time basis in order to qualify the use as use for purposes of repair and maintenance.

Section 113(d) of the Black Lung Benefits Revenue Act of 1981 amended section 280A to provide that if the taxpayer is engaged in repair and maintenance on a substantially full-time basis for any day, the taxpayer will not be treated as having used the unit for personal purposes on that day merely because other individuals who are on the premises do not engage in repair and maintenance activities.

The amendment proposed in this document would incorporate this recent statutory change and substitute a "principal purpose" test for the rules set out in the 1980 notice. Under the proposed amendment, a taxpayer will not be treated as using a unit for personal purposes if the principal purpose of the use is to perform repair and maintenance work on the unit. Among the factors to be considered in determining whether repair and maintenance work is the principal purpose of the use of a unit are the following: the amount of time devoted to work on the unit, the frequency of the use of the unit for repair and maintenance purposes, and the presence and activities of companions.

Principal Place of Business

The interpretation of the phrase "the taxpayer's principal place of business" in section 280A(c)(1)(A) is important in determining the applicability of certain special rules. The 1980 notice provided that a taxpayer could have only one "principal place of business" regardless of the number of business activities in which the taxpayer was engaged.

The recent amendments to section 280A make clear that a taxpayer may have a principal place of business for each trade or business in which the taxpayer is engaged. This document conforms the 1980 notice to the statutory amendment.

Limitation on Deductions

The 1980 notice provided that deductions allowable with respect to the use of a dwelling unit for a qualifying use shall not exceed the gross income derived from that use of the unit. The proposed amendment makes clear that if a taxpayer uses a home office both for a business purpose for which an exception to the general disallowance rule is provided and for another business purpose for which no exception is provided, only the income from the first business may be considered in applying the limitation on deductions.

Rental to Family Members and Shared Equity Agreements

The 1980 notice provided that a taxpayer was deemed to have used a dwelling unit for personal purposes on any day on which the unit was used for personal purposes by any person who had an interest in the unit or by a close relative of the taxpayer or any co-owner.

Section 280A was amended to provide that the taxpayer will not be considered as having used the dwelling unit for personal purposes by reason of a rental arrangement on any day that the unit is rented at fair rental to any person (including a family member) as that person's principal residence. If the taxpayer actually makes personal use of the unit (other than for a brief visit as a quest) on any such day, however, that personal use is taken into account.

In the case of pass-thru entities such as partnerships, actual personal use of the unit by any beneficial owner is treated as actual personal use by the entity. However, this rule will not apply in the case of a partnership renting a unit to a partner for use as the partner's principal residence if there are no special allocations.

This new rule on rental of a unit as a principal residence applies to a rental to a person with an interest in the unit only if the rental is pursuant to a shared equity financing agreement. A shared equity financing agreement is an agreement under which two or more persons acquire qualified ownership interests in the unit and one or more of the persons is entitled to occupy the unit and is required to pay rent to one or more of the other persons holding a qualified ownership interest in the unit. A qualified ownership interest is an undivided interest for more than 50 years in the entire unit and appurtenant land.

Rental Pools

The 1980 notice provided that, in the case of a rental pool, the number of days on which a unit is rented at fair rental and the number of days on which the unit is used for any purpose are to be determined by reference to the actual use of the unit.

The amendment proposed in this document permits rental pool participants to elect to average the rental use of their units. Under the proposed election, the number of days that a particular unit would be deemed to have been rented is determined by multiplying the aggregate number of days that all units in the rental pool were rented at fair rental during the pool season by a fraction, the numerator of which is the number of participation days of a particular unit and the denominator of which is the aggregate number of participation days of all units. The proposed amendment adds certain procedural rules necessary to administer this election and requires rental pool managers to furnish rental pool participants with the information needed to compute deductions for pool units.

Permanent Partition

The 1980 notice left unanswered the question of whether deductions incurred with respect to the use of a portion of a dwelling unit exclusively for business purposes would be disallowed if that portion of the dwelling unit is not separated by a permanent partition. The proposed amendment makes it clear that a permanent partition is not required.

Use by Patients, Clients, etc.

The 1980 notice did not expressly state that the exception provided for a portion of a unit used by patients, clients, or customers in meeting or dealing with the taxpayer applied only if the patients, clients or customers were physically present in the unit. This document makes clear that the patients, etc. must be physically present in the unit for purposes of this exception; telephone calls from other locations do not satisfy the requirement.

Miscellaneous Provisions

This document incorporates into the 1980 notice the new statutory provision with respect to the coordination of section 280A with the rules for travel expenses. This document also modifies the 1980 notice to make clear that a single building may contain more than one dwelling unit. Each apartment in an apartment building, for example, is a separate dwelling unit.

The 1980 notice did not explain how "fair rental" should be determined in the case of a unit owned by more than one person. This document makes clear that "fair rental" is determined by reference to the taxpayer s fractional interest in the unit. Thus, if a taxpayer with a one-half interest in a unit charges an occupant one-half of the fair rental for the entire unit, that taxpayer is charging fair rental regardless of the aggregate amount paid by the occupant.

The 1980 notice provided that the term "day" referred to a calendar day; consequently, use of a unit from Saturday afternoon through the following Saturday morning would constitute 8 days of use. Commenters objected to this construction of "day" on the grounds that it was inconsistent with the general usage of the term under rental agreements. This document provides that the term "day" means the period for which a day's rental is paid. This notice also amplifies the treatment in the 1980 notice of the exception for property used as a "hotel, motel, inn, or similar establishment."

Comments and Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on the 1980 notice, as amended by this document, on October 4, 1983.

For further information about the public hearing, see the notice of hearing that appears elsewhere in this issue of the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regualtory Impact Analysis is therefore not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the

regulations proposed herein are interpretative and that the notice and public comment requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations was Donald W. Stevenson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Evaluation of the effectiveness of the proposed regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other govornmental agencies, and the public.

List of Subjects in 26 CFR Part 1

Deductions, Exemptions, Income taxes, Shared equity financing agreement, Qualified ownership interest, Taxable income.

Proposed Amendments to the Regulations

The notice of proposed rulemaking that appeared in the **Federal Register** on August 7, 1980 (45 FR 52399) and that proposed, in part, to add new §§ 1.280A–1 through 1.280A–3 to the Income Tax Regulations (26 CFR Part 1) is hereby amended as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.280A–1, as proposed, is amended as follows:

1. Paragraph (d)(1) is amended by removing the word "calendar" in the last sentence.

2. Paragraphs (f) and (g) are redesignated as paragraphs (i) and (j) respectively.

3. Paragraphs (c) and (e) are revised and new paragraphs (f), (g) and (h) are added to read as set forth below.

§ 1.280–A–1 Limitations on deductions with respect to a dwelling unit which is used by the taxpayer during the taxable year as a residence.

* * * * *

(c) *Dwelling unit*—(1) *In general.* For purposes of this section and §§ 1.280A–2 and 1.280A–3, the term "dwelling unit" includes a house, apartment, condominium, mobile home, boat, or similar property, which provides basic living accommodations such as sleeping space, toilet, and cooking facilities. A single structure may contain more than one dwelling unit. For example, each apartment in an apartment building is a separate dwelling unit. Similarly, if the basement of a house contains basic living accommodations, the basement constitutes a separate dwelling unit. All structures and other property appurtenant to a dwelling unit are considered part of the unit. For example, an individual who rents to another person space in a garage which is appurtenant to a house which the individual owns and occupies may claim deductions with respect to that rental activity only to the extent allowed under section 280A, paragraph (b) of this section, and § 1.280A–3.

(2) *Exception.* Notwithstanding the provisions of paragraph (c)(1) of this section, the term "dwelling unit" does not include any unit or portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment. Property is so used only if it is regularly available for occupancy by paying customers and only if no person having an interest in the property is deemed under the rules of this section to have used the unit (or the portion of the unit) as a residence during the taxable year. Thus, this exception may apply to a portion of a home used to furnish lodging to tourists or to long-term boarders such as students. This exception may also apply to a unit entered in a rental pool (see § 1.280A–3 (e)) if the owner of the unit does not use it as a residence during the taxable year.

* * * * *

(e) *Personal use of dwelling unit*—(1) *General rule.* For purposes of this section and §§ 1.280A–2 and 1.280–3, a taxpayer shall be deemed to have used a dwelling unit for personal purposes on any day on which, for any part of the day, any portion of the unit is used—

(i) For personal purposes by the taxpayer or any other person who has an interest in the unit;

(ii) By a brother or sister (whether by the whole or half blood), spouse, ancestor, or lineal descendant of the taxpayer or of any other person who has an interest in the unit;

(iii) By any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit for any period of time, whether or not a rental is charged for the use of the other unit and regardless of the length of time that the taxpayer uses the other unit; or

(iv) By any individual, other than an employee with respect to whose use section 119 (relating to meals or lodging furnished for the convenience of the employer) applies, unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

For purposes of this paragraph, a person is considered to have an interest in a dwelling unit if that person holds any interest in the unit (other than a security interest or an interest under a lease for a fair rental) even if there are no immediate rights to possession and enjoyment under the interest.

(2) *Rental at fair rental to other persons for use as principal residence.* Notwithstanding paragraph (e)(1) of this section, a taxpayer shall not be treated as using a dwelling unit for personal purposes by reason of a rental arrangement for any day on which the taxpayer rents the dwelling unit at a fair rental to any person for use as that person's principal residence. If a taxpayer actually makes personal use of a unit on any such day, however, that personal use is taken into account because it arises other than "by reason of a rental arrangement." For purposes of the preceding sentence, a brief visit during which the taxpayer is a guest of the occupant of the unit shall not be considered personal use by the taxpayer. For the meaning of the term "principal residence," see section 1034 and § 1.1034–1(c)(3).

(3) *Rental to persons having interest in the unit*—(i) *In general.* Paragraph (e)(2) of this section shall apply in the case of a rental of a unit to a person who has an interest in the unit only if the rental is pursuant to a shared equity financing agreement.

(ii) *Shared equity financing agreeement.* A shared equity financing agreement is any written agreement under which—

(A) Two or more persons acquire qualified ownership interests in the dwelling unit, and

(B) A person (or persons) holding one or more of the interests is—

(*1*) Entitled to occupy the dwelling unit for use as a principal residence, and

(*2*) Required to pay rent to one or more persons holding a qualified ownership interest in the unit.

(iii) *Fair rental.* For purposes of paragraph (e)(3) of this section, the determination whether a unit is rented at a fair rental (within the meaning of paragraph (g) of this section) shall be made in light of all the facts and circumstances that existed at the time the agreement was entered into. The totality of rights and obligations of all parties under the agreement is taken into account in determining fair rental.

(iv) *Qualified ownership interest.* For purposes of this paragraph (e)(3), the term "qualified ownership interest" means an undivided interest for more

than 50 years in the entire dwelling unit and appurtenant land being acquired in the transaction to which the shared equity financing agreement relates.

(v) *Not necessary that all owners charge fair rental.* A shared equity financing arrangement may exist even if one or more of the owners does not charge the occupant fair rental for use of the unit. Paragraph (e)(2) of this section, however, applies only to those owners who do charge fair rental.

(4) *Special rule for "qualified rental period."* For purposes of determining whether section 280A (c)(5) and § 1.280A–3(d) limit deductions for expenses allocable to a "qualified rental period," a taxpayer shall not be considered to have used the rental unit for personal purposes on any day during the taxable year before or after a "qualified rental period" described in paragraph (e)(4)(i) of this section, or before a "qualified rental period" described in paragraph (e)(4)(ii) of this section, if the rented unit was the principal residence of the taxpayer with respect to that day. The use of the unit for personal purposes shall, however, be taken into account for all other purposes of section 280A. A "qualified rental period" is a consecutive period of—

(i) 12 or more months which begins or ends during the taxable year, or

(ii) less than 12 months which begins in the taxable year and at the end of which the rented unit is sold or exchanged, and for which the unit is rented, or is held for rental, at a fair rental. For the meaning of the term "principal residence," see section 1034 and § 1.1034–1(c)(3).

(5) *Dwelling units in which a partnership, a trust, an estate, or an electing small business corporation has an interest*—(i) *In general.* This paragraph (e)(5) sets out special rules for purposes of applying paragraph (e)(1) and (2) of this section to a dwelling unit in which a partnership, a trust, an estate, an electing small business corporation (as defined in section 1371(b), as it read before the enactment of the Subchapter S Revision Act of 1982), or an S corporation (as defined in section 1361 (a)) has an interest. For purposes of this paragraph (e)(5), these entities shall be referred to as pass-through entities, and any partner, beneficiary, or shareholder that owns an interest in such an entity shall be referred to as a beneficial owner of the entity.

(ii) *Personal use under paragraph (e)(1).* For purposes of paragraph (e)(1) of this section, a pass-through entity shall be considered to have made personal use of a dwelling unit on any day on which any benefical owner of the entity would be considered to have made personal use of the unit. Personal use under the preceding sentence shall be determined as if each beneficial owner had an interest in the unit. Thus, for example, personal use by a sister of a partner is considered personal use by the parternship.

(iii) *Personal use under paragraph (e)(2)*—(A) *In general.* For purposes of applying the second sentence of paragraph (e)(2) of this section to a dwelling unit in which a pass-through entity has an interest, actual personal use by any beneficial owner of that pass-through entity shall be treated as personal use by the entity. Deemed personal use by a beneficial owner under paragraph (e)(1), for example, by reason of the personal use of the unit by a sister of the beneficial owner, shall not be treated as personal use by the entity.

(B) *Exception for certain partnerships.* If—

(*1*) A partnership owns an interest in a dwelling unit,

(*2*) A partner rents the unit from the partnership at a fair rental for use as the partner's principal residence, and

(*3*) The items of income, gain, loss, deduction or credit of the partnership related to the unit are allocated among the partners in accordance with their percentage ownership interest in the partnership, use of the unit by that partner as that partner's principal residence shall not be treated as personal use of the unit by the partnership for purposes of paragraph (e)(2). The partner actually making use of the unit, however, is subject to the limitations of section 280A (c)(5) with respect to items related to the unit that are allocated to that partner.

(C) *Example.* The provisions of paragraph (e) (5) (iii) (B) of this section may be illustrated by the following example.

Example. A, B, and C form partnership P, in which each holds a one-third interest. P acquires a dwelling unit that C rents from P at fair rental for use as C's principal residence. All items of income, gain, loss, deduction, or credit of P that are related to the unit are allocated one-third to each partner. Under these circumstances, the personal use of the unit by C is not treated as personal use by P. Consequently, the use of the unit by C does not subject A and B to the limitations of section 280A (c) (5) with respect to their shares of the items related to the unit. C, however, is subject to the limitations of section 280A (c) (5) with respect to C's share of those items.

(6) *Use of the unit for repairs and maintenance.* Notwithstanding the provisions of paragraph (e)(1) of this section, a dwelling unit shall not be deemed to have been used by the taxpayer for personal purposes on any day on which the principal purpose of the use of the unit is to perform repair or maintenance work on the unit. Whether the principal purpose of the use of the unit is to perform repair or maintenance work shall be determined in light of all the facts and circumstances including, but not limited to, the following: The amount of time devoted to repair and maintenance work, the frequency of the use for repair and maintenance purposes during a taxable year, and the presence and activities of companions. In no case, however, shall a day on which the taxpayer enganges in repair and maintenance of the unit on a substantially full-time basis be considered a day of personal use by the taxpayer.

(7) *Examples.* The provisions of this paragraph (e) may be illustrated by the following examples:

Example (1). B owns a vacation home which B rents to S, B's sister, at fair rental for 10 days. B also rents the home to C at fair rental for 11 days as a part of an arrangement whereby B is entitled to use D's home for 6 days. As a favor, B rents the home to F at a discount rate for 15 days. On the basis of the rental activity described, B is deemed to have used the home for personal purposes for 36 days.

Example (2). X Inc., an electing small business corporation in which A and B are shareholders, is the owner of a fully equipped recreational vehicle. During the month of July, the vehicle is used by three individuals. A uses the vehicle on a 7-day camping trip. D, who is B's daughter, rents the vehicle from X Inc. at fair rental for 10 days. E rents the vehicle at fair rental for 12 days under an arrangement whereby B is entitled to use an apartment owned by F, a friend of E, for 9 days. X Inc. is deemed to have used the dwelling unit for personal purposes on any day on which any of its shareholders would be deemed to have so used the unit. Therefore, X Inc. is deemed to have used the recreational vehicle for personal purposes on 29 days.

Example (3). A owns a lakeside cottage which A rents during the summer. A and B, A's spouse, arrive late Thursday evening after a long drive to prepare the cottage for the rental season. A and B prepare dinner but do no work on the unit that evening. A spends a normal work day working on the unit on Friday and Saturday; B helps for a few hours each day but spends most of the time relaxing. By Saturday evening, the necessary maintenance work is complete. Neither A nor B works on the unit on Sunday; they depart shortly before noon. The principal purpose of the use of the unit from Thursday evening through Sunday morning is to perform maintenance work on the unit. Consequently, the use during this period will not be considered personal use by A.

Example (4). C owns a mountain cabin which C rents for most of the year. C spends a week at the cabin with family members. C

works on maintenance of the cabin 3 or 4 hours each day during the week. C spends the rest of the time fishing, hiking, and relaxing. C's family members, however, work substantially fulltime on the cabin on each day during the week. The principal purpose of the use of the cabin is to perform maintenance work. Therefore, the use during this period will not be considered personal use by C.

Example (5). B, an individual whose taxable year is the calendar year, uses a dwelling unit as a principal residence from January 1, 1978, to June 30, 1978. On July 1, 1978, B rents the unit at a fair rental to D, an unrelated individual, for a two-year period beginning immediately. In determining whether section 280A(c)(5) and § 1.280A-3(d) limit deductions for expenses allocable to this "qualified rental period," B is not considered to have used the unit for personal purposes from January 1, 1978, to June 30, 1978. Note, however, that section 280A(e) and § 1.280A-3(c) limit the portion of the total 1978 expenses with respect to the unit which may be attributed to the "qualified rental period." B's personal use of the unit is similarly taken into account in applying section 280A(c)(5) to any other use of the unit during the taxable year, *e.g.*, the use of a portion of the unit as a place of business.

(f) *"Day" defined.* For purposes of section 280A, this section, and § 1.280A-3, the term "day" means generally the 24-hour period for which a day's rental would be paid. Thus, a person using a dwelling unit from Saturday afternoon through the following Saturday morning would generally be treated as having used the unit for 7 days even though the person was on the premises on 8 calendar days.

(g) *Fair rental in the case of co-owners*—(1) *In general.* For purposes of sections 280A, this section, and § 1.280A-3, a co-owner of a dwelling unit shall be treated as renting the unit at a fair rental if the co-owner charges an amount that is equal to the fair rental of the entire unit multiplied by that co-owner's fractional interest in the unit.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example: B and C own undivided one-half interest in a dwelling unit, fair rental for which would be $100x per month. D rents the unit from B and C for a month. B charges D $50x for the month's rental, but C charges D only $20x. B is treated as renting the unit at a fair rental for that month because B charges D $50x, which is equal to the fair rental of the entire unit ($100x), multiplied by B's one-half interest in the unit.

(h) *Coordination with section 162(a)(2)*—Nothing in section 280A or this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of the Internal Revenue Code) by reason of the taxpayer's being away from home in pursuit of a trade or business (other than the trade or business of renting dwelling units).

* * * * *

Par. 2. Section 1.280A-2, as proposed, is amended by revising paragraphs (b), (c), (g)(1) and (i)(2) to read as set forth below.

§ 1.280A-2 Deductibility of expenses attributable to business use of a dwelling unit used as a residence.

* * * * *

(b) *Use as the taxpayer's principal place of business*—(1) *In general.* Section 280A(c)(1)(A) provides an exception to the general rule of section 280A(a) for any item to the extent that the item is allocable to a portion of the dwelling unit which is used exclusively and on a regular basis as the principal place of business for any trade or business of the taxpayer.

(2) *More than one business.* For purposes of section 280A(c)(1)(A) and this section, a taxpayer is deemed to have a principal place of business for each trade or business in which the taxpayer engages. For example, a university professor whose principal place of business for teaching is the university may use a portion of a dwelling unit as the principal place of business for the professor's retail sales business.

(3) *Determination of principal place of business.* When a taxpayer engages in a single trade or business at more than one location, it is necessary to determine the taxpayer's principal place of business for that trade or business in light of all the facts and circumstances. Among the facts and circumstances to be taken into account in making this determination are the following:

(i) The portion of the total income from the business which is attributable to activities at each location;

(ii) The amount of time spent in activities related to that business at each location; and

(iii) The facilities available to the taxpayer at each location for puposes of that business.

For example, if an outside salesperson has no office space except at home and spends a substantial amount of time on paperwork at home, the office in the home may qualify as the salesperson's principal place of business.

* * * * *

(c) *Use by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of business.* Section 280A(c)(1)(B) provides an exception to the general rule of section 280A for any item to the extent the item is allocable to a portion of the dwelling unit which is used exclusively and on a regular basis as a place of business in which patients, clients, or customers meet or deal with the taxpayer in the normal course of the taxpayer's business. Property is so used only if the patients, clients, or customers are physically present on the premises; conversations with the taxpayer by telephone do not constitute use of the premise by patients, clients or customers. This exception applies only if the use of the dwelling unit by patients, clients, or customers is substantial and integral to the conduct of the taxpayer's business. Occasional meetings are insufficient to make this exception applicable.

* * * * *

(g) *Exclusive use requirement*—(1) *In general.* Paragraph (b), (c), or (d) of this section may apply to the use of a portion of a dwelling unit for a taxable year only if there is no use of that portion of the unit at any time during the taxable year other than for business purposes. For purposes of section 280A(c)(1) and this section, the phrase "a portion of the dwelling unit" refers to a room or other separately identifiable space; it is not necessary that the portion be marked off by a permanent partition. Paragraph (b), (c), or (d) of this section may apply to a portion of a unit which is used for more than one business purpose. Necessary repair or maintenance does not constitute use for purposes of this paragraph.

* * * * *

(i) *Limitation on deductions.* * * *

(2) *Gross income derived from use of unit*—(i) *Only income from qualifying business use to be taken into account.* For purposes of section 280A and this section, the taxpayer shall take into account, in applying the limitation on deductions, only gross income from a business use described in section 280A(c). For example, a taxpayer who teaches at school may also be engaged in a retail sales business. If the taxpayer uses a home office on a regular basis as the principal place of business for the retail sales business (a use described in section 280A(c)(1)(A)) and makes no non-business use of the office, the taxpayer shall take the gross income from the use of the office for the retail sales business into account in applying the limitation on deductions. Even if the taxpayer also corrects student papers and prepares class presentations in the home office (not a use described in section 280A(c)), no portion of the taxpayer's gross income from teaching may be taken into account in applying the limitation on deductions.

(ii) *More than one location.* If the taxpayer engages in a business in the dwelling unit and in one or more other locations, the taxpayer shall allocate the gross income from the business to the different locations on a reasonable basis. In making this determination, the taxpayer shall take into account the amount of time that the taxpayer engages in activity related to the business at each location, the capital investment related to the business at each location, and any other facts and circumstances that may be relevant.

(iii) *Exclusion of certain amounts.* For purposes of section 280A(c)(5)(A) and this section, gross income derived from use of a unit means gross income from the business activity in the unit reduced by expenditures required for the activity but not allocable to use of the unit itself, such as expenditures for supplies and compensation paid to other persons. For example, a physician who uses a portion of a dwelling unit for treating patients shall compute gross income derived from use of the unit by subtracting from the gross income attributable to the business activity in the unit any expenditures for nursing and secretarial services, supplies, etc.

* * * * *

Par. 3. Section 1.280A–3, as proposed, is amended as follows:

1. Paragraph (c)(1) is amended by removing "§ 1.280A–1(e)(4)" and inserting in lieu thereof "§ 1.280A–1(e)(6)" and by removing the word "calendar" wherever it appears.

2. Paragraph (d)(1) is amended by removing "section 280A(d)(3) and § 1.280A–1(e)(2)" and inserting in lieu thereof "section 280A(d)(4) and § 1.280A–1(e)(4)."

3. Paragraph (e)(5) is redesignated as paragraph (e)(6).

4. Paragraph (f)(5) is amended by adding "(determined without regard to the provisions of § 1.280A–1(g)" after the words "fair rental" in the second sentence.

5. Paragraph (e)(4) is revised and paragraph (e)(5) is added to read as set forth below:

§ 1.280A–3 Deductibility of expenses attributable to the rental of a dwelling unit used as a residence.

* * * * *

(e) *Application of the provisions of § 1.280A–1 and this section to rental pools.* * * *

(4) *Determination of use when averaging is not elected*—(i) *Applicability.* This paragraph (e)(4) applies with respect to a rental pool unit only for periods for which the unit is not subject to paragraph (e)(5) of this section.

(ii) *Actual use rule.* For purposes of § 1.280A–1(d)(1) and paragraph (c) of this section, the number of days on which the unit is rented at fair rental and the number of days on which the unit is used for any purpose shall be determined by reference to the actual use of the unit. Availability for rental through the rental pool does not constitute rental at a fair rental or use of the unit for any purpose. If the taxpayer's unit is actually rented at a fair rental on any day during the taxpayer's participation in the rental pool, the taxpayer may count that day as a day on which the unit is rented at a fair rental although the taxpayer receives only a portion of the rent paid.

(iii) *Furnishing information.* The rental agency managing the rental pool shall furnish the taxpayer within 60 days after the end of the pool season a written statement indicating the number of days the taxpayer's unit was actually rented at fair rental and the number of days the unit was used for any other purpose (other than repair and maintenance) during the pool season.

(5) *Election to average rental use*—(i) *Applicability.* This paragraph (e)(5) applies to a taxpayer with respect to participation in a rental pool season only if—

(A) The taxpayer signs and furnishes to the pool management a document stating that the taxpayer irrevocably consents to the application of this paragraph (e)(5) for that pool season, and

(B) the pool management sends to the taxpayer a written notice stating that there has been unanimous consent by all pool participants to the application of this paragraph (e)(5) for the pool season and providing the taxpayer with the information necessary to enable the taxpayer to comply with the rules of this paragraph (e)(5).

It is not necessary that the taxpayer furnish a separate consent for each pool season; a consent may provide that it applies to more than one pool season. If the Commissioner determines that there has not been unanimous consent to the application of this paragraph (e)(5) or that the pool management has failed to provide the required notice to pool participants, the Commissioner may require all pool participants to determine the use of their units under paragraph (e)(4) of this section.

(ii) *General rules.* All taxpayers with interests in units participating in a rental pool during a pool season with respect to which this paragraph (e)(5) applies shall determine the number of days that the unit is rented at fair rental during its participation in a rental pool in that pool season under paragraph (e)(5)(iii) of this section. All use of the unit on days other than participation days and all use of the unit on participation days other than use at fair rental shall be determined by reference to actual use of the unit. These determinations are for purposes of applying § 1.280–1(d)(1) and paragraph (c) of this section.

(iii) *Averaging formula.* The aggregate number of days that units in the rental pool were rented at fair rental during the pool season shall be apportioned among the units in the pool according to the following ratio:

$$\frac{\text{number of participation days of a particular unit}}{\text{aggregate number of participation days of all units}}$$

Thus, if the aggregate number of days of rental at fair rental for all units in a pool were 300, the number of participation days of a particular unit were 80, and the aggregate number of participation days of all units in the pool were 480, the number of days of rental at fair rental to be allocated to the particular unit would be 50, computed as follows:

$$\frac{80}{480} \times 300 = 50$$

(iv) *When pool season overlaps 2 taxable years.* If a pool season with respect to which this paragraph (e)(5) applies overlaps 2 taxable years of a person with an interest in a unit participating in the rental pool during that pool season, that person shall apportion the number of days of fair rental allocated to that unit for that season under paragraph (e)(5)(iii) of this section between the taxable years according to the following ratio:

$$\frac{\text{number of participation days of the unit during the pool season that fall in the taxable year}}{\text{number of participation days of the unit during the pool season}}$$

(v) *"Participation day" defined.* A "participation day" of a unit is a day for which that unit is entered in the rental pool.

* * * * *

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 83–19633 Filed 7–20–83; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[LR-261-76]

Income Tax; Deductions for Business Use or Rental of Dwelling Unit; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the deductibility of expenses in connection with the business use, or the rental to others, of a dwelling unit that the taxpayer is deemed to have used as a residence during the taxable year.

DATES: The public hearing will be held on Tuesday, October 4, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Tuesday, September 20, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC: LR:T (LR-261-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224; 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 280A of the Internal Revenue Code of 1954. The proposed regulations appear in the Proposed Rules Section of this issue of the **Federal Register** (see FR Doc. 83-19833).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submit written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than September 20, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

James J. McGovern,

Acting Director, Legislation and Regulations Division.

[FR Doc. 83-19832 Filed 7-20-83; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 764

[OPTS-62029A; TSH-FRL 2402-3]

4,4'-Methylene Bis (2-Chloroaniline); Initiation of Regulatory Investigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA is extending for 45 days the comment period on the Advance Notice of Proposed Rulemaking (ANPR) for the chemical substance 4,4'-methylene bis (2-chloroaniline) (MBOCA). The Agency is taking this action to give all interested persons an adequate opportunity to comment on the ANPR.

ADDRESS: Since some comments are expected to contain confidential business information, all comments on the ANPR should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket number OPTS 62029A. Comments received on the ANPR will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA issued an ANPR in the **Federal Register** of May 23, 1983 (48 FR 22954) announcing the Agency's intent to consider proposing the regulation of MBOCA under the Toxic Substances Control Act. The ANPR asked for information in three major areas: substitutes for MBOCA; sources of, adverse effects of, and ways to control exposure to MBOCA; and the economic impact of altering the present status of MBOCA. In a June 22, 1983, letter to the Administrator, counsel for the Polyurethane Manufacturers Association (PMA) asked for a 45-day extension of the comment period to develop and supply the information sought by EPA.

The Agency agrees that PMA and other parties need additional time to comment on the ANPR. Therefore, EPA has granted a 45-day extension to the deadline for comments.

List of Subjects in 40 CFR Part 764

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and Reporting.

Dated: July 14, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-19721 Filed 7-20-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-408; RM-4388; Rm-4492]

FM Broadcast Stations in Clintonville, Manitowoc, New Holstein, and Mishicot, Wisconsin; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in response to a request from WBME, Incorporated, in a proceeding involving a proposed FM channel allocation in New Holstein, Wisconsin.

DATE: Reply comments must be filed on or before July 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Order Extending the Time for Filing Reply Comments

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Clintonville, Manitowoc, New Holstein and Mishicot,[1] Wisconsin) MM Docket No. 83-408, RM-4388, RM-4492.

Adopted: July 5, 1983.
Released: July 8, 1983.

By the Chief, Policy and Rules Division.

1. On April 20, 1983, the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 20954, published May 10, 1983, in the above-referenced proceeding proposing the assignment of FM Channel 221A to New Holstein, Wisconsin. The proposed assignment also requires a channel substitution and modification of license for Station WKKB in Manitowoc, and a site restriction for an existing assignment at Clintonville, Wisconsin. The time for filing comments has expired and reply comments were due June 28, 1983.

2. On June 13, 1983, the Commission issued a *Public Notice* (Report No. 1411), announcing the filing of a counterproposal (RM-4492), requesting the assignment of Channel 221A to Mishicot, Wisconsin. The *Notice* advised that the petition would be treated in MM Docket No. 8-408 and that responsive statments thereto should be submitted by the date for filing reply comments.

3. On June 23, 1983, counsel for WMBE, Inc., the initiating proponent, filed a motion for extension of time for filing responsive comments to and including July 28, 1983. Counsel states that due to his impending absence from Washington, D.C. additional time is needed to respond to the counter-proposal and to evaluate certain technical arguments raised in the comments.

4. Section 1.46(b) of the Commission's Rules states that extention requests must be filed seven days in advance of the deadline. However, we are of the view that, under the circumstances mentioned, additional time is warranted. Therefore, we will waive the requirements of § 1.46(b) since such extension will assure the development of a sound and comprehenisve record on which to base a decision in this proceeding.

6. Accordingly, It Is Ordered, That the time for filing reply comments in MM Docket No. 83-408 (RM-4388, RM-4492) Is Extended to and including July 28, 1983.

7. This action is taken pursuant to the authority contained in Sections 4(i), (5)(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 83-19056 Filed 7-20-83; 8:45 am]

BILLING CODE 6712-01-M

[1] This community has been added to the caption.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 9; Notice 83-14]

Standard Time Zone Boundaries in the State of Alaska; Public Hearing Schedule

AGENCY: Office of the Secretary, DOT.

ACTION: Announcement of schedule of public hearings.

SUMMARY: In the Federal Register of June 30, 1983 (48 FR 30307), at the request of the Governor and Legislature of the State of Alaska, DOT proposed to relocate the boundaries between Pacific and Yukon time, Yukon and Alaska-Hawaii time, and Alaska-Hawaii and Bering time in Alaska in order to reduce from four to two the number of time zones in that State. This notice announces the schedule of hearings to be held in the State on the proposal.

DATES: (See Supplementary Information.)

ADDRESSES: (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: .

Monday, August 1, 1983—Teleconference for Southeast Alaska from noon to 3:00 p.m. and 4:00 p.m. to 7:00 p.m. PDT.

Tuesday, August 2, 1983—Public hearing in the Gymnasium of the Marie Drake Junior High School, 12th and Glacier Avenue, Juneau, from 7:30 to 10:00 p.m. PDT.

Wednesday, August 3, 1983—Public hearing in the Fairbanks North Star Borough Library, 1215 Cowles Street, Fairbanks, from 7:30 p.m. to 10:00 p.m. AHDT.

Thursday, August 4, 1983—Public hearing in the Anchorage School District Building, 4600 DeBarr Road, Anchorage, from 7:30 p.m. to 10:00 AHDT.

Friday, August 5, 1983—Teleconference for Interior and Western Alaska from noon to 3:00 p.m. and 4:00 p.m. to 7:00 p.m. AHDT.

Authority: Act of March 19, 1918, as amended by the Uniform Time Act of 1966 and Public Law 97-449, 15 U.S.C. 260-64; 49 CFR 1.59(a).

Issued in Washington, DC, on July 12, 1983.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. 83-19090 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 83-10; Notice 1]

Federal Motor Vehicle Safety Standards: Windshield Defoggers

Correction

In FR Doc. 83-19007 beginning on page 32200 in the issue of Thursday, July 14, 1983, make the following corrections:

1. On page 32200, column one, **DATES,** line four, "September 1, 1983" should read "September 1, 1985".

2. On page 32200, column two, **FOR FURTHER INFORMATION CONTACT,** line five, "(202-426-2253)" should read "(202-426-2153)".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 347 (Sub-No. 1)]

Coal Rate Guidelines—Nationwide

AGENCY: Interstate Commerce Commission.

ACTION: Petition for rulemaking denied.

SUMMARY: The petition filed April 28, 1983 by NERCO, Inc., Potomac Electric Power Company, Public Service Company of Indiana, Inc., South Carolina Public Service Authority, and System Fuels, Inc., to begin a rulemaking to require railroads to grant trackage rights to shippers over existing rail lines at rates paid by one railroad to another is denied. The proposal fails to satisfy the requirements under 49 U.S.C. 11343(a)(6) that there be an agreement and that the agreement be between two rail carriers subject to Commission jurisdiction.

DATES: This action is effective on July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

or

Anne K. Quinlan (202) 275–6458.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: July 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–19667 Filed 7–20–83; 8:45 am]

BILLING CODE 7035–01–M

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49 CFR Ch. X

[Ex Parte No. 394 (Sub-No. 1)]

Cost Ratio for Recyclables—1983 Determination; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing comments to notice of proposed rulemaking.

SUMMARY: At 48 FR 29925, June 29, 1983, the Commission proposed rules to change the maximum revenue/variable cost ratios for rates on non-ferrous recyclables or recycled materials from 146 percent to 152 percent or some other figure based on more current data.

Petitioner National Association of Recycling Industries has requested that the time for filing comments be extended from July 19, 1983, to August 5, 1983. The extension is necessary to develop and present cost evidence. The extension is granted.

DATES: Comments in this proceeding are now due on or before August 5, 1983.

ADDRESS: An original and 10 copies should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Lillie Johnson, (202) 275–6787

or

William T. Bono, (202) 275–7354.

By the Commission, Chairman Taylor.

Decided: July 14, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–19666 Filed 7–20–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Advance Notice of a Proposal To Reclassify or Delist the Snail Darter (Percina tanasi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of a proposed rule.

SUMMARY: The Service is reviewing the status of the snail darter (*Percina tanasi*) in preparation of a proposal to either reclassify or delist the species. The U.S. Fish and Wildlife Service's approved Snail Darter Recovery Plan indicates that based on the snail darter's present status, the species could be reclassified from Endangered to Threatened status. The plan also identifies criteria by which the species could be judged recovered and thus eligible for removal from the list of Endangered and Threatened wildlife. The Service is presently involved in an intensive field survey of known and potential snail darter habitat in the Tennessee River Valley to ascertain the species' current distribution and status and determine which action (reclassification or delisting) is appropriate. The Service seeks data and comments from the public on this notice. The Service is requesting information on environmental and other impacts that would result from a proposal to either reclassify, downlist or delist the snail darter.

DATE: Comments from all interested parties must be received by September 19, 1983.

ADDRESSES: Interested parties, organizations, agencies, and local governments are requested to submit comments to Field Supervisor, Asheville Endangered Species Field Office, U.S. Fish and Wildlife Service, Plateau Building, Room A–5, 50 South French Broad Avenue, Asheville, North Carolina 28801 (704/258–8250, Ext. 321). Comments and materials relating to this proposal are available for inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Biggins, Asheville Endangered Species Field Office, U.S. Fish and Wildlife Service, Plateau Building, Room A–5, 50 South French Broad Avenue, Asheville, North Carolina 28801 (704/258–2850, Ext. 321) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The snail darter was listed as an Endangered species on November 10, 1975 (**Federal Register**; 42 FR 47506). At that time the only known population was threatened by the imminent completion of Tellico Dam and the flooding of the fish's Little Tennessee River habitat. Prior to and subsequent to the completion of the Tellico Reservoir project, snail darters were introduced into other streams in the Tennessee River Valley. These introductions thus far have been proven successful only in the Hiwassee River, Polk County, Tennessee.

Snail darters were discovered in South Chickamauga Creek, Hamilton County, Tennessee, on November 1, 1980 and later in Catoosa County, Georgia. This discovery led to searches in the Tennessee River and its tributaries. These searches resulted in the discovery of snail darters inhabiting three other Tennessee River tributaries (Sewee Creek, Meigs County, Tennessee; Sequatchie River, Marion County, Tennessee; and Paint Rock River, Jackson and Madison Counties, Alabama), and the main stem of the Tennessee River near the mouths of two tributaries, South Chickamauga Creek (Nickajack Reservoir, Hamilton County, Tennessee) and Sequatchie River (Guntersville Reservoir, Marion County, Tennessee). Rivew of this new status information by the Snail Darter Recovery Team and the Service during its recovery planning process has led the Service to determine that the species could be reclassified from Endangered to Threatened status. Neither the Recovery Team nor the Service feels sufficient evidence is presently available to allow the species to be removed from Endangered Species Act protection; field survery work being conducted this summer could change that conclusion however.

The Service's approved Snail Darter Recovery Plan defines recovery as follows:

> The species shall be considered recovered when one of the alternatives (A, B, or C) listed below is met and no present or foreseeable threats exist which could cause the species to become in danger of extinction throughout a significant portion of its range.
>
> Alternative A:
>
> Suitable habitat areas of the Tennessee River within the area from the backwaters of Wheeler Reservoir upstream to the headwaters of Watts Bar Reservoir are inhabited by snail darter populations which

can survive and reproduce independently of tributary rivers as evidenced by documented reproduction in Watts Bar Reservoir or some other Tennessee River reservoir.

Alternative B:

More Tennessee River tributary populations of the species are discovered and existing populations are not lost. The number of additional populations needed to meet this criteria would vary depending on the status of the new populations, but two populations similar to the Sewee Creek, South Chickamauga Creek, or Sequatchie River populations or one comparable to the Hiwassee River population would denote recovery.

Alternative C:

Through maintenance of existing populations and/or by expansion of these populations, there exist viable populations* of snail darters in five separate streams such as Sewee Creek, Hiwassee River, South Chickamauga Creek, Sequatchie River, and Paint Rock River.

*Viable populations—Population monitoring over a ten-year period (biannual sampling) indicates that the snail darter is reproducing (at least two year classes present each year sampled) and that the population is either stable or expanding. For some populations, existing data may be used to meet the requirement.

The Service is presently involved in an intensive survey of potential and known snail darter habitat in the Tennessee River tributaries. This effort is aimed at satisfying Alternative B of the Snail Darter Recovery Plan. Thus, if the five presently known populations are still present and sufficient new populations are discovered to meet Criteria B, the Service will propose that the snail darter be removed from the Endangered Species List. If no new populations are discovered or sufficient populations are not found, the Service will, based on the recommendations of the Recovery Team and the findings of the Recovery Plan, proceed with the proposal to reclassify the species from Endangered to Threatened.

Public Comment Solicited

The Service intends that the forthcoming proposals will be as complete and as accurate as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this notice are hereby solicited. Comments particularly are sought concerning:

1. Biological, commercial, and other relevant data concerning any threats (or lack thereof) to the species included in this proposal;

2. Additional information concerning the range and distribution of the species; and

3. Current or planned activities in the subject area and their possible impacts on the snail darter.

The forthcoming proposal on the snail darter will take into consideration the comments and any additional information received by the Service.

Author

The author of this notice is Richard G. Biggins, Asheville Endangered Species Field Office, U.S. Fish and Wildlife Service, Plateau Building Room A–5, 50 South French Broad Avenue, Asheville, North Carolina 28801 (704/258–2850, Ext. 321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

(16 U.S.C. 1531 *et seq.*)

Dated: July 12, 1983.

G. Ray Arnett,

Assistant Secretary for Fish, Wildlife, and Parks.

[FR Doc. 83–19040 Filed 7–20–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 48, No. 141
Thursday, July 21, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Montana; Flathead National Forest Plan Draft Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Extension of public review period for the Flathead National Forest Plan Draft Environmental Impact Statement.

SUMMARY: The period of public review for the Flathead National Forest Draft Environmental Impact Statement has been extended until August 10, 1983.

ADDRESSES: Requests for further information should be addressed to: John Emerson, Supervisor, Flathead National Forest, P.O. Box 147, Kalispell, MT 59901.

Tom Coston,

Regional Forester.

[FR Doc. 83-19775 Filed 7-20-83; 8:45 am]

BILLING CODE 3410-11-M

Umatilla National Forest Grazing Advisory Board; Meeting

The Umatilla National Forest Grazing Advisory Board will meet at 7:30 a.m., August 18, 1983, at the Umatilla National Forest Warehouse in Pendleton, Oregon. The purpose of the meeting will be a field review of grazing management practices and plans of the Umatilla National Forest. This field review will be for two days, August 18 and 19, 1983. The tour is in conjunction with the Blue Mountain Chapter of the Society for Range Management Tour. The Board will be expected to make recommendations for future planning schedules at the next regularly scheduled meeting, as presented by the Forest Service during the tour.

July 13, 1983.

John E. Lowe,

Forest Supervisor.

[FR Doc. 83-19897 Filed 7-20-83; 8:45 am]

BILLING CODE 3410-11-M

Draft Environmental Impact Statement on Vegetation Management for Reforestation; Pacific Southwest Region, California, Nevada—Mineral, Esmeralda, Carson City, Douglas and Washoe Counties, Oregon—Jackson County; Change Notice for Public Hearing

Change notice for the Truckee, California Public Briefing previously scheduled to be held August 10, 1983.

A Notice of Public Participation Activities related to the Pacific Southwest Region's Draft Environmental Impact Statement on Vegetation Management for Reforestation was published on July 8, 1983 in Vol. 48, No. 132 of the **Federal Register**. In that notice, under PUBLIC BRIEFINGS a briefing was listed for:

Truckee, August 10, 1983, 7:30–10:00 p.m. at the Truckee Donner Recreation & Park District, Church Street, Truckee, California.

This public briefing has been *rescheduled to:* Truckee, August 9, 1983, 7:30–10:00 p.m., Truckee Donner Recreation & Park District, Church Street, Truckee, California.

All other public participation activities listed in Volume 48, No. 132 remain as shown.

Dated: July 14, 1983.

W. Jane Westenberger,

Director, Office of Information.

[FR Doc. 83-19836 Filed 7-20-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Cornell University; Correction

In the Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles appearing at page 31685 of the **Federal Register** of Monday, July 11, 1983, the following docket should be deleted:

Docket No. 82-00371. Applicant: Cornell University, Applied and Engineering Physics, 212 Clark Hall, Ithaca, NY 14853. Instrument: FL 2002 High Performance Tunable Dye Laser. Date of denial without prejudice to resubmission: April 22, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-19757 Filed 7-20-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With Taiwan to Revew Trade in Category 320

July 15, 1983

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On July 5, 1983, the American Institute in Taiwan requested consultations with the Coordination Council for North American Affairs concerning exports from Taiwan in Category 320 (other cotton woven fabric). This request was made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool, and man-made fiber textiles and textile products from Taiwan.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 320, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Committee for the Implementation of Textile Agreements reserves the right to invoke import controls on these categories, as defined in the agreement concerning cotton, wool, and man-made fiber textile products from Taiwan.

Any party wishing to comment or provide data or information regarding the treatment of Category 320 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile prducts included in this Category

is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-19758 Filed 7-20-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Haiti on Category 351 (Cotton Nightwear)

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On June 29, 1983, the United States Government, under Article 3 and Annex B of the Arrangement Regarding International Trade in Textiles, requested the Government of Haiti to enter into consultations concerning exports to the United States of cotton nightwear in Category 351, produced or manufactured in Haiti.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textile products in Category 351, produced or manufactured in Haiti and exported to the United States during the twelve-month period beginning on June 29, 1983, may be restrained at a level of 100,463 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 351 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for futher consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Dated: July 18, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-19815 Filed 7-20-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations with the Government of the Hungarian People's Republic on Category 434 (Men's and Boys' Other Coats)

On June 29, 1983, the United States Government, under Article 3 and Annex B of the Arrangement Regarding International Trade in Textiles, requested the Government of the Hungarian People's Republic to enter into consultations concerning exports to the United States of men's and boys' other wool coats in Category 434, produced or manufactured in Hungary.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of wool textile products in Category 434, produced or manufactured in Hungary and exported to the United States during the twelve-month period beginning on June 29, 1983, may be restrained at a level of 5,254 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 434 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. (a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Dated: July 18, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-19816 Filed 7-20-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations with Taiwan To Review Trade in Categories 350, 447, 637, 650 and 669 pt.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On June 24, 28, and July 8, 1983 the American Institute in Taiwan requested consultations with the Coordination Council for North American Affairs concerning exports from Taiwan in Categories 350 (cotton dressing gowns), 447 (men's and boys' wool trousers), 637 (man-made fiber playsuits), 650 (man-made fiber dressing gowns), and 669 pt. (fishnets). These requests were made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool, and man-made fiber textiles and textile products from Taiwan.

The purpose of this notice is to advise

the public that, if no solution is agreed upon in consultations with Taiwan, the Committee for the Implemenation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 350, 447, 637, 650 and 669 pt., produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Committee for the Implementation of Textile Agreements reserves the right to invoke import controls on these categories, as defined in the agreement concerning cotton, wool, and man-made fiber textile products from Taiwan.

Any party wishing to comment or provide data or information regarding the treatment of Categories 350, 447, 637, 650 and 669 pt. under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these Categories is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Dated: July 18, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-19813 Filed 7-20-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Uruguay on Category 444 (Women's, Girls', and Infants' Wool Suits)

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On June 29, 1983, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Uruguay to enter into consultations concerning exports to the United States of certain wool suits in Category 444, produced or manufactured in Uruguay.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of wool textile products in Category 444, produced or manufactured in Uruguay and exported to the United States during the twelve-month period beginning on June 29, 1983, may be restrained at a level of 4,350 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 444 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Dated: July 18, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-19817 Filed 7-20-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERLY HANDICAPPED

Procurement List 1983; Proposed Additions

Correction

In FR Doc. 83-19318 beginning on page 32620 in the issue of Monday, July 18, 1983, make the following correction:

On page 32620, third column, add the following at the end of the entry for **Class 4130:** "(Requirements for GSA Regions 2, 3, 6, 7, 8, 9, 10 and W)".

BILLING CODE 1505-01-M

Office of the Secretary

Notification of Paperwork Reduction Act (Pub. L. 96-511) Applicable to DOD Contractual Actions

Notice is hereby given that the Department of Defense has received the following OMB clearance numbers for information collection in support of DoD contractual actions:

OMB Number 0704-0189 covers the Defense Acquisition Regulatory System, including the Defense Acquisition Regulation and implementation thereof by the Military Services and Defense Agencies. This clearance number applies to all solicitations issued prior to April 1, 1984 and contracts awarded prior to April 1, 1984.

OMB Number 0704-0187 applies to all DoD solicitations and covers all information collection in support of the DoD acquisition process necessary to evaluate bids and responses from potential suppliers. This clearance number is valid through April 30, 1986.

OMB Number 0704-0188 covers information collection requirements contained in the Acquisition Management Systems and Data Requirements Control List (AMSDL). This clearance is valid through June 30, 1986.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 18, 1983.

[FR Doc. 83-19714 Filed 7-20-83; 8:45 am]

BILLING CODE 3810-01-M

President's Commission on Strategic Forces; Advisory Meeting

The President's Commission on Strategic Forces will meet in closed session on August 2-4, 1983 in the Pentagon, Arlington, Virginia.

The mission of the President's Commission on Strategic Forces is to advise the President, Vice President, Secretary of State, and Secretary of Defense on matters pertaining to the development and deployment of strategic forces and related weapon systems and issues of concern regarding arms control policies, programs, and initiatives as these subjects affect the needs of National Security.

At the meeting on August 2–4, 1983 the Commission will discuss interim findings and tentative recommendations resulting from ongoing Commission activities associated with strategic forces and arms control issues. The Commission will also discuss plans for future consideration of force development and arms control aspects of specific strategies and policies as they may affect national security posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I (1976)), it has been determined that this President's Commission on Strategic Forces meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and accordingly this meeting will be closed to the public.

Dated: July 18, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-19837 Filed 7-20-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF DEFENSE

Defense Mapping Agency

Membership of the Defense Mapping Agency Performance Review Board

AGENCY: Defense Mapping Agency (DMA), DOD.

ACTION: Notice of Membership of the Defense Mapping Agency Performance Review Board (DMA PRB).

SUMMARY: This notice announce the appointment of the members of the DMA PRB. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance awards to the Director, DMA.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: James W. Willis, Defense Mapping Agency, Civilian Personnel Division, Bldg. 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone (202) 653–1670.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the DMA PRB. They will serve a one-year renewable term effective August 1, 1983.

Brig. Gen. William B. Webb, USAF, Deputy Director, Headquarters, DMA
RADM. L. S. Severance, Jr., USN, Deputy Director for Plans and Requirements, Headquarters, DMA
Mr. Lawrence F. Ayers, Deputy Director, Management and Technology, Headquarters, DMA
Dr. Mark M. Macomber, Deputy Director for Systems and Techniques, Headquarters, DMA
Mr. Allen E. Anderson, Deputy Director for Programs, Production and Operations, Headquarters, DMA
Mrs. Eloise W. Manifold, Director of Personnel, Headquarters, DMA
Mr. Albert N. Rhodes, Comptroller, Headquarters, DMA
Dr. Charles F. Martin, Chief, Advanced Technology Division, Directorate for Systems and Techniques, Headquarters, DMA
Mr. Lon M. Smith, Chief, Acquisition Systems Division, Directorate for Systems and Techniques, Headquarters, DMA
Mr. William P. Durbin, Assistant Deputy Director for Plans and Requirements, Headquarters, DMA
Mr. Thomas O. Seppelin, Assistant Deputy Director for Production and Distribution, Headquarters, DMA
Mr. Edward W. Finnegan, Assistant Deputy Director for Programs, Headquarters, DMA
Dr. Kenneth I. Daugherty, Technical Director, DMA Hydrographic/ Topographic Center
Mr. Frank E. Roth, Technical Director, DMA Aerospace Center
Mr. Penman R. Gilliam, Director, DMA, Special Program Office for Exploitation Modernization
Mr. William M. Cassell, Comptroller, Headquarters, Defense Logistics Agency
Mr. Martin A. Thompson, Associate Deputy Director, Switched Systems, Headquarters, Defense Communications Agency

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 18, 1983.

[FR Doc. 83-19713 Filed 7-20-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 81-02-NG]

Amended Joint Application; Importation of Natural Gas From Canada; Transcontinental Gas Pipe Line Corp., et al.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of amended application to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on May 2, 1983, of an amendment to the application previously filed by Transcontinental Gas Pipe Line Corporation (Transco), Algonquin Gas Transmission Company (Algonquin), and Texas Eastern Transmission Corporation (Texas Eastern) for authorization to import up to 305,882 Mcf of natural gas per day from Canada for a period of approximately 20 years. The imported volumes, which will be divided in equal shares, are to be purchased from Pan-Alberta Gas Ltd. (Pan-Alberta). The amendment would reduce the daily maximum quantity proposed to be imported to 152,937 Mcf, with further reductions of 25 percent in each of the last three years of the import. In addition, the application has been amended to shorten the term of importation to 12 years commencing November 1, 1984, and extending through October 31, 1996. Notwithstanding, the proposed pipeline facilities to be constructed to receive all of these imported volumes will not be available for initial deliveries before November 1, 1985.

This amendment was filed to conform the application to both the quantity of gas authorized for export from Canada under a license recently issued to Pan-Alberta by the Canadian National Energy Board (NEB) and the term of that license.

The amended application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m., on August 22, 1983.

FOR FURTHER INFORMATION CONTACT: A. M. McDonough, Natural Gas Division, Office of Fuels Programs (RG–43), Economic Regulatory Administration, 1000 Independence Avenue SW., Forrestal Building, Room

GA–007, Washington, D.C. 20585, (202) 252–9482
Michael T. Skinker, Office of General Counsel, Natural Gas and Mineral Leasing, 1000 Independence Avenue SW., Forrestal Building, Room 6E–042, Washington, D.C. 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: On December 16, 1980, Transco and Algonquin filed with the ERA an application requesting authorization to import up to 305,882 Mcf per day from Canada, with deliveries to commence on November 1, 1983, and to be shared equally by the two applicants. The ERA issued a notice of this application on January 12, 1981 (46 FR 5048, January 19, 1981). An additional notice published on January 29, 1981 (46 FR 9706) extended the final date for the filing of protests and petitions to intervene.

On October 28, 1981, an amended application was filed in this docket reflecting the addition of Texas Eastern as a third joint applicant. The amended application also indicated that the date of first deliveries had been changed from November 1, 1983, to November 1, 1984. The ERA issued a notice of the amended application on December 7, 1981 (46 FR 61310, December 16, 1981), soliciting any new protests and petitions for intervention.

A second amendment to the original application (Second Application Amendment) was submitted to the ERA on July 26, 1982. This amendment reflected several changes in the proposed import project. One change was the abandonment of the import point initially proposed, Calais, Maine, in favor of a new import point near Niagara Falls, New York. To accomplish this change, the volumes the applicants proposed to import would be transported through the facilities which were to be constructed by Trans-Niagara Pipeline, a partnership of Transco, Texas Eastern, and TransCanada Pipelines Limited. The Second Application Amendment also reflected a change by which the take-or-pay provisions in the applicant's respective gas sale contracts with Pan-Alberta were reduced from 85 percent to 75 percent of the maximum daily volumes, as calculated on an annual basis. In addition, the Second Application Amendment made other changes to the gas sale contracts ensuring Texas Eastern's continued participation in the project, modifying the applicant's make-up rights and the price to be paid for any deficiency volumes, and making certain other minor or conforming amendments.

On October 7, 1982, the ERA issued an "Order Granting Interventions and Providing Opportunity for Comments and Requests for Further Procedures Concerning Recent Amendment to Application." This order granted all of the pending petitions for intervention and denied all motions for hearings and other procedural relief requested by various parties in the proceeding. The ERA's order also invited comments on the changes to the project resulting from the Second Application Amendment and any requests for further proceedings in this case. No requests for further proceedings were received.

The instant amended joint application (Third Application Amendment) is the result of the January 27, 1983 decision of the NEB in its Gas Export Omnibus Hearing which authorized for export only half of the volumes requested by Pan-Alberta for sale to Transco, Algonquin and Texas Eastern over a twelve-year period, with a 25 percent reduction in the total volumes of gas to be exported in each of the last three years of the license. The NEB authorized Pan-Alberta to sell the following volumes of gas:

Period	Total daily contract quantity (Mcf)	Total annual contract quantity (Bcf)
Nov. 1, 1984 to Oct. 31, 1993	152,937	55.8
Nov. 1, 1993 to Oct. 31, 1994	114,703	41.9
Nov. 1, 1994 to Oct. 31, 1995	76,469	27.9
Nov. 1, 1995 to Oct. 31, 1996	38,234	14.0

Due to the NEB's decision, the applicants have amended their application to request import authorization only for the reduced volumes authorized by the NEB and the shorter term of the license.

The Third Application Amendment also reflects the development of a joint venture by Trans-Niagara Pipeline, Boundary Gas, Inc., and Tennessee Gas Pipeline Company, called the Niagara Interstate Pipeline System (NIPS). An application to construct the NIPS is currently pending at the Federal Energy Regulatory Commission (FERC) in FERC Docket No. CP83–170–001. Under the current arrangement, the natural gas to be imported from Pan-Alberta would be transported by the proposed NIPS facilities. This pipeline would extend from Niagara Falls, New York, to the Leidy storage field of Transco near Tamarack, Pennsylvania. In addition, the Third Application Amendment refers to the Canadian government's April 12, 1983 reduction in the international border price from $4.94 per MMBtu to $4.40 per MMBtu, which is the price charged for virtually all natural gas being exported from Canada to the United States. The joint applicant's purchase agreements with Pan-Alberta set the price for the gas at the prevailing border price.

By letter dated June 8, 1983, Transco notified the ERA that it expects the proposed NIPS facilities to be completed by November 1, 1985, at which time initial deliveries under the subject import would begin. As noted above, the Canadian authorization begins November 1, 1984, and Transco still requests ERA authorization to begin in 1984.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. Persons who have already been granted permission to intervene in this docket need not file new petitions, but may submit additional comments or request additional procedures in this case concerning the May 2, 1983 amendment. Any person may file a protest with respect to this amended application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA–007, RG–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. All protests and petitions to intervene must be filed no later than 4:30 p.m., August 22, 1983.

A hearing will not be held unless a motion is made by a party or person seeking intervention and is granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene have been granted and whose petitions are pending.

A copy of the amended application noticed herein is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19770 Filed 7-20-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Form EP-400; Intent to Extend Voluntary Use and Solicitation of Comments

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of intent to extend the use of voluntary Form EP-400 and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the United States Department of Energy (DOE) plans to extend the use of the Form EP-400 "Survey of Surplus Natural Gas Supplies," and solicits comments on the survey.

DATES: Written comments must be submitted by August 22, 1983.

ADDRESS: Comments should be sent to Albert F. Bass, Chief, Energy Supply Risk Assessment Branch, Office of Energy Emergency Operations, EP-422, Mail Stop GB-270, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION: To obtain additional information contact Mr. James M. Todaro, Reserves and Natural Gas Division, Mail Stop: BE-064, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6119.

SUPPLEMENTAL INFORMATION:

I. Background
II. Request for comments

I. Background

EIA proposes to extend the EP-400, "Survey of Surplus Natural Gas Supplies." This form is used in collecting voluntary information from a sample of gas companies (producers, pipelines and distribution companies) to enable the DOE to determine the status of surplus natural gas supplies available for sale by the reporting companies to other systems. The sample currently consists of 100 companies. Each company is contacted quarterly via telephone and requested to estimate the amount of natural gas surplus anticipated to be available for sale over the next six-month period. Respondents may also be contacted at shorter intervals of time during an emergency or when one is imminent.

The information collected through the EP-400 supports the Office of Environmental Protection, Safety and Emergency Preparedness (EP). These data are used by EP's Office of Energy Emergency Operations in evaluating the need to implement possible response actions in the event of an energy emergency stemming from embargoes, strikes, severe weather conditions, etc. Depending on the type of energy emergency, natural gas can either help to offset shortages of other fuels or be, in itself, the center of an energy shortfall. As emergencies are not predictable, continuous up-to-date information on natural gas availability is essential where quick action decisions may be required. The Office of Energy Contingency Planning in EP also has an ongoing need for current data on the availability of natural gas for use in developing various plans for the appropriate DOE role during unexpected energy emergency situations.

Data provided by the EP-400 survey is also used by the Economic Regulatory Administration (ERA) in the exercise of its responsibilities connected with the increased use of gas by large electric utility and industrial users to displace oil. Specifically, ERA uses the data to assist in analyzing whether to grant authorizations for natural gas imports into the U.S. and exemptions from natural gas use restrictions under the Power Plant and Industrial Fuel Use Act of 1978.

II. Request for Comments

A copy of Form EP-400 is reproduced following this notice. The EIA invites all interested parties to comment on the proposed extension of its use through September 30, 1986. The following general guidelines are provided to assist in the preparation of any comments.

a. Is it useful to continue this survey? If so why? If not please explain.

b. How much time is needed by a respondent company to provide this information quarterly by telephone?

c. What is the estimated cost to a respondent for providing the information for each inquiry? Please indicate both the direct and indirect costs.

d. Do you know of any other Federal, State or local agencies that collect the same type of data? If yes, please identify agency, form number(s), and explain how the data are duplicative.

e. How could this survey be improved?

Summaries of comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this extension and will become a matter of public record.

Issued in Washington, D.C., July 14, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

FORM EP-400

U.S. DEPARTMENT OF ENERGY
WASHINGTON, D. C.

Survey of Surplus Natural Gas Supplies

This report is authorized by Public Law 93-275. While you are not required to respond, your cooperation is needed to assure that results are comprehensive, accurate, and timely.

I. IDENTIFICATION

a. Name of Company: _____
b. Address: _____
_____
c. Contact and Telephone No.: _____
d. General Area Served by Company: _____
e. Pipeline Interconnections: _____
_____
_____

II. INSTRUCTIONS

The caller must identify self and organization, state that this call is with respect to DOE's program for energy emergency contingency planning and DOE programs to displace fuel oil consumption with surplus natural gas, and that this information is being requested on a voluntary basis.

III. DEFINITIONS

Surplus Gas - Volumes of natural gas currently owned but not needed to meet current requirements, which are available for sale.

IV. PROVISIONS REGARDING CONFIDENTIALITY OF INFORMATION

The information reported on form EP-400 may be: (1) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act, 5 USC 522(b)(4) (FOIA); or (2) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the respondent must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element basis if possible), in a letter following their response to Form EP-400 telephone interviews why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request with substantive justification, that the information submitted should not be released to the public, DOE will assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the EP-400 is submitted if:

a. your views concerning information items identified by you as privileged or confidential have not changed; and

b. a written justification setting forth your values in this regard was previoulsy submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any committee of Congress, and to the General Accounting Office.

V. SURVEY QUESTIONS

1. (a) Does your company currently have a surplus supply of natural gas available for sale?

_____ Yes
_____ No

(b) Do you anticipate having a surplus supply in the next six (6) months?

_____ Yes (Answer remaining questions)
_____ No (End interview)

2. (a) What is your surplus supply? _____(cubic feet per day)

(b) When and how long will it be available? For _____ months starting _____.

3. How are you presently managing this surplus?

_____ Holding it in storage.
_____ Trying to locate purchasers.
_____ Curtailing production.
_____ Other - Specify _____
_____
_____

4. Are you experiencing any problems distributing natural gas that we may be able to assist you with? For example, locating prospective purchasers, lack of pipeline capacity, and so forth.

_____
_____
_____
_____

5. Are there any additional comments you would like to make?

_____
_____
_____
_____

[FR Doc. 83-19771 Filed 7-20-83; 8:45 am]
BILLING CODE 6450-01-C

Federal Energy Regulatory Commission

[Docket No. RP83-44-000]

Algonquin Gas Transmission Co.; Informal Settlement Conference

July 15, 1983.

Take notice that on August 2, 1983, at 10:30 a.m., an informal settlement conference will be concerned in the above-captioned proceeding. The meeting place for the conference will be at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and Staff are invited to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19944 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER80-592-000, et al.; ER80-628-000 and ER80-586-000]

Allegheny Power Systems, et al., and Duquesne Light Co.; Extension of Time

July 15, 1983.

On July 7, 1983, Duquesne Light Company (Duquesne) filed a motion for an extension of time to make refunds and to file a compliance report as required by the Commission's letter order issued May 27, 1983, in the above-docketed proceeding. The motion states that Duquesne requires additional time because of the complexity and detail involved in determining the refund amounts.

Upon consideration, notice is hereby given that an extension of time for the making of refunds is granted to and including August 25, 1983. The compliance report shall be filed on or before September 9, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19945 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3171-002]

City of Columbus, Ohio; Surrender of Preliminary Permit

July 18, 1983.

Take notice that the City of Columbus, Ohio (City), Permittee for the proposed Morse Road Water Plant Project No. 3171, requested by letter dated June 1, 1983, that its preliminary permit be surrendered. The preliminary permit was issued on November 1, 1982, and would have expired on May 31, 1984. The City has decided to suspend development of the hydroelectric project until the environmental effects of the new raw water line can be evaluated.

The surrender of the preliminary permit for Project No. 3171 will become effective thirty days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19796 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-19-000]

Commonwealth Oil Refining Company, Inc.; Extension of Time

Issued July 15, 1983.

Good cause having been shown, petitioner's motion for extension of time until August 5, 1983 within which to file comments on the proposed order is granted. All other parties' comments are also due on August 5, 1983. DOE's calculations remain due on July 22, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19797 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-40-000]

Commonwealth of Pennsylvania; Petition for Declaratory Order

July 18, 1983.

On May 5, 1983, the Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Oil and Gas Management, 1205 Kossman Building, 100 Forbes Avenue, Pittsburgh, Pennsylvania 15222 (Pennsylvania), a jurisdictional agency, filed with the Federal Energy Regulatory Commission (Commission) a request for a declaratory order or staff interpretation pursuant to § 271.806(a), 18 CFR § 271.806(a) (1982), of the Commission's regulations issued under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3318 (Supp. V 1982). Pennsylvania requests a determination of whether a particular process or type of process or the installation of certain equipment or a type of equipment qualifies as an "enhanced recovery technique," as defined in §271.803(a) of the Commission's regulations. Under section 108(b)(2) of the NGPA, natural gas produced from a well previously qualified as a "stripper well" may continue to qualify for the maximum lawful price under section 108 even though production exceeds 60 Mcf per production day if the increase was the result of an "enhanced recovery technique."

Pennsylvania states that its request is being made on behalf of DOC-NCC Service Co., P.O. Box 235, Yatesboro, Pennsylvania 16263 (DOC). Pennsylvania refers to the description of the alleged enhanced recovery technique provided in a letter from DOC.

In DOC's letter, DOC states that on June 1, 1983, it added 17,000 feet of additional gathering line along with a new compressor in order to deliver additional natural gas to the principal purchaser, Texas Eastern Transmission Corporation (Texas Eastern) from 125 wells from a field in East and South Huntington Townships, Westmoreland County, Pennsylvania. The stated purpose of the new line is to essentially bypass gathering system bottlenecks that exist in the southern portion of the system. The stated purpose of the compressor is to deliver the gas against Texas Eastern's average line pressure of 800 psi.

In view of the fact that the request not only raises the issue of qualification of compression and delivery systems as recognized enhanced recovery techniques, but also raises a question concerning the interrelation of section 110 of the NGPA and the Commission's implementing regulations with section 108 and the Commission's implementing regulations, it has been determined that this matter shall be treated as a request for a declaratory order of the Commission.

Any person desiring to be heard or to make any protest with reference to Pennsylvania's petition for a declaratory order should, on or before August 9, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure 47 FR 19014 (1982) (to be codified at 18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19798 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-623-000]

Connecticut Light and Power Co.; Filing

July 18, 1983.

The filing Company submits the following:

Take notice that on July 8, 1983, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and Public Service Electric and Gas Company of New Jersey (PSEG). The Agreement, dated as of May 1, 1983, provides for the bilaterial sale by the NU Companies or PSEG of energy from their systems ("system energy") that may be available on a daily or weekly basis (a "transaction"). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies or PSEG would offer to sell such energy to the other only when it was economical to do so. The buyer would only accept such offer if it was economical to do so.

CL&P states that the buyer will pay an energy reservation to the seller for each transaction in an amount equal to the megawatthours of system energy reserved for the buyer by the seller during a transaction multiplied by an energy reservation charge rate negotiated prior to each transaction. The buyer will pay any energy charge for each transaction in an amount equal to the megawatthours delivered by the seller during such transaction times an energy charge rate. The energy charge rate is the weighted average forecasted energy charge rate for the generating unit(s) which the seller determines to be available to provide such energy at the time of a transaction.

CL&P requests an effective date of June 14, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon WMECO and PSEG.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 4, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19799 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-621-000]

Consumers Power Co.; Filing

July 18, 1983.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on July 7, 1983, tendered for filing Consumers' Supplemental No. 1 to the Coordinated Operating Agreement with the Michigan South Central Power Agency dated as of November 6, 1981.

Consumers states that the Supplemental Agreement No. 1: (1) Adds a new provision in Service Schedule B—Short-Term Capacity and Energy, which allows either party to sell Short-Term Capacity and Energy on a daily as well as a weekly basis, and (2) adds a new Service Schedule E—Non-Displacement Energy which allows either party to buy electric energy available from surplus capacity on the other party's system for short intervals.

Consumers further states that the extent of use of Daily Short-Term Power on Non-Displacement Energy among the parties for the next twelve months is unknown at the present time, as this will be scheduled from time to time as load and capacity conditions on either system dictate. Accordingly, it is not possible to estimate the transactions for such period. Since Daily Short-Term Power and Non-Displacement Energy have not been provided for previously, a comparison cannot be made of the presently effective and proposed rates for the past twelve months as no transactions took place.

Consumers propose an effective date of June 1, 1983 and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on the Michigan South Central Power Agency and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 2, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19800 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-332-000]

The Crouse Group; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

July 15, 1983.

On July 1, 1983, The Crouse Group (Applicant), of Upper Lewis Road, Linfield, Pennsylvania 19468, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at Pigeon Point in Wilmington, Delaware. The primary energy source will be biomass in the form of refuse derived fuel and unprocessed municipal solid waste. The electric power production capacity of the facility will be 13.8 megawatts and up to 155,000 pounds per hour of steam will be produced. The process steam will be used first to generate electricity and the remainder will be sold to a steam customer.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19646 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-33-005, et al.]

El Paso Natural Gas Co.; Tariff Filing

July 15, 1983

Take notice that on July 8, 1983, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in accordance with Articles IV, V, VI, VII and IX of El Paso's Stipulation and Agreement in Settlement of Rate Proceedings ("Stipulation and Agreement") at Docket No. RP82-33, *et al.*, certain tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A. By letter order dated May 31, 1983 at Docket No. RP82-33-000, *et al.*, the Commission accepted and approved said Stipulation and Agreement. Accordingly, the tendered tariff sheets, identified on the attached Appendix which includes the proposed effective date for each respective tariff sheet, when accepted for filing and permitted to become effective, will provide for the settlement of issues involved in the proceedings at Docket No. RP82-33-000, *et al.*, and for the settlement rates to be made effective for the period July 1, 1982 through March 31, 1983.

El Paso requested that the Commission grant such waiver of its Regulations Under the Natural Gas Act as may be deemed necessary in order to permit the tendered tariff sheets to become effective on the date specified on each sheet.

El Paso states that copies of the filing and attachments thereto have been served upon all parties of record in Docket No. RP-82-33-000, *et al.*, and, otherwise, upon all interstate pipeline system customers of El Paso and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before July 25, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19647 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5710-002]

Empire State Hydro Corp.; Surrender of Preliminary Permit

July 18, 1983.

Take notice that the Empire State Hydro Corporation, Permittee for the proposed Woodstock Dam Project No. 5710 has requested that its preliminary permit be terminated. The permit was issued on June 25, 1982, and would have expired on December 30, 1983. The project would have been located on Catskill Creek near the Town of Cairo in Greene County, New York.

Empire State Hydro Corporation has determined that hydroelectric development at Woodstock Dam is not economically feasible. The Permittee has therefore elected not to proceed further.

Permittee filed its request on June 24, 1982. The surrender of the preliminary permit for Project No. 5710 will become effective thirty days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19801 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-624-000]

Florida Power & Light Co.; Filing

July 18, 1983.

The filing Company submits the following:

Take notice that on July 8, 1983, Florida Power & Light Company (FP&L) tendered for filing a document entitled Amendment Number Eight to Agreement to Provide Specified Transmission Service between FP&L and Tampa Electric Company (Rate Schedule FERC No. 57).

FP&L states that under Amendment Number Eight, FP&L will transmit power and energy for Tampa Electric Company as is required in the implementation of its interchange agreement with Seminole Electric Cooperative, Inc.

FP&L requests that waiver of the Commission's notice requirements be granted and the proposed Amendment be made effective immediately.

Copies of the filing have been served upon Tampa.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protects should be filed on or before August 4, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19802 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-625-000]

Florida Power & Light Co.; Filing

July 18, 1983.

The filing Company submits the following:

Take notice that on July 11, 1983, Florida Power & Light Company (FP&L) tendered for filing a Revised Exhibit A to the Company's FERC Electric Tariff, First Revised Volume No. 1 which provides contract demands for the Fort Pierce Utilities Authority (Fort Pierce).

FP&L requests an effective date of April 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 4, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19803 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-626-000]

Idaho Power Co.; Filing

July 18, 1983.

The filing Company submits the following:

Take notice that on July 11, 1983, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made during May 1983 under its 1st Revised FERC Electric Tariff Volume No. 1, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 19
Montana Power Company—Supplement 17
Sierra Pacific Power Company—Supplement 17
Portland General Electric Company—Supplement 12

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 395.211, 385.214). All such motions or protests should be filed on or before August 4, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19804 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-620-000]

Kansas Power and Light Co.; Filing

July 18, 1983.

The filing Company submits the following:

Take notice that on July 7, 1983, the Kansas Power and Light Company (KPL) tendered for filing a new Schedule G through H for Participation Power under the Interconnection Agreement dated June 1, 1983, between KPL and the Sunflower Electric Cooperative, Inc. (Sunflower). KPL states that Service Schedule G through H expressly modifies the price which Sunflower agrees to pay KPL for base load capacity. The proposed change would increase revenues from jurisdictional sales and service by approximately $1,343,156, based on the 12 month period ending April 30, 1984.

KPL states that the proposed tariff change arises from the base load requirement for Sunflower now being serviced from Jeffrey Unit #3 instead of Unit #1 as provided for by Electric Interconnection Agreement between KPL and Sunflower.

KPL requests waiver of the Commission's notice requirements in order to allow for an effective date in less than 60 days.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 2, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19805 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-46-006]

Kentucky West Virginia Gas Co.; Filing

July 15, 1983

Take notice that on June 30, 1983, Kentucky West Virginia Gas Company (Kentucky West) tendered for filing, pursuant to the Commission's letter order of May 2, 1983, approving the proposed stipulation and agreement in settlement of this proceeding, executed amendments to all gas purchase contracts between Kentucky West and its affiliates, Philadelphia Oil Company and KEPCO, Inc. These amendments include a "market out" clause which gives Kentucky West the right to nominate a new price and price computation method for any Section 107 gas which is, in Kentucky West's opinion, non-competitive in Kentucky West's end-use markets.

The amendments in the filing are to Kentucky West's Gas Purchase Agreements No. 300-1, 300-2, 300-3, 300-4 and 300-5 with Philadelphia Oil Company, and Kentucky West's Gas Purchase Agreement No. 311 with KEPCO, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 21, 1983. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 83-19646 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-16-000]

Mountain Fuel Supply Co. and Mountain Fuel Resources, Inc.; Petition for Adjustment

July 18, 1983.

Take notice that on May 25, 1983, as amended on May 26, 1983, Mountain Fuel Resources, Inc. (Resources), and Mountain Fuel Supply Company (Mountain Fuel) (jointly Applicants), 180 East First South Street, Salt Lake City, Utah 84139, filed in SA83-16-000 an application for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). Applicants are seeking Commission authorization for a continuation of Resources' exemption or an adjustment from the Commission's Regulations regarding its Permanent Curtailment Rule, 18 CFR 281.201, *et seq., to the extent that the curtailment provisions of Resources' proposed tariff, filed as part of Applicants' reorganization plan in Docket No. CP80-274-000, et al.*, do not comply in all technical respects with such rule.

Applicants state that the curtailment provisions of Resources' proposed tariff implement the policy of section 401 of the NGPA to give priority to deliveries of gas to high-priority users and essential agricultural users while maintaining the level of service provided under the historic operating realities of Resources and Mountain Fuel. Applicants state that due to the historic operating realities of their systems, compliance with the Commission's detailed curtailment regulations would constitute a "special hardship, inequity or unfair distribution

of burdens" within the meaning of section 502(c).

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–1117.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Rule 1105. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19806 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-107-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

July 15, 1983.

Take notice that North Penn Gas Company (North Penn) on July 8, 1983, filed pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations Fifth Revised Sheet No. 15C Superseding Substitute Fourth Revised Sheet No. 15C and Fifth Revised Sheet No. 15E Superseding Substitute Fourth Revised Sheet No. 15E to its FERC Gas Tariff, First Revised Volume No. 1. These revised tariff sheets provide explicitly for the recovery through the purchased gas adjustment and surcharge provisions amounts paid to North Penn's pipeline suppliers under the minimum bill provisions of their FERC Gas Tariffs. These revised sheets would become effective as of June 21, 1983.

North Penn has also submitted for filing Fifth Revised Sheet No. 15D Superseding Fourth Revised Sheet No. 15D and Alternate Fifth Revised Sheet No. 15E Superseding Fourth Revised Sheet No. 15E in lieu of Fifth Revised Sheet No. 15E Superseding Substitute Revised Sheet No. 15E only in the event a settlement agreement in North Penn Gas Company Docket No. RP82-132, now before the Commission, is not approved. In that event, North Penn requests that these alternate tariff sheets be accepted and made effective as of June 21, 1983.

Copies of the filing were served upon North Penn's jursidictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All such petitions or protests should be filed on or before July 25, 1983. 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19849 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-141-00, et al.]

Northwest Central Pipeline Corp.; Redesignation

July 18, 1983.

By a Certificate of Amendment to a Certificate of Incorporation, dated November 17, 1982, filed with the Commission on January 5, 1983, Cities Service Gas Company has changed its corporate name to Northwest Central Pipeline Corporation and its natural gas operations are to be conducted under the name of Northwest Central Pipeline Corporation.

According, the authorizations issued by this Commission and by the Federal Power Commission, the applications currrently pending before the Commission, the FERC Gas Tariff on file, and any other records or proceedings relating to Cities Service Gas Company are redesignated as those of Northwest Central Pipeline Corporation, in lieu of Cities Service Gas Company.

A list of the authorizations and pending applications is attached as Appendix A. This action is taken pursuant to 18 CFR 375.302(s) of the Commission's rules.

Kenneth F. Plumb,

Secretary.

Appendix A

G-141; G-298; G-488; G-493; G-524; G-526; G-527; G-576; G-604; G-629; G-649; G-656; G-711; G-720; G-729; G-756; G-778; G-811; G-821; G-829; G-840; G-848; G-898; G-908; G-934; G-937; G-966; G-1000; G-1038; G-1170; G-1294; G-1355; G-1421; G-1434; G-1563; G-1589; G-1590; G-1704; G-1736; G-1760; G-1795; G-1845; G-1867; G-1874; G-1877; G-1882; G-1968; G-1974; G-1988; G-2007; G-2038; G-2112; G-2149; G-2157; G-2161; G-2187; G-2202; G-2209; G-2214; G-2265; G-2383; G-2410; G-2457; G-2471; G-2493; G-2542; G-2570; G-4092; G-6815; G-8571; G-8572; G-8780; G-9126; G-9238; G-9457; G-9468; G-9564; G-9649; G-9806; G-9886; G-9887; G-10347; G-10458; G-10520; G-10725; G-10896; G-10921; G-10934; G-10956; G-10974; G-10975; G-11658; G-12048; G-12125; G-12542; G-12549; G-12638; G-13206; G-13545; G-13562; G-14534; G-14488; G-14721; G-14969; G-14973; G-15342; G-15345; G-16217; G-16742; G-16743; G-16912; G-17020; G-17502; G-17941; G-18452; G-18545; G-18799; G-18868; G-18869; G-18870; G-18891; G-20307; G-20501.

CP60-12; CP60-16; CP60-32; CP60-87; CP60-108; CP60-113; CP61-10; CP61-11; CP61-29; CP61-87; CP61-178; CP61-179; CP61-183; CP61-184; CP61-195; CP61-196; CP61-240; CP61-263; CP61-313; CP61-15; CP62-36; CP62-82; CP62-123; CP62-139; CP62-147; CP62-148; CP62-211; CP62-245; CP62-253; CP62-262; CP62-274; CP62-296; CP63-1; CP63-29; CP63-33; CP63-51; CP63-59; CP63-65; CP63-66; CP63-69; CP63-83; CP63-103; CP63-142; CP63-168; CP63-188; CP63-201; CP63-216; CP63-249; CP63-278; CP63-280; CP63-304; CP63-343; CP63-345; CP63-349; CP64-42; CP64-81; CP64-82; CP64-83; CP64-84; CP64-89; CP64-100; CP64-108; CP64-131; CP64-179; CP64-250; CP64-251; CP64-285; CP64-305; CP64-306; CP64-311; CP65-12; CP65-21; CP65-77; CP65-137; CP65-140; CP65-150; CP65-152; CP65-162; CP65-166; CP65-194; CP65-216; CP65-230; CP65-231; CP65-241; CP65-316; CP65-327; CP65-334; CP65-410; CP66-79; CP66-113; CP66-115; CP66-176; CP66-177; CP66-188; CP66-188; CP66-193; CP66-194; CP66-219; CP66-226; CP66-273; CP66-419; CP67-7; CP67-25; CP67-37; CP67-67; CP67-90; CP67-92; CP67-99; CP67-104; CP67-150; CP67-190; CP67-203; CP67-275; CP67-316; CP67-335; CP67-340; CP67-354; CP68-8; CP68-91; CP68-92; CP68-110; CP68-128; CP68-216; CP68-320; CP68-369; CP69-7; CP69-8; CP69-34; CP69-59; CP69-60; CP69-75; CP69-168; CP69-180; CP69-221; CP69-253; CP69-322; CP69-352; CP70-53; CP70-74; CP70-75; CP70-118; CP70-149; CP70-159; CP70-166; CP70-258; CP71-19; CP71-64; CP71-65; CP71-173; CP71-180; CP71-194; CP71-210; CP71-269; CP71-286; CP72-15; CP72-83; CP72-151; CP72-158; CP72-174; CP72-229; CP73-80; CP73-94; CP73-150; CP73-325; CP74-6; CP74-10; CP74-57; CP74-65; CP74-151; CP74-154; CP74-179; CP74-186; CP74-215; CP74-234; CP74-324; CP75-98; CP75-99; CP75-100; CP75-116; CP75-121; CP75-207; CP75-345; CP75-356; CP76-15; CP76-32; CP76-110; CP76-113; CP76-115; CP76-137; CP76-206; CP76-217; CP76-268; CP76-269; CP76-282; CP76-335; CP76-345; CP76-371; CP76-373; CP76-415; CP76-417; CP76-462; CP76-465; CP76-485; CP76-487; CP76-488; CP76-500; CP77-68; CP77-149; CP77-215; CP77-290; CP77-306; CP77-319; CP77-376; CP77-460; CP77-461; CP77-549; CP77-550; CP77-551; CP77-562; CP77-572; CP77-573; CP77-575; CP77-588; CP77-28; CP78-93; CP78-132; CP78-226; CP78-275; CP78-303; CP78-373; CP78-459; CP78-461; CP78-462; CP78-513; CP79-99; CP79-114; CP79-197; CP79-326; CP79-346; CP79-395; CP79-406; CP79-420; CP80-25; CP80-28; CP80-47; CP80-49; CP80-115; CP80-171; CP80-173; CP80-197; CP80-239; CP80-272; CP80-302; CP80-328; CP80-474; CP80-499; CP80-517; CP80-536; CP80-554; CP80-555; CP80-586; CP81-60-000; CP81-150-000; CP81-165-000; CP81-170-000; CP81-193-000;

CP81-203-000; CP81-273-000; CP81-275-000; CP81-427-000; CP81-442-000; CP81-461-000; CP81-502-000; CP81-514-000; CP81-534-000; CP82-27-000; CP82-77-000; CP82-124-000; CP82-159-000; CP82-201-000; CP82-229-000; CP82-233-000; CP82-274-000; CP82-301-000; CP82-302-000; CP82-303-000; CP82-316-000; CP82-319-000; CP82-343-000; CP82-479-000; CP82-540-000; CP82-549-000.

RP62-1; RP64-9; RP64-17; CP65-21; RP68-16; RP69-39; RP70-21; RP70-22; RP75-27; RP71-106; RP73-1; RP74-4; RP75-6-1; RP75-27; RP75-62; RP76-13; RP76-28-1; RP76-85; RP76-118; RP76-135; RP80-43; RP81-37-000; RP81-64-000; RP81-127-000; RP81-138-000.

TC78-8; TC79-97; TC79-150; TC80-63; TC81-26; TC82-14; SA79-30; SA80-117; GP80-31; GT82-15-000.

RP72-142; RP72-142 (PGA75-1); (PGA75-1a); (PGA75-3); (PGA75-4); (PGA75-5); (PGA75-5a); (PGA76-1); (PGA76-2); (PGA76-2a); (PGA76-2b); (PGA76-3); (PGA76-4); (PGA76-5); (PGA76-5a); (PGA76-6); (PGA76-7); (PGA76-8); (PGA76-8a); (PGA77-1); (PGA77-2); (PGA77-3); (PGA77-4); (PGA77-5); (PGA77-6); (PGA77-7); (PGA78-1); (PGA78-2); (PGA78-3); (PGA78-3a); (PGA78-4 & AP78-1); (PGA78-4 & AF78-1a); (PGA79-1 & AP79-1); (PGA79-2 & AP79-2); (PGA79-3 & AP79-3); (PGA79-3a); TA80-1-43 (PGA80-1 & IPR80-1); TA80-2-43 (PGA80-2 & IPR80-2); TA81-1-43 (PGA81-1 & IPR81-1); TA81-2-43 (PGA81-2, IPR81-2, AP81-2 & TT81-2); TA82-1-43 (PGA82-1, IPR82-1, AP82-1 & TT82-1); TA82-2-43 (PGA82-2, IPR82-2); TA82-2-43-001 (PGA82-2a); TA83-1-43 (PGA83-1).

ST80-224; ST81-40; ST81-107; ST82-213; ST82-218; ST82-260; ST82-197.

[FR Doc. 83-19607 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-15-000]

Pennsylvania Power & Light Co.; Application

July 18, 1983.

Take notice that on July 8, 1983, Pennsylvania Power & Light Company ("PP&L"), pursuant to Section 203(a) of the Federal Power Act, tendered for filing a Transmission and Lease Agreement between PP&L, the Metropolitan Edison Company ("Met-Ed") and the Borough of Kutztown ("Kutztown"). The agreement proposes to lease transformers, the associated metering cable and a portion of a 69 kV structure ("Metering Station") from Met-Ed. These facilities are currently employed by Met-Ed to provide electric service to Kutztown.

The lease of facilities is in connection with the anticipated termination of electric service by Met-Ed to Kutztown in accordance with a letter dated September 10, 1981, in which Kutztown has given notice to Met-Ed that it is terminating its electric service agreement of July 11, 1973. Kutztown has entered into a Power Supply Agreement with PP&L whereby PP&L is to deliver Kutztown's full requirements of power and energy to interconnection points established in an International Agreement with Med-Ed. A Transmission Service Agreement has also been concluded between Kutztown and Met-Ed whereby Met-Ed agrees to deliver and Kutztown agrees to accept such power and energy delivered by PP&L pursuant to the Power Supply Agreement.

Any person desiring to be heard or to make any protest with reference to said filings should on or before July 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19608 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-11-000 and RP83-30-000]

Transcontinental Gas Pipe Line Corp.; Conference

July 15, 1983.

Pursuant to Article II, Section 11 of the Commission approved Stipulation and Agreement in the captioned proceedings, the Commission Staff shall convene a conference on July 27, 1983, at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and Staff are invited to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19650 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-29-001]

Transcontinental Gas Pipe Line Corp.; Filing

July 15, 1983.

Take notice that on June 24, 1983, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing explanations, workpapers and/or other pertinent details as requested by the Commission's "Order Accepting and Suspending Filing Subject to Conditions" issued May 27, 1983, in the above referenced docket.

Transco states that the material submitted in the filing is in compliance with and is appropriately referenced to items 1, 3 and 4 specified under Ordering Paragraph (D) of the aforesaid May 27, 1983 order. Transco also states that response to item 2, Paragraph (D) will be the subject of a separate reply to be submitted on or before July 1, 1983, as prescribed by the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 22, 1983. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19651 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-11-002]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

July 15, 1983.

Take notice that on July 6, 1983, United Gas Pipe Line Company (United) tendered for filing Substitute Revised Substitute Revised Sixty-first Revised Sheet No. 4, to its FERC Gas Tariff, First Revised Volume No. 1. This tariff sheet is being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 19, 21, 23 and 24 of United's Tariff.

United hereby requests that the Commission waive the applicable provisions of § 153.38 of its Regulations under the Natural Gas Act and the notice requirements of Section 154.22 of those regulations to permit United to file, out of time, a reduction to its PGA in compliance with the Commission's Order issued on June 30, 1983, and to make such rates effective June 1, 1983.

Copies of the proposed tariff sheet and transmittal letter to the Commission are being mailed to United's

jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 211 and 214). All such petitions or protests should be filed on or before July 21, 1983. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19852 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-622-000]

Western Massachusetts Electric Co.; Filing

July 18, 1983.

The filing Company submits the following:

Take notice that on July 8, 1983, Western Massachusetts Electric Company (the Company) tendered for filing Supplement No. 6 to its Resale Service Rate CD-1 with the city of Westfield, Massachusetts (Westfield) and an amendment to its wholesale for resale total requirements service (Rate Schedule RS-3) by which it provides firm electric service to: The Town of Chester, Massachusetts; the Town of Russell, Massachusetts; Fletcher Gas and Electric Company; Massachusetts Electric Company and New York State Electric and Gas Company (Tariff Customers). The Company proposes that both amendments become effective September 7, 1983.

The Company indicates that the proposed increases in charges are intended to recover its increased costs and strengthen the Company's weakened financial condition.

The proposed increase to Westfield and the Tariff Customers would result in a revenue increase for the total group of approximately $1,273,736 or 13.6% for the twelve-month period ended December 31, 1983 (Period II).

The Company states that copies of the filing were served upon the affected customers and the Department of Public Utilities of the Commonwealth of Massachusetts and the Department of Public Utility Control of Connecticut.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 3, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19809 Filed 7-20-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of June 24 Through July 1, 1983

During the Week of June 24 through July 1, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: July 12, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 24 through July 1, 1983]

Date	Name and location of applicant	Case No.	Type of submission
June 24, 1983	Dane Energy Company, Washington, D.C.	HRD-0141	Motion for Discovery. If granted: Discovery would be granted to Dane Energy Company in connection with the Statement of Objections submitted in response to a Proposed Remedial Order issued to it (Case No. HRO-0124).
June 24, 1983	H. J. Porter, Houston, Texas	HRH-0019	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by H. J. Porter in response to a Proposed Remedial Order issued to Cordele Operating Company (Case No. HRO-0069).
June 24, 1983	RFB Petroleum, Inc., Washington, D.C.	HRH-0142, HRD-0142	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the statement of Objections submitted by RFB Petroleum, Inc. in response to a Proposed Remedial Order issued to it (Case No. HRO-0135).
June 27, 1983	Economic Regulatory Administration/Butler Fuel Corportion.	HRR-0063	Request for Modification/Rescission. If granted: The October 24, 1978, Decision and Order (Case No. DRW-0004) issued to Butler Fuel Corporation would be modified in order to substitute an alternative remedy for the disposition of refund amounts.
June 28, 1983	Clifford C. Stults, III, Westminster, Colorado.	HFA-0165	Appeal of an Information Request Denial. If granted: The May 25, 1983 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Clifford C. Stults, III would receive access to his security clearance personnel file.
June 30, 1983	Rice Oil Company, Denver, Colorado.	HRH-0143, HRD-0143	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Rice Oil Company in response to a Proposed Remedial Order issued to it (Case No. HRO-0154).
July 1, 1983	John W. Shaver, Deming, New Mexico.	HFA-0166	Appeal of an Information Request Denial. If granted: The June 9, 1983, Freedom of Information Request denial issued by the Office of Special Counsel would be rescinded and John W. Shaver would receive access to any information that accuses Occidental Petroleum, Armand Hammer, or Permian Oil Company of any unlawful activities.

REFUND APPLICATIONS RECEIVED

[Week of June 24, 1983 to July 1, 1983

Date	Name of refund proceeding/name of refund applicant	Case No.
July 1, 1983	Palo Pinto/Oragon	RO5-3.
June 27, 1983, July 1, 1983	Amoco Refund Applications	RF21-11773 thru RF21-11844.

NOTICE OF OBJECTION RECEIVED

[Week of June 24, 1983 to July 1, 1983]

Date	Name and location and applicant	Case No.
June 27, 1983	Power Management, Inc	BEE-1665

[FR Doc. 83-19772 Filed 7-20-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53050; TSH-FRL-2388-4]

Premanufacture Notices; Monthly Status Report for May 1983

Correction

In FR Doc. 83-17037 beginning on page 29601 in the issue of Monday, June 27, 1983, make the following corrections.

In the table:

1. On page 29602, the entry for "PMN No. 83-735", in the column "Identity and generic name", "Katimine" should have read "Ketimine".

2. On the same page, the entry for "PMN No. 83-772", in the column "Identity and generic name", "ozy" should have read "oxy".

3. On page 29603, the entry for PMN. No. 83-619, in the third line of the column "Identity and generic name", "-4/yl" should have read "-4-yl".

4. On the same page, the entry for "PMN No. 83-655", in the column "Identity and generic name", "hydroxybenzo-phenone" should have read hydroxybenzo=phenone".

5. On the same page, the entry for "PMN No. 83-680", in the column "Identity and generic name", "tennin" should have read "tannin"; and in the line directly below that the entry for "PMN No. 83-681" reading "carocyclic" should have read "carbocyclic".

6. On page 29605, the entry for "PMN No. 83-504", in the column "Identity and generic name", "Cyano" should have read "α-cyano".

7. On page 29606, the second line of the entry for "PMN No. 83-60", in the column "Chemical identification", "hydrox-yphenyl" should read "hydroxyphenyl".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ORD-FRL 2402-1]

Draft Documents on Dioxins; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: A peer review workshop will be held in Cincinnati, Ohio to facilitate scientific and technical evaluation of the working draft of the following documents on Dioxins:

1. Health Assessment Document for Dioxins (air)

2. Ambient Water Quality Criteria for 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin (water)

3. Health and Environmental Effects Profile for Tetra-, Penta-, and Hexachlorodibenzo-*p*-dioxins (solid waste).

The workshop will be held in meeting room No. 3, second floor of the Cincinnati Convention/Exposition Center, 525 Elm Street, Cincinnati, Ohio on July 27, 28 and 29, 1983. The review meetings will begin at 9 a.m. and are expected to end at 4:30 p.m. daily. The public is invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Dr. Debdas Mukerjee, Document Manager or Dr. Jerry F. Stara, Director, Environmental Criteria and Assessment Office, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268. Telephone: (513) 684-7531.

SUPPLEMENTARY INFORMATION: Subsequent to this workshop, these documents will be revised and the External Review Drafts will be made available for public review and comment. There will be a further notice in the Federal Register announcing the availability of the External Review Drafts for public review and ample opportunity for review and submission of written comments will be provided at that time. After receipt of all public comments, the Science Advisory Board (SAB) will hold a public meeting to review the documents. An advance notice announcing the time and place for the SAB public meeting will be made in the Federal Register.

Persons wishing to attend the upcoming July 27, 28, and 29 workshop as observers should contact Mrs. Carol Haynes at the above address. Copies of the draft documents to be discussed at the workshop will be available for inspection at the EPA Library in Cincinnati and at the EPA Library in Washington, D.C. Copies will be available on or about July 18, 1983.

Dated: July 14, 1983.

Erich Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-19718 Filed 7-20-83; 8:45 am]

BILLING CODE 6560-50-M

[ORD-FRL 2401-8]

Draft Health Assessment Document for Chlorinated Benzenes: Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: A peer review workshop will be held in Cincinnati, Ohio on July 25-26, 1983 to facilitate scientific and technical evaluation of the working draft of the Health Assessment Document for Chlorinated Benzenes. This workshop will be held in Room 130 of the A.W. Breidenbach Research Center, Cincinnati, Ohio, on Monday and Tuesday, July 25 and 26. It will begin at 8:30 a.m. and is expected to end at 4:30 p.m. each day. Both days will be spent on reviewing the scientific content of the document, including chapters on production uses, environmental fate and transport, exposure to aquatic life,

vegetation and wildlife; further mammalian pharmacokinetics, toxic, mutagenic, teratogenic effects; and assessment of public health issues. The public is invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: W. Bruce Peirano, Project Officer, Environmental Criteria and Assessment Office, Room 106, or Dr. Jerry F. Stara, Director, Environmental Criteria and Assessment Office, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone: 513/684–7573.

SUPPLEMENTARY INFORMATION: Subsequent to this workshop, the draft Health Assessment document for Chlorinated Benzenes will be revised and the External Review Draft will be made available for public review and comment. There will be a further notice in the **Federal Register** announcing the availability of the External Review Draft for public review and ample opportunity for review and submission of written comments will be provided at that time. After receipt of all public comments, the Science Advisory Board (SAB) will hold a public meeting to review the document. An advance notice announcing the time and place for the SAB public meeting will be made in the **Federal Register.**

Persons wishing to attend the upcoming July 25 and 26 workshop as observers should contact W. Bruce Peirano at the above address. A limited number of copies of the draft document to be discussed at the workshop will be available at the meeting.

Dated: July 14, 1983.

Erich Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-19719 Filed 7-20-83; 8:45 am]

BILLING CODE 6560-50-M

[ORD-FPL 2402-6]

Health Assessment Document on the Biological Effects of Radiofrequency Radiation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency has completed a draft health assessment document on radiofrequency radiation as part of its analyses to develop Federal radiation protection guides for radiofrequency radiation under authority of 42 U.S.C. 2021(h), transferred to the EPA by Reorganization Plan No. 3 of 1970.

This notice announces the availability to the public of an external review draft of the *Biological Effects of Radiofrequency Radiation* (EPA–600/8–83–026a) which will be used by the Agency to determine the health effects that may result from exposure to radiofrequency radiation and to help establish guidelines for limiting public exposure to radiofrequency radiation.

In order to have a thorough review of the scientific information, this document will be transmitted to the Agency's Science Advisory Board (SAB) for review, and simultaneously, will be made available for public review and comment. This document is available for public review as of July 18, 1983, and the Agency will accept public comments until September 16, 1983.

The SAB will hold a public meeting to review the document. An advance notice announcing the time and place for the SAB public meeting will be made in the **Federal Register.**

Persons interested in commenting on the scientific merit of the draft document will be able to obtain copies as follows:

1. The draft document will be available in single copy quantity from EPA at the following address: ORD Publications—CERI–FR, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268. Telephone: (513) 684–7562.

Requestors should send their names and addresses to the above address to receive the draft document. Requestors should be sure to cite the EPA number assigned to the document.

2. The draft document will also be available for public inspection and copying at the EPA library at Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Comments must be in writing and should be addressed in the manner below:

- Send comments to: Project Officer for Radiofrequency Radiation, Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.
- Comments must be received by close of business, September 16, 1983, in order to be considered.

FOR FURTHER INFORMATION CONTACT: Dr. Joe A. Elder, Health Effects Research Laboratory, MD–71, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. Telephone (919) 541–2771. *Or,* Ms. Diane Chappell, Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. Telephone: (919) 541–3637.

Dated: July 15, 1983.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-19723 Filed 7-20-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83–476; File No. 26120–CL–P–(6)–82 et al.]

McCaw Communications of San Jose, Inc. et al.; Hearing

Memorandum Opinion and Order on Reconsideration

In re applications of McCaw Communications of San Jose, Inc., CC Docket No. 83–476, File No. 26120–CL–P–(6)–82; Cellular Mobile Systems of California, Inc., File No. 26192–CL–P–(7)–82; Cellular Network, Inc., File No. 26087–CL–P–(5)–82; Intrastate Radio Telephone, Inc. of San Francisco, File No. 26125–CL–P–(5)–82; California Celcom Communications Corporation, File No. 26154–CL–P–(5)–82; for a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the San Jose, California, Standard Metropolitan Statistical Area.

Adopted July 7, 1983.

Released July 12, 1983.

By the Common Carrier Bureau.

1. Presently before the Deputy Chief, Operations, Common Carrier Bureau, acting under delegated authority, are petitions for reconsideration of the Bureau's San Jose cellular designation order.[1] The petitions were filed by McCaw Communications of San Jose, Inc. (MCSJ), and by California Celcom Communications Corporation (Celcom). The petitions refer to two of the San Jose nonwireline applications, which are discussed below.

2. *Cellnet application.* Petitioners argue that the captioned application filed by Cellular Network, Inc. (Cellnet) violates the Commission's cellular rules by proposing two cells whose 39 dBu contours extend into the adjacent San Francisco SMSA.[2] This same objection was previously raised by Celcom in a timely filed petition to deny the Cellnet application. In its opposition, Cellnet argues that its 39 dBu contour extension into the San Francisco SMSA is pemissible. After reviewing the

[1] GTE Mobilnet of San Jose, Inc. (San Jose Order), CC Mimeo 3974, released May 6, 1983.

[2] Celcom also filed a Motion Concerning Procedure requesting expedited resolution of the petitions for reconsideration. Cellnet filed comments in response to the motion. In view of our action here, we will dismiss Celcom's motion.

application and the arguments raised, we will grant reconsideration. Two of the cells proposed by Cellnet impermissibly extend into the central SMSA of San Francisco and thus violate the cellular rules. The Bureau inadvertently failed to include a discussion of this issue in the *San Jose Order, supra.* Accordingly, we will require Cellnet to file a conforming amendment to shrink its 39 dBu contours within the San Jose SMSA. The amended contours shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contour. This amendment should consider the effects, if any, that this change may have on other parts of the application. Under the circumstances, brief extensions of time may be granted at the discretion of the Administrative Law Judge.

3. *Celcom application.* Petitioner MCSJ further requests that the Bureau reconsider its action in the *San Jose Order, supra,* and require Celcom to file a similar conforming amendment with respect to an alleged extension of Celcom's Cell A into the San Francisco SMSA. In its opposition, Celcom contends that no amendment should be required due to the irregular border that exists between San Jose and San Francisco. Celcom also alleges that the area in question consists of marshland and open water. The Commission's cellular rules prohibit extension of a proposed CGSA into another central SMSA. After reviewing the 39 dBu contours in the application, we conclude that contrary to Celcom's assertion the extensions include populated areas and therefore we will require Celcom to file a conforming amendment to shrink its 39 dBu contour of Cell A within the San Jose SMSA. The amended contour shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contour. This amendment should consider the effects, if any, that this change may have on other parts of the application. Brief extensions of time may be granted at the discretion of the Administrative Law Judge.[3]

4. Accordingly, for the reasons given above, it is ordered, that the petitions for reconsideration are granted to the extent indicated above, and the San Jose designation order is amended to correct the errors discussed above.

[3]Cellular Systems of California, Inc. (CMS), filed comments requesting that instead of requiring Cellnet and Celcom to pull back their extensions into the San Francisco SMSA, CMS be permitted to restore its 39 dBu contours which extended into the San Francisco SMSA. In view of our action here, we will deny CMS' request.

5. It is further ordered, That Cellnet and Celcom are directed to file the conforming amendments described above within 15 days of the publication of this order in the **Federal Register** and that the date for filing rebuttal cases under § 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge.

6. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Jack D. Smith,

Deputy Chief, Operations, Common Carrier Bureau.

[FR Doc. 83-19654 Filed 7-20-83; 8:45 am]

BILLING CODE 6712-01-M

Meeting of TIAG Auditing and Regulatory Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Monday, August 15, 1983 and Tuesday, August 16, 1983. The meeting will be held at 9:30 a.m. in the 10th Floor Conference Room of Arthur Andersen & Co. offices located at 1345 Avenue of the Americas, New York, New York, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Pending and Deferred Issues
III. Results of Revenue Requirements Study
IV. Comments on Drafts of Discussion Paper
V. Scheduling of New Tasks
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-19655 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 10414-3]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10414-3 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and that preparation of an environmental impact statement is not required. Agreement No. 10414-3, an amendment to the PRC-USA Eastbound Rate Agreement, proposes to: (1) Extend the effectiveness of the basic agreement beyond its current expiration date of September 30, 1983, for an indefinite term and (2) amend the basic agreement to provide for the addition of intermodal ratemaking authority.

Proponents of the agreement include American President Lines, Ltd.; Lykes Bros. Steamship Company, Inc.; Sea-Land Service, Inc.; United States Lines, Inc. and Waterman Steamship Corporation. They constitute the U.S. flag vessel operating common carriers by water in the eastbound liner trade covered by the agreement from the People's Republic of China to the United States.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C., telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-19704 Filed 7-20-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Citicorp; et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to

engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views 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 interest, or unsound banking practices." Any comment that requests a hearing must include 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 that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance activities; Colorado): To expand the activities of an existing subsidiary, Citicorp Person-to-Person Aurora Industrial Bank, located in Aurora, Colorado. Citicorp Person-to-Person Aurora Industrial Bank proposes to engage *de novo* in credit card activities, including the issuance of the credit card to customers and the servicing for its own account of the credit card accounts receivables. In addition, Citicorp Person-to-Person Aurora Industrial Bank will engage in the soliciting of merchants to participated in the card program so that merchants will accept the credit card from customers. The proposed service area for Citicorp Person-to-Person Aurora Industrial Bank will be comprised of the entire State of Colorado for all the aforementioned proposed activities. Comments on this application must be received not later than Autust 10, 1983.

2. *Manufacturers Hanover Corporation*, New York, New York (consumer finance, sales finance, home equity lending, and insurance activities; Washington): To continue to engage, through its subsidiary Finance One of Washington, Inc. ("Finance One") in the following activities; consumer finance, sales finance, home equity lending, and the sale of credit life, credit accident and health, and credit property insurance, after Finance One relocates an office from Everett, Washington, to Lynwood, Washington. The application does not involve the commencement of any new activities. The office will continue to service customers in Snohomish, Island, and Kitsap counties, Washington. Comments on this application must be received not later than August 15, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (consumer finance, commercial lending, leasing and credit related insurance activities; United States): To engage through a *de novo* office of its subsidiary, Mellon Financial Services Corporation, in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others. Such activity will include, but not be limited to, loans and other extensions of credit secured by mortgages or deeds of trust on real property; commercial lending, including accounts receivable and inventory financing; leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all the qualifications specified in § 225.4(a)(6) of Regulation Y; and acting as agent for the sale of related credit life, credit accident and health insurance in connection with extensions of credit by any of Applicant's subsidiaries. These activities would be conducted from a new office in Atlanta, Georgia, serving the United States. Comments on this application must be received not later than August 15, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Oklahoma Bancorporation, Inc.*, Oklahoma City, Oklahoma (data processing and data transmission services, data bases or facilities and electronic funds transfer systems; Southwestern United States): To engage, throught its subsidiary First Data Managemnt Company, Inc., in providing data processing and data transmissions services, data bases or facilities and electronic funds transfer systems and access to such services, facilities, data bases or systems by any technologically feasible means for the internal operations of the Applicant, its subsidiaries and other customers. These services and activities would be performed from an office in Oklahoma City, serving the States of Oklahoma, Kansas, Colorado, New Mexico, Texas, Arkansas, Missouri and Louisiana. Comments on this application must be received not later than August 5, 1983.

Board of Governors of the Federal Reserve System, July 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19825 Filed 7-20-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; Clarendon Holding Co.

Clarendon Holding Co., Clarendon, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Merchants & Planters Bank, Clarendon, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Clarendon Holding Co., Clarendon, Arkansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* in the activity of real estate appraising.

These activities would be performed from offices of Applicant in Clarendon, Arkansas, and the geographic areas to be served are Monroe County, the eastern portion of Prairie County, and the northern portion of Arkansas County, Arkansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Federal Reserve Bank, not later than August 15, 1983

Board of Governors of the Federal Reserve System, July 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19819 Filed 7-20-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; Commerce Financial Corp.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Commercial Financial Corporation*, Forth Worth, Texas; to acquire 100 percent of the voting shares or assets of Bank of Commercial-Fossil Creek, Fort Worth, Texas. Comments on this application must be received not later than August 15, 1983.

Board of Governors of the Federal Reserve System, July 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19822 Filed 7-20-83; 8:45 am]

BILLING CODE 6210-01-M

First National Corp.; Applications

First National Corporation, Covington, Louisiana, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to continue to engage in data processing of banking, financial and related economic data.

These activities would be performed from an office of Applicant in Covington, Louisiana, and the geographic areas to be served are the parishes of St. Tammany, Orleans, Washington, and Tangipahoa in southeastern Louisiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than August 15, 1983.

Board of Governors of the Federal Reserve System, July 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19823 Filed 7-20-83; 8:45 am]

BILLING CODE 6210-01-M

First National State Bancorp.; Proposed Acquisition of First National State Brokerage Services, Inc.

First National State Bancorporation, Newark, New Jersey, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First National State Brokerage Services, Inc., Newark, New Jersey.

Applicant states that the proposed subsidiary would engage in the activity of retail securities brokerage. These activities would be performed from offices of Applicant's subsidiary in the State of New Jersey, and the geographic area to be served is the State of New Jersey. This activity has not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies.

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than August 15, 1983.

Board of Governors of the Federal Reserve System, July 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19820 Filed 7-20-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Security Chicago Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are

considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Security Chicago Corp.*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Security Bank of Chicago, Chicago, Illinois. Comments on this application must be received not later than August 15, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *MetroBancshares, Inc.*, Oklahoma City, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of MetroBank, N.A., Oklahoma City, Oklahoma. Comments on this application must be received not later than August 15, 1983.

2. *NKC Bancshares, Inc.*, North Kansas City, Missouri; to become a bank holding company by acquiring 80 percent or more of the voting shares of North Kansas City State Bank, North Kansas City, Missouri. Comments on this application must be received not later than August 15, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

G.N. Bancorp, Inc., Chicago, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Gladstone-Norwood Trust and Savings Bank, Chicago, Illinois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than August 15, 1983.

Board of Governors of the Federal Reserve System, July 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19824 Filed 7-20-83; 8:45 am]

BILLING CODE 6210-01-M

Society Corp.; Proposal To Engage in Management Consulting Activities

Society Corporation, Cleveland, Ohio, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to provide management consulting services to BancSystems Association, Rocky River, Ohio, a nondepository association that provides credit card processing and related services to member organizations.

These activities would be performed from offices of Applicant in Cleveland, Ohio, and the geographic area to be served is the State of Ohio. Such activities have not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies.

Interested persons may express their views on the question whether the proposed activity is closely related to banking and 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than August 15, 1983.

Board of Governors of the Federal Reserve System, July 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19821 Filed 7-20-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Amax Inc., et al.; Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-0454—Amax Inc.'s proposed acquisition of voting securities of Pechiney Ugine Kuhlmann Corp. (Pechiney Ugine Kuhlmann, UPE).	July 14, 1983.
(2) 83-0455—The Broken Hill Proprietary Co., Ltd.'s proposed acquisition of voting securities of Cyprus Pima Mining Co. (Standard Oil Co., Indiana, UPE).	Do.
(3) 83-0497—Saga Corp.'s proposed acquisition of voting securities of Grandy's Inc.	Do.
(4) 83-0511—The Interpublic Group of Companies, Inc.'s proposed acquisition of voting securities of Dailey International Group Inc. (Peter H. Dailey, UPE).	Do.
(5) 83-0464—E. F. Hutton Group, Inc.'s proposed acquisition of certain voting securities of Fort Wayne Mortgage Co. (Orbanco Financial Services Corp., UPE).	July 12, 1983.
(6) 83-0502—J. B. Haralson's proposed acquisition of cer-	Do.

Transaction	Waiting period terminated effective
tain voting securities of Fort Wayne Mortgage Co. (The E. F. Hutton Group, Inc., UPE).	
(7) 83-0476—Rock-Tenn Co., of assets of Clevepak's Partition Mill Division (Clevepak Corp., UPE).	July 1, 1983.
(8) 83-0351—Horizon Health Corp.'s proposed acquisition of voting securities of Advanced Health Systems, Inc. (Petrolane, Inc., UPE).	June 30, 1983.
(9) 83-0416—Proposed formation of a joint venture corporation, Combiblock, Inc. by Rochling Industrie Verwaltung and R. J. Reynolds Industries, Inc.	Do.
(10) 83-0417—Proposed formation of a joint venture corporation, Combiblock, Inc. by R. J. Reynolds Industries, Inc. and Rochling Industrie Verwaltung.	Do.
(11) 83-0447—UGI Corp.'s proposed formation of a corporate joint venture AG-NSK Limited, with Nippon Sanso K.K.	Do.
(12) 83-0446—Nippon Sanso K. K.'s proposed formation of a corporate joint venture, AG-NSK Limited, with UGI Corp.	
(13) 83-0451—American Can Co.'s proposed acquisition of voting securities of American General Capital Corp., (American General Corp., UPE).	July 1, 1983.
(14) 83-0452—Gilldorn Savings Association's proposed acquisition of voting securities of Percy Wilson Mortgage and Finance Corp., American Century Corp. (John H. Roberts, UPE).	Do.
(15) 83-0462—Intermark, Inc.'s proposed acquisition of voting securities of Graphic Arts Center, Inc.	June 30, 1983.
(16) 83-0470—AG-NSK Limited's proposed acquisition of certain assets of the Matheson Gas Products Division of G. D. Searle.	Do.
(17) 83-0471—AG-NSK Limited's proposed acquisition of certain assets of the Matheson Gas Products Division of G. D. Searle.	Do.
(18) 83-0437—Simplicity Pattern Co.'s proposed acquisition of voting securities of Amstar Corp.	July 7, 1983.
(19) 83-0458—Duane H. Bennett's proposed acquisition of assets of Eastover Mining Co. and Eastover Land Co. (Duke Power Co., UPE).	July 6, 1983.
(20) 83-0467—The Fuji Bank, Limited's proposed acquisition of voting securities of Walter E. Heller Overseas Corp. (Walter E. Heller International, Corp., UPE).	Do.
(21) 83-0474—J. M. Voith GmbH's proposed acquisition of voting securities of Appleton Mills.	June 8, 1983.
(22) 83-0475—Great Western Financial Corp.'s proposed acquisition of voting securities of Nevada National Leasing Co., Inc. (Nevada National Bancorporation, UPE).	July 6, 1983.
(23) 83-0493—Katy Industries, Inc.'s proposed acquisition of voting securities of H-K Exchange Co., Inc. (HMW Industries, Inc., UPE).	July 7, 1983.
(24) 83-0484—Esmark, Inc.'s proposed acquisition of voting securities of Norton Simon, Inc.	July 11, 1983.

FOR FURTHER INFORMATION CONTACT:
Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580; (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-19789 Filed 7-20-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR No. —]

Federal Procurement; Current Interest Rate

To: Heads of Federal agencies.

Subject: Current interest rate.

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury (48 FR 29985, June 29, 1983).

2. *Expiration date.* This bulletin expires December 31, 1983, unless sooner revised or superseded.

3. *Background.*

a. The Renegotiation Act of 1951 (Pub. L. 92-41), as amended, required the Secretary of the Treasury to determine semiannually an interest rate for use in connection with the Act. Subsequently, this rate was applied to various interest payment requirements in the FPR. Sections in the FPR which contain a reference to this interest rate include the following: §§ 1-3.1204-1, 1-3.1204-2, 1-7.203-15, 1-8.212-1(f), 1-8.701, 1-8.702, 1-8.703, 1-8.704-1, 1-8.706, 1-8.804-2(b), 1-8.806-4, 1-30.403, 1-30.414-2(k)(2), and 1-30.414-2(n)(3).

b. The interest rate determined by the Secretary of the Treasury for Renegotiation Act purposes is also applicable to the Contract Disputes Act of 1978 (Pub. L. 95-563).

c. The Prompt Payment Act (Pub. L. 97-177) provides that interest on late payments shall be computed at the rate which is applicable to the Contract Disputes Act of 1978.

4. *Current interest rate.* An interest rate of 11½ (11.500) percent has been established by the Secretary of the Treasury for the 6-month period beginning July 1, 1983, and ending December 31, 1983.

Dated: July 11, 1983.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 83-19782 Filed 7-20-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment; Drug Abuse Epidemiology, Prevention, and Service Research Review Committee

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I) the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committee:

Designation: Drug Abuse Epidemiology, Prevention, and Services Research Review Committee.

Purpose: The Committee shall advise the Secretary and the Director, National Institute on Drug Abuse, on the scientific and technical merit of applications for research grants, cooperative agreements and individual and institutional National Research Service Awards, and research scientist awards concerned with the psychosocial aspects of the epidemiology, etiology, service delivery, and prevention of narcotic addiction and drug abuse. This includes applications to study social and psychological mechanisms that underlie drug dependence and other behaviors that may be related to the addictive processes; research on the prevalence of drug abuse and the initiation, maintenance, cessation, and prevention of the non-medical use and abuse of psychoactive drugs and other substances, including such factors as socialization, social perception, deviant behavior, decision-making, psychosocial development, family, community, and peer influences; and, applications to assess and evaluate methods and systems for delivery of health services to narcotic addicts and drug abusers. The Committee shall make recommendations on applications also to the National Advisory Council on Drug Abuse. The members of the Review Committee shall survey as scientific or professional leaders, the status of research and research training activities in their fields.

Expiration Date: Authority for the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee will expire December 31, 1984, unless the Secretary formally determines that continuance is in the public interest.

Dated: July 15, 1983.

William Mayer,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83-19641 Filed 7-20-83; 8:45 am]

BILLING CODE 4160-20-M

Health Resources and Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending September 30, 1983

Section 727 of the Public Health Service Act (42 CFR Part 60, previously 45 CFR Part 126) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools. Section 60.13(a)(4) of the program's implementing regulations provides that the Secretary will annouce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending September 30, 1983, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 12⅜ percent. Using the regulatory formula (45 CFR 126.13(a)(2)(3)), in effect prior to January 27, 1981, the Secretary computes the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (8.78 percent), and rounding the result (5.28 percent) upward to the nearest ⅛ percent (5⅜ percent). The regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. However, because the average of the 4 quarters concluded by the quarter ending September 30, 1983 is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 11⅛ percent for the quarter ending December 31, 1982; 11¾ percent for the quarter ending March 31, 1983; and 12 percent for the quarter ending June 30, 1983.

2. For fixed rate loans executed during the period of July 1 through September 30, 1983, and for variable rate loans executed after January 27, 1981, the interest rate is 12⅜ percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.78 percent); adding 3.50 percent (12.28 percent); and rounding that figure to the next higher one-eighth of 1 percent (12⅜ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: July 14, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-19798 Filed 7-20-83; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-83-1263]

Mutual Mortgage Insurance and Rehabilitation Loans; Changes to the Maximum Mortgage Limits

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to the FHA single family maximum mortgage limits for high-cost areas.

SUMMARY: This Notice revises the listing of areas eligible for "high-cost" mortgage limits under HUD's single family insuring authorities by adding a new area and correcting the limits previously published for certain areas. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Room 9270, 451 Seventh Street, SW., Washington, DC 20410, Telephone: (202) 755-6720 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701-1749) authorizes HUD/FHA to insure mortgages for single family residences. These include one- to four-family residences (see section 203) and one-family units in condominiums (see section 234(c)). The Housing and Community Development Act of 1980 amended the NHA to permit HUD to change the maximum mortgage amounts under these programs to reflect regional differences in the cost of housing. Section 214 of the NHA provides special high-cost limits for Alaska, Guam, and Hawaii.

Section 203 Programs. Section 203 of the NHA is the seminal provision for the insurance of mortgages covering single family residences, and many other NHA Sections adopts the basic provisions contained in Section 203. Other Sections to which this Notice applies include: Section 203(k), loan insurance for rehabilitation of a structure used primarily as a residence; Section 213, cooperative housing insurance; Section 220, rehabilitation and neighborhood conservation housing; Section 222, mortgage insurance for servicemen; Section 240, financing purchases for homeowners of the fee simple title to property on which homes are located; Section 244, coinsurance; Section 245, graduated payment mortgages; and Sections 809 and 810, armed services housing mortgage insurance.

Under Section 203, the Secretary may increase maximum mortgage limits on an area-by-area basis if the Secretary deems it necessary after considering the extent to which middle and moderate-income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 203 provides that the increase may not exceed the lesser of the following:

A. 133⅓ percent of $67,500 in the case of a one-family residence; 133⅓ percent of $76,000 in the case of a two-family residence; 133⅓ percent of $92,000 in the case of a three-family residence; 133⅓ percent of $107,000 in the case of a four-family residence; or

B. 95 percent of the median one-family house price in the area, as determined by the Secretary for a one-family residence; 107 percent of that median for a two-family residence; 130 percent of that median for a three-family residence; 150 percent of that median for a four-family residence.

Section 234 Program. Section 234 of the NHA authorizes mortgage insurance for one-family units in condominium projects. Under this Section, the Secretary may increase the maximum mortgage amount on an area-by-area basis if the Secretary deems it necessary after considering the extent to which middle- and moderate-income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 234 provides that the increase may not exceed the lesser of the following:

A. 111 percent of $67,500; or

B. 95 percent of the median one-family house price in the area, as determined by the Secretary.

Section 214. Program. In addition to the "high-cost" limits discussed above, the NHA provides special limits for Alaska, Guam, and Hawaii. Section 214 states that if the Secretary determines that, because of higher prevailing costs, it is not feasible to construct dwellings in those areas the maximum mortgage limits without sacrificing sound standards of construction, design or livability, the mortgage limits may be increased beyond the statutory "high-cost" area limits indicated above. These limits, however, may not exceed the otherwise applicable amounts by more than one-half.

This Notice

This Notice does two things. First, it identifies a new high-cost area and the new maximum mortgage limits for this area. Second, it corrects the previously published limits for certain areas.

The statutory NHA mortgage dollar limits are specified in 24 CFR 203.18b(a) and 234.27(a). 24 CFR 203.18(a) and 234.27(b) authorize the Federal Housing Commissioner to raise these statutory mortgage limits and previously published increased amounts by publishing revised dollar limitations in the **Federal Register.**

A complete, update list of all "high-cost" areas was previously published in the **Federal Register** (see 48 FR 15724, April 12, 1983).

Future Changes to Maximum Mortgage Amounts

In cases where interested parties consider that the designated maximum mortgage limits for any area (including areas currently subject to the statutory mortgage limits and not included in this Notice), do not accurately reflect the extent to which moderate and middle income persons have limited housing opportunities because of high prevailing housing sales prices (or in the case of Alaska, Guam or Hawaii, the extent to which high costs make it infeasible to construct dwellings without sacrificing sound standards of construction, design and livability), the parties may submit documented evidence in support of an alternative maximum mortgage limit. Where possible, such documentation should include an estimate of the median home sales price based upon local market sales price data which are representative of home sales (including new and existing construction) for the entire geographic area for which the request for change is made. The data should cover a recent period of at least three months. Separate areawide maximum mortgage amounts are currently published for SMSAs and statewide areas. It should be noted that separate limits have not been approved for individual jurisdictions outside of an SMSA, e.g., a county, or individual town or city. Requests for adjustments to maximum mortgage limits, together with the appropriate documentation, should be submitted to the appropriate HUD field office. The field office will foward the documented requests, with the field office's recommendations, to the Commissioner for determination.

Hereafter, Notices will be published from time to time announcing the high-cost area limits for particular jurisdictions, and the complete list of area-wide limits will be updated and republished at least annually.

Accordingly, the Commissioner is hereby expanding the list of section 203(b) and section 234(c) "high-cost" areas to include the following jurisdiction: Jackson, MS SMSA.

The Commissioner is also correcting previously published maximum mortgage amounts for the following areas: Wilmington, DE SMSA; Minneapolis-St. Paul, MN SMSA; Tucson, AZ SMSA; and the State of Alaska.

The revised dollar limits are as follows:

UPDATING AND CORRECTION OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS

Market area designation and local jurisdiction	Mortgage limits			
	1-family	2-family	3-family	4-family
Region IV				
HUD Field Office: Jackson Area Office				
Jackson, MS, SMSA, Hinds County, Rankin County	$78,000	$85,600	$104,000	$120,000
Region V				
HUD Field Office: Milwaukee Area Office				
Minneapolis-St. Paul, MN, SMSA, St. Croix County	$90,000	$101,300	$122,650	$142,650

UPDATING AND CORRECTION OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdiction	Mortgage limits			
	1-family	2-family	3-family	4-family
Region IX				
HUD Field Office: Tucson Service Office				
Tucson, AZ, SMSA, Pima County	$77,200	$86,900	$105,600	$121,600
Region X				
HUD Field Office: Anchorage Area Office				
Anchorage, AK, SMSA and State of Alaska	$135,000	$151,950	$183,975	$213,975

UPDATING AND CORRECTION OF FHA SECTION 234(C) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS

[Condominium units]

Market area designation and local jurisdiction	Mortgage limits—Condominium
Region III	
HUD Field Office: Baltimore Area Office	
Wilmington, DE-NJ-MD, SMSA, Cecil County, MD	$70,200
Region IV	
HUD Field Office: Jackson Area Office	
Jackson, MS, SMSA, Hinds County, Rankin County	$74,900

Dated: July 18, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-19810 Filed 7-20-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-13390]

Arizona National Guard; Florence Target and Military Range; Proposed Modification and Continuance of Withdrawal; Opportunity For Public Hearing

July 12, 1983.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the subject withdrawal for a period of 20 years rather than for an indefinite term.

The existing withdrawal, made by Executive Order No. 1633 of October 28,

1912, segregates the land from operation of the public land laws, including the mining and mineral leasing laws. It is proposed to modify the withdrawal to open the land to operation of the mineral leasing laws.

No other change in the segregative effect of the withdrawal or use of the land is proposed.

The following described land is included in the proposed modification and continuance:

Gila and Salt River Meridian, Arizona

T. 4 S., R. 9 E.,
Sec. 1, all;
Sec. 12, all;
Sec. 13, N½, N½S½, portions of SE¼;
Sec. 24, portions of W½NE¼, and S½SW¼;
Sec. 25, N½NW¼.
T. 4 S., R. 10 E.,
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, N½, SW¼;
Sec. 18, lots 1, 2, 3 and 4, E½W½, NE¼;
Sec. 19, lot 1.

The areas described aggregate 5,710.40 acres in Pinal County.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed action. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before 90 days from date of this publication. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed action may be filed with the undersigned officer on or before the above designated date.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources, and will review the withdrawal rejustification to ensure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicted; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. The authorized Officer will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued or modified, and if so, for how long. The final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona, 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19729 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[A-13011]

Arizona National Guard; Papago Facility; Proposed Modification and Continuance of Withdrawal; Opportunity for Public Hearing

July 12, 1983.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the subject withdrawal for a period of 20 years, rather than for an indefinite term.

The existing withdrawal, made by the Act of Congres of April 7, 1930, segregates the land from operation of the public land laws, including the mining and mineral leasing laws. It is proposed to modify the withdrawal to open the land to operation of the mineral leasing laws.

No other change in the segregative effect of the withdrawal or use of the land is proposed.

The following described land is included in the proposed modification:

Gila and Salt River Meridian, Arizona

T. 1 N., R. 4 E.,
Sec. 4, N½NW¼;
Sec. 5, N½NE¼.
T. 2 N., R. 4 E.,
Sec. 32, SE¼;
Sec. 33, SW¼.

The areas described aggregate 484.09 acres in Maricopa County.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed action. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before 90 days from date of this publication. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed action may be filed with the undersigned officer on or before the above designated date.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources, and will review the withdrawal rejustification to ensure that continuation or modification would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued or modified, and if so, for how long. The final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona, 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19732 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Burley District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting and agenda for Burley District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463, Federal Advisory Committee Act, and Pub. L. 94-579, Federal Land Policy and Management Act, that the Burley District Grazing Advisory Board will meet on August 18, 1983.

The meeting will convene at 9:30 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items for the meeting will include: (1) Review and use of Range Betterment Funds; (2) Restructure of District Advisory Board due to District Boundary Changes.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:30 and 2:30 p.m. or they may file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley Idaho 83318, by August 16, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

DATE: August 18, 1983.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Nick Cozakos, Burley District Manager, (208) 678–5514:

Nick James Cozakos,

District Manager.

[FR Doc. 83–19750 Filed 7–20–83; 8:45 am]

BILLING CODE 4310–84–M

Coeur d'Alene District Multiple Use Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94–579 and 43 CFR Part 1780, that a meeting of the Coeur d'Alene District Multiple Use Advisory Council will be held on Thursday, August 25, 1983, at 10:00 a.m., at the Bureau of Land Management Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814.

Agenda for the meeting will include:

1. Discussion of District Asset Management program;
2. Discussion of land use planning and management;
3. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by August 19, 1983. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 15, 1983.

Wayne Zinne,

District Manager.

[FR Doc. 83–19734 Filed 7–20–83; 8:45 am]

BILLING CODE 4310–84–M

Classification of Danby Lake Known Sodium Leasing Area; Correction

AGENCY: Bureau of Land Management.

ACTION: Classification—Correction of Legal Description.

SUMMARY: This notice will correct an error in the land description of the Danby Lake Known Sodium Leasing Area which was published in the Federal Register June 13, 1983 (48 FR 27160).

FOR FURTHER INFORMATION CONTACT: California Desert District, 1695 Spruce Street, Riverside, California 92507, telephone (714) 351–6366.

SUPPLEMENTARY INFORMATION: Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note); 220 DM2, Secretarial Order Nos. 3071 and 3087; and, BLM Instruction Memorandum 83–384 the legal description listed as:

T. 1 N., R. 18 E., SBM,
Sec. 24, W½NE¼, NW¼, SW¼, NW¼SE¼,

is corrected to read as follows:

T. 1 N., R. 18 E., SBM,
Sec. 24, W½NE¼NW¼, SW¼, NW¼SE¼,

Dated: July 15, 1983.

Hugh Reicken,

Associate District Manager.

[FR Doc. 83–19737 Filed 7–20–83; 8:45 am]

BILLING CODE 4310–84–M

[A–13383]

Douglas National Guard Rifle Range; Proposed Partial Continuance of Withdrawal; Opportunity for Public Hearing

July 12, 1983.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the subject withdrawal on 625 acres for a period of 20 years, rather than for an indefinite term, and to revoke the withdrawal on 15 acres.

The existing withdrawal, made by Executive Order 2138 of February 19, 1915, segregates the land from operation of the public land laws, including the mining laws but not the mineral leasing laws.

The following described land is included in the proposed continuation:

Gila and Salt River Meridian, Arizona

T. 24 S., R. 28 E.,
Sec. 10, N½, N½SW¼, E½SW¼SW¼, N½NW¼SW¼SW¼, SE¼SW¼, SE¼.

The areas described aggregate 625 acres in Cochise County.

The withdrawal would be revoked on the following land:

T. 24 S., R. 28 E.,
Sec. 10, S½NW¼SW¼SW¼, SW¼SW¼ SW¼. Comprising 15 acres.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed action. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before 90 days from date of this publication. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the Federal Register giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed action may be filed with the undersigned officer on or before the above designated date.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources, and will review the withdrawal rejustification to ensure that continuation or modification would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued or modified, and if so, for how long. The final determination will be published in

the Federal Register. The existing withdrawal will continue until such final determination is made.

All Communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona, 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19741 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Environmental Impact Statement; Availability of Record of Decision on the Savery Coal; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Record of Decision.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM), U.S. Department of the Interior, has prepared its Record of Decision on the Savery Coal Environmental Impact Statement (EIS). Copies of this document are available at the Rawlins District Office.

ADDRESS: Rawlins District Office, 1300 N. 3rd Street, P.O. Box 670, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Gene Kolkman, BLM regional planner, at the above address, (307) 324-7171.

SUPPLEMENTARY INFORMATION: The Record of Decision is BLM's final decision on stipulations for the proposed lease. It also documents the preferred alternative for the preference right lease applications in the Savery area held by Gulf Oil Corporation.

BLM's decision is based on the possible adverse environmental, economic and social impacts that may occur in the area as a result of mining and because the majority of the public affected by the project is opposed to development of these lands. In order to implement its final decision, BLM will request that Gulf show it can successfully meet the stipulations and mitigation requirements imposed on the proposed lease. BLM will then evaluate Gulf's proposal to determine if Gulf is entitled to a lease.

If Gulf meets all of the requirements and proves that coal can be mined in commerical quantities, BLM can either grant Gulf a lease or the Secretary of the Interior can attempt an exchange. In the Savery case, BLM's decision is to attempt an exchange.

David J. Walter,

District Manager.

[FR Doc. 83-19743 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[A 12859 et. al.]

Forest Service Withdrawals for Administrative Sites; Proposed Modification and Continuation of Withdrawals; Opportunity for Public Hearing; Arizona

July 12, 1983.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2745; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the subject withdrawals for a period of 20 years, rather than for an indefinite term, and to partially revoke each. The land was withdrawn for use by the U.S. Forest Service, Department of Agriculture, as indicated below.

The existing withdrawals segregate the land from operation of the public land laws, including the mining laws. The land has been and will remain open to operation of the mineral leasing laws. No change in the segregative effect of the withdrawals or use of the land is proposed. The following administrative sites are involved:

Gila and Salt River Meridian, Arizona

A 12859, A 17498, A 18462, AR 04756: Secretarial Order of October 26, 1908; Executive Order 5726 of September 26, 1931; Secretarial Order of November 27, 1908;
Public Land Order 1556 of November 9, 1957; Willow Administrative Site, Prescott National Forest:
T. 14 N., R. 2W.,
Sec. 18, lots 1 through 4, SE¼NW¼, NE¼SW¼;
T. 14 N., R. 3 W.,
Sec. 13, lots 1 through 4.
174.28 acres in Yavapai County.

It is proposed to continue the withdrawal on 332.26 acres in the Willow Administrative Site for a period of 20 years rather than for an indefinite term, and revoke the withdrawal as to the remaining lands. The withdrawn area would remain closed to the public land laws and mining location. The land is and will continue to be open to operation of the mineral leasing laws.

A 12859, AR 05259: Public Land Order 1176 of June 27, 1955; Secretarial Order of October 26, 1908; Lincoln Administrative Site, Prescott National Forest:
T. 11 N., R. 18 E.,
Sec. 19, W½SW¼NE¼, E½SE¼NW¼, E½W½SE¼NW¼, E½SW¼, E½W½SW¼, W½SE¼.
330 acres in Navajo County.

It is proposed to continue the withdrawal on 290 acres in the Lincoln Administrative Site for a period of 20 years rather than for an indefinite term, and to revoke the withdrawal as to the remaining lands. The withdrawn area would remain closed to the public land laws and mining location; it has been and will remain open to operation of the mineral leasing laws.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed action on each withdrawal. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before 90 days from date of this publication. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the Federal Register giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed action may be filed with the undersigned officer on or before the above designated date.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources, and will review the withdrawal rejustification to ensure that continuation or modification would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued or modified, and if so, for how long. The final determination will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management,

Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19730 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[A 13386]

International Boundary; United States and Mexico, Within the State of Arizona

July 12, 1983.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the subject withdrawal for an indefinite period.

The existing withdrawal, made by Presidential Proclamations of June 25, 1897, and May 27, 1907, reserves a strip of land along the international boundary within the State of Arizona, 60' in width and extending from the California State line to the New Mexico State line. The total length is approximately 365 miles; total acreage is approximately 3,737 acres. The purpose of the reservation of the land is to keep a strip of land along the international boundary between the United States and the Republic of Mexico free from obstruction as a protection against the smuggling of goods between the two countries. The withdrawal segregates the strip of land from all types of appropriation under the public land laws including the mining and mineral leasing laws. It is proposed to continue the withdrawal for an indefinite period and to continue the segregation from all types of appropriation.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed action on the withdrawal. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before 90 days from date of this publication. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed action may be filed with the undersigned officer on or before the above designated date.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary, will review the withdrawal rejustification to ensure that continuation or modification would be consistent with the statutory objectives of the programs for which the land is dedicated, the area involved is the minimum essential to meet the desired needs, and an agreement is reached on the concurrent management of the land and its resources. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and the Congress, who will determine whether or not the withdrawal will be continued or modified, and if so, for how long. The final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19731 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Lakeview District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-465 that a tour and meeting of the Lakeview District Grazing Advisory Board will be held August 16, 1983 at 8:00 a.m. The meeting will be held at the Lakeview District Office, 1000 South Ninth St., Lakeview, Oregon.

The agenda will consist of the preliminary Annual Work Plan. The tour will commence immediately following the meeting. BLM will provide transportation for the advisory board members; other participants will need to provide their own transporation. The tour will be in the High Desert Resource Area.

All Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or submit written statements for the Board's consideration. Anyone wishing to make a statement or attend the tour should notify the District Manager, Bureau of Land Management, P.O. Box 151, Lakeview, Oregon 97630 by August 11, 1983.

Summary minutes of the board meeting will be maintained in the District office and will be available within 30 days following the meeting.

Richard A. Gerity,

District Manager.

[FR Doc. 83-19728 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Miles City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Grazing Advisory Board will be held August 30, 1983. The meeting will begin at 10:00 a.m. in the conference room at the Miles City District, Bureau of Land Management Office, Highway 10-12 at Garryowen Road, Miles City, Montana.

The agenda is as follows:

1. Cooperative Management Agreement Program;
2. Fiscal Year 1984 Range Budget;
3. Current Resource Management Programs Affecting Range.

The meeting is open to the public. The public may make oral statements before the Grazing Advisory Board or file written statements for the board's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Ray Brubaker,

District Manager.

[FR Doc. 83-19744 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[A-17000-G]

Order Providing for Opening of Public Lands; Arizona

July 12, 1983.

1. In **Federal Register**, Volume 47, Number 14, Pages 3042-3043, dated January 21, 1982, approximately 7,295 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All the lands have been transferred to the State of Arizona with the exception of 752.08 acres, which have been deleted from the State's application and are described as follows:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 2 E.,
Sec. 5, lot 6, SE¼SW¼NW¼, W½NW¼SE¼NW¼, SW¼SE¼NW¼, SW¼NE¼NE¼SW¼, W½NE¼SW¼, NW¼SE¼NE¼SW¼, NE¼NW¼SW¼, NW¼SE¼SW¼, E½SW¼SE¼SW¼;
Sec. 8, E½NW¼NE¼NW¼, E½SW¼NE¼NW¼, W½SE¼NE¼NW¼, W½NE¼SE¼NW¼, SE¼SE¼NW¼, E½E½SW¼;
Sec. 17, W½E½E½NW¼, E½SE¼SE¼NW¼, NE¼NE¼SW¼, E½SE¼SW¼, S½NE¼SW¼, NW¼NE¼SW¼, E½NW¼SW¼, W½W½NW¼SE¼, W½NW¼SW¼SE¼;
Sec. 20, W½SW¼NW¼NE¼, W½NW¼SW¼NE¼, SW¼SW¼NE¼, E½NE¼NW¼, E½W½NW¼SE¼, W½SE¼NW¼SE¼, NE¼SW¼SE¼, E½SE¼SW¼SE¼;
Sec. 29, W½W½E½NE¼, E½NE¼NW¼NE¼, E½SW¼SE¼NE¼, E½SE¼NE¼, E½W½NE¼SE¼, E½NW¼SE¼SE¼, E½E½SW¼SE¼SE¼, W½W½SE¼SE¼SE¼, E½NE¼SE¼, NE¼SE¼SE¼, E½W½SE¼SE¼SE¼, E½SE¼SE¼SE¼;
Sec. 32, lot 6, E½E½NE¼, E½NE¼SE¼.
T. 7 N., R 2 E.,
Sec. 28, E½NE¼NW¼, W½NE¼SE¼NW¼, E½NW¼SE¼NW¼, SW¼SE¼NW¼, W½W½NW¼SW¼, S½S½NW¼SW¼;
Sec. 29, S½S½NE¼SE¼, N½NE¼SW¼SE¼, SW¼NE¼SW¼SE¼, SE¼NW¼SW¼SE¼, NE¼SW¼SW¼SE¼, S½SW¼SW¼SE¼, NW¼NW¼SE¼SE¼;
Sec. 32, W½NW¼NW¼NE¼, E½NE¼NE¼NW¼, SE¼NE¼NW¼, E½SE¼SW¼NW¼, E½SE¼NW¼, E½W½NW¼, SW¼SE¼NW¼, W½W½E½SW¼, E½NE¼NW¼SW¼;
Sec. 34, W½NW¼NE¼, E½NE¼NW¼.

The areas described aggregate 752.08 acres in Maricopa County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 are hereby open to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.).

All valid applications under the public land laws received at or prior to 10:00 a.m. on August 26, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal Law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 [(602) 261–4774].

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19736 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[A-17000-S]

Order Providing for Opening of Public Lands, Arizona

July 12, 1983

1. In **Federal Register**, Volume 47, Number 78, Page 17339, dated April 22, 1982, approximately 3,360 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All the lands have been transferred to the State of Arizona with the exception of 522.50 acres, which have been deleted from the State's application and are described as follows:

Gila and Salt River Meridian, Arizona

T. 19 S., R 22 E.,
Sec. 34, S½SE¼SW¼NE¼, NE¼SE¼NE¼, S½NW¼SE¼NE¼, S½SE¼NE¼, NE¼NE¼NW¼SE¼, NW¼NW¼NE¼SE¼.
T. 20 S., R. 22 E.,
Sec. 12, E½, E½W½.

The areas described aggregate 522.50 acres in Cochise County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 are hereby open to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.).

All valid applications under the public land laws received at or prior to 10:00 a.m. on August 26, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal Law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 [(602) 261–4774].

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19735 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Relocation of White River Resource Area Office; Colorado

The Bureau of Land Management, White River Resource Area Office will relocate its office personnel, equipment, and functions from the present location at 317 East Market, Meeker, Colorado, to 73544 Highway 64, Meeker, Colorado.

The move will commence 7:45 a.m., August 12, 1983 and be completed by 7:45 a.m., August 15, 1983.

The mailing address for the new location will not change and will be: Bureau of Land Management, White River Resource Area, P.O. Box 928, Meeker, Colorado 81641. The phone number will also remain (303) 878–3601.

Lee Carle,

Craig District Manager.

[FR Doc. 83-19736 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[AZAZ054000001]

Realty Action; Competitive Sale of Public Land in Mohave County; Arizona

The following described land has been identified as suitable for disposal under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C.), at no less than the appraised fair market value.

Gila & Salt River Meridian, Arizona

T. 20 N., R. 21 W.,

Parcel A: sec. 8 All (640 acres $432,000).

The land is zoned AR/36A (agricultural/residential with one dwelling per 36 acre parcel). The parcel will be sold at public auction by competitive bidding. The sale will be held at the Bullhead City Chamber of Commerce upstairs conference room,

Bullhead City, Arizona on Wednesday September 28, 1983, at 10:00 A.M.

Bidding Information and Instructions and a sales information sheet are available from the Havasu Resource Area Office, P.O. Box 685, 2049 Swanson Avenue, Lake Havasu City, Arizona 86403.

If the land is not sold on September 28, 1983, it will be re-offered for sale at 10:00 A.M. on October 12, 1983, at the Havasu Resource Area Office. If it is not sold at the second offering the land will be available for over the counter purchase at the Havasu Resource Area Office beginning at 8:00 A.M., October 13, 1983.

The patent will contain the following reservations to the United States:

1. Powerline rights-of-way PHX–085193 and A–8891, plus access road right-of-way AR01868.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

3. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

The land will be sold subject to powerline right-of-way A–14908.

Publication of this Notice will segregate the subject lands from all appropriations under the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination by the authorized officer.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Yuma District Office, P.O. Box 5680, Yuma, Arizona 85364. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager this Realty Action will become the final determination of the Department of the Interior.

Dated: July 14, 1983.

B. Gene Miller,

Acting District Manager.

[FR Doc. 83-19752 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial Number AZAZ025000003]

Realty Action; Competitive Sale of Public Land in Pinal County, Arizona

The Bureau of Land Management has cancelled the public land sale, Serial No. AZAZ025000003, scheduled for July 7, 1983, as published in FR Vol. 48, No. 88, page 20291, issue of Thursday, May 5, 1983. The segregation as stated in the publication will remain in effect pending state exchange or selection.

For additional information, write to William K. Barker, District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona, 85017, or call Arthur E. Tower, Area Manager, 602–241–2854.

Dated: July 13, 1983.

Deane H. Zeller,

Associate District Manager.

[FR Doc. 83-19745 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13745]

Realty Action; Noncompetitive Sale of Public Lands in San Bernardino County; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action—Noncompetitive Sale of Public Lands in San Bernardino County—CA 13745.

SUMMARY: The following described land has been examined and identified for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair Market value.

San Bernardino Base Meridian

T. 16 N., R. 12 E.,
Sec. 28, W½ SE¼.

The land aggregated 80.00 acres in San Bernardino County.

This land is being offered at direct sale to Art Parker, Sr. at the appraised fair market value. The direct sale is necessary to protect equities arising from inadvertent unauthorized use.

The proposed sale is consistent with the Bureau's planning for the lands involved and the public interest would be served by offering this land for direct sale to Art Parker, Sr.

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719): however, under Section 209 of the said Act of October 21, 1976, the high bidder may apply to purchase the mineral interests.

3. The patent will be subject to all valid existing rights including pipeline rights of ways LA 016685, S 5597, and CA 12455 and transmission line rights-of-way R 21730 and CA 6276.

4. Federal law requires that all bidders be United States citizens. Proof of these requirements shall accompany the bid.

FOR FURTHER INFORMATION CONTACT: For further information including the land report and environmental assessment report, contact the California Desert District Office at 1695 Spruce Street, Riverside, California 92507 and Needles Resource Area Office, 641 Front Street, Suite B, Needles, California 92363.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

SUPPLEMENTARY INFORMATION: The land will not be offered for sale for at least 60 days after the date of this notice.

Dated: July 15, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83-19738 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13747]

Realty Action; Noncompetitive Sale of Public Lands in San Bernardino County; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action—Noncompetitive Sale of Public Lands in San Bernardino County—CA13747

SUMMARY: The following described land has been examined and identified for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value.

San Bernardino Base Meridian

T. 11N., R. 14E.,
Sec. 34, WI/2 SE1.4

The land aggregated 80.00 acres in San Bernardino County.

This land is being offered at direct sale to Howard Blair at the appraised fair market value. The direct sale is necessary to protect equities arising from inadvertent unauthorized use.

The proposed sale is consistent with the Bureau's planning for the lands involved and the public interest would

be served by offering this land for direct sale to Howard Blair.

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719); however, under Section 209 of the said Act of October 21, 1976, the high bidder may apply to purchase the mineral interests.

3. The patent will be subject to all valid existing reghts.

4. Federal law requires that all bidders be United States citizens. Proof of these requirements shall accompany the bid.

FOR FURTHER INFORMATION CONTACT: For further finormation including the land report and environmental assessment report, contact the California Desert District Office at 1695 Spruce Street, Riverside, California 92507 and Needles Resource Area Office, 641 Front Street, Suite B, Needles, California 92363.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

SUPPLEMENTARY INFORMATION: The land will not be offered for sale for at least 60 days after the date of this notice.

Dated: July 15, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83-19740 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13746]

Realty Action; Noncompetitive Sale of Public Lands in San Bernardino County; California

AGENCY: Bureau of Land Management; Interior.

ACTION: Realty Action—Noncompetitive Sale of Public Lands in San Bernardino County—CA 13746.

SUMMARY: The following described land has been examined and identified for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair Market value.

San Bernardino Base Meridian

T. 7 N., R. 18 E.,
Sec. 8, SW¼NW¼.

The land aggregated 40.00 acres in San Bernardino County.

This land is being offered at direct sale to Milton Blair, Sr. at the appraised fair market value. The direct sale is necessary to protect equities arising from inadvertent unauthorized use.

The proposed sale is consistent with the Bureau's planning for the lands involved and the public interest would be served by offering this land for direct sale to Milton Blair, Sr.

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719); however, under Section 209 of the said Act of October 21, 1976, the high bidder may apply to purchase the mineral interests.

3. The patent will be subject to all valid existing rights.

4. Federal law requires that all bidders be United States citizens. Proof of these requirements shall accompany the bid.

FOR FURTHER INFORMATION CONTACT: For further information including the land report and environmental assessment, contact the California Desert District Office at 1695 Spruce Street, Riverside, California 92507 and Needles Resources Area Office, 641 Front Street, Suite B, Needles, California 92363.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

SUPPLEMENTARY INFORMATION: The land will not be offered for sale for at least 60 days after the date of this notice.

Dated: July 15, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83-19739 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[M57789]

Realty Action; Exchange of Public Land in Madison County, Montana

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice of Realty Action M57789, Exchange of Public Land in Madison County.

SUMMARY: The following described lands in Madison County have been determined to be suitable for disposable by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T2S, R2W, PMM.
Sec. 32: Lots 1, 2, 3, NE¼SW¼.
T3S, R2W, PMM.
Sec. 34: N½SW¼.
Containing 235.28 acres more or less.

In exchange for these lands, the Federal Government will acquire private land in Madison County from V. Hugo Schmidt, described as follows:

T3S, R1E, PMM.
Sec. 10: Lots 2 and 4 excluding a 100' deeded highway right-of-way.
This parcel contains 33.88 acres.

The purpose of the exchange is to acquire a strip of land along the Madison River at the mouth of Warm Springs Creek, which is heavily used by fishermen and floaters. This tract of land, in public ownership, would ensure future access to a blue ribbon trout stream and popular recreation area in the southwestern Montana. The exchange is consistent with the Bureau's planning system and has been discussed with the Madison County Commissioners. The public will be well served by completing this exchange.

The lands will be exchanged on an equal value basis. The acreage may be adjusted or cash payment will be used to equalize values. The cash equivalent will not exceed 25% of the appraised value of the federal lands to be exchanged.

Terms and Conditions

The terms and conditions applicable to the public lands to be exchanged are:

1. A right-of-way for ditches and canals shall be reserved to the United States.

2. A reservation of the United States for all oil and gas and geothermal resources.

3. Road right-of-way M053373 to the United States Forest Service.

4. Buried telephone line right-of-way M54818 to Three Rivers Telephone Company.

The terms and conditions applicable to the privately owned lands to be exchanged are:

1. Reserving to Schmidt oil and gas and geothermal resources.

The publication of this notice segregates the public lands described above from settlement, sale, location, and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

DATES: For a period of 45 days, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange is available for review at the Dillon Resource Area Office, P.O. Box 1048, Dillon, Montana 597254

Dated: July 13, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-19742 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Proposed Classificaton of Public Land in Lincoln County; Nevada

July 12, 1983.

The following described lands have been examined and found suitable for lease, with an option to acquire title, to the State of Nevada, Division of State Parks for expansion of the "Spring Valley State Park" north of Ursine, Nevada. The lands are hereby classified for lease with option to acquire title pursuant to the Recreation and Public Purpose Act, as amended (43 U.S.C. 869, et. seq.; 43 CFR 2400.0-3; 43 CFR 2741.1).

Mount Diablo Meridian

T. 2 N., R. 69 E.,
- Sec. 12, lots 1 to 4, inclusive;
- Sec. 13, lots 1 to 9, inclusive, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
- Sec. 14, E½E½;
- Sec. 23, lots 3 and 4;
- Sec. 24, S½NE¼, W½NE¼NW¼NW¼, NW¼NW¼NW¼, S½NW¼NW¼, SW¼NW¼, NE¼SW¼, S½SW¼, SE¼;
- Sec. 25, W½;
- Sec. 26, lots 1 to 4, inclusive;
- Sec. 35, S½NE¼NE¼;
- Sec. 36, NW¼NW¼;
- Sec. 37, lots 1 and 2.

T. 2 N., R. 70 E.,
- Sec. 5, lots 1 and 2, S½NE¼, N½SE¼, SE¼SE¼;
- Sec. 8, lot 1, SE¼NE¼, E½SE¼;
- Sec. 7, lots 1 to 4, inclusive, E½NW¼, NW¼NE¼, NE¼SW¼;
- Sec. 8, E½NW¼, NE¼S½;
- Sec. 17, lots 1 thru 5, inclusive, S½NE¼, SE¼NW¼;
- Sec. 18, lots 1 thru 3, inclusive, NE¼NW¼, SE¼NE¼, SE¼;
- Sec. 19, lots 1, 2, 3 and 5, S½NE¼, SE¼NW¼.

T. 3 N., R. 70 E.,
- Sec. 31, SE¼SE¼;
- Sec. 32, SE¼.

The above described lands comprise 4,322.01 acres, more or less.

The Bureau of Land Management proposes to lease the above described land for 25 years, with the lessee having the right to exercise the option to acquire title to the land at the end of 5 years. Patenting of the land will depend upon Nevada Division of State Parks Compliance with the lease and recommendations of the Ely District Manager.

Reasons supporting the proposed decision follow:

1. Lands found to be chiefly valuable for public purposes will be considered chiefly valuable for public purposes (43 CFR 2430.2(b)).

2. The lands are physically suitable or adaptable to the uses for which they will be classified (43 CFR 2410(a)).

3. All present and potential users of the land have been considered. The proposed classification will achieve a maximum use of the land and a minimum disturbance to existing users of the land and a minumum disturbance to existing users (43 CFR 2410.1(b)).

4. The classification will be consistent with State and local government programs, plans, zoning and regulations applicable to the area (43 CFR 2410.1(c)).

5. The proposed action is in conformance with a land use plan prepared for the area by the Bureau of Land Management, and would serve the national interest (43 CFR 1601.8(c) and 2741.4(e)).

6. Utilization of the land as proposed by the petitioner-applicant constitutes a public purpose use of the land that will benefit a State government program and fill a recreational need (43 CFR 2430.4(a)).

The following petition for classificaton is hereby approved: State of Nevada, Division of State Parks, Petition-Application N-5987.

Under 43 CFR 2440.4(h) the subject lands will be segregated from all appropriations, including locations under the mining and mineral leasing laws and material sales, except the Recreation and Public Purpose Act as cited above when the proposed decision becomes the final decision and the State BLM Office records are noted accordingly. The lease and/or patent shall reserve to the United States all minerals except those rights contained in oil and gas lease N-30850 issued by the federal government.

The subject lands are under a Section 3 license in the Wilson Creek Allotment. The loss of grazing capacity is considered negligible and no adjustment will be made.

Detailed information concerning the proposed classification is available for review at the Ely District Office, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

For a period of 60 days interested parties may submit comments to the Ely District Manager at the above address.

Merrill L. DeSpain,

For the State Director.

[FR Doc. 83-19749 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Resource Management Planning, Notice of Intent, Invitation to Comment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, Spokane District, is initiating land use planning on BLM-administered lands in the 20 eastern counties of the State of Washington. This land consists of approximately 307,000 acres of which BLM has surface administration, and an additional 360,000 acres of sub-surface Federal mineral ownership under non-Federal surface ownership. The planning effort will not include approximately 4,000 acres of BLM-managed lands west of the Cascade Mountains in Washington. The planning area includes the majority of BLM lands in the District's Border and Basin Resource Areas. The plan will also address resource issues on BLM lands in Asotin and Garfield Counties which have been managed by the Baker (Oregon) Resource Area. This planning effort will result in a Resource Management Plan (RMP) which will address major land use and resource allocation issues, including timber and grazing management and land disposal. An Evironmental Impact Statement (EIS) and a decision document are also a part of the RMP process. The RMP/EIS will define and guide the District's management actions for the next 10-15 years. The RMP and Final EIS is scheduled for completion by May 1985, and the Record of Decision should be completed by September, 1985. Resource inventories were begun for the lands, minerals, forest products, range management, watershed, wildlife, recreation, cultural resources, botany, fire management and wilderness programs in 1977. These inventories

were completed for Benton, Chelan, Douglas, Franklin, and Okanogan Counties and used to complete earlier land use plans (Management Framework Plans). Various inventories have been partially completed in the other 15 counties over the past 10 years. The only BLM wilderness study area in Washington, Chopaka Mountain, is being analyzed in a separate plan amendment/environmental assessment effort and will not be addressed in the RMP.

Land use and resource allocation decisions in the existing Management Framework Plans well be reviewed and inventories will be updated for incorporation and use in the development of the new RMP. Additional inventory data will be collected this year utilizing available staff and funds.

The interdisciplinary team which will prepare the RMP includes BLM resource specialists in range conservation, wildlife biology, soil science, hydrology, recreation, cultural and historical resources, access, forestry, social-economics, and geology.

The public has identified various BLM resource management and allocation issues that affect their beliefs, interests, activities and programs. To date only the following issues appear to be of major public concern and directly related to BLM resource activity programs.

1. Should the BLM sell, exchange or transfer public lands to facilitate better land management? If so, which lands should be sold or exchanged? In what order?

2. How should BLM handle unauthorized use (trespass) of public land?

3. What should BLM's grazing management program be? Should BLM maintain the existing program; shift to custodial management; provide more intensive management or eliminate the grazing program in part or whole? Which cost-effective range improvements are acceptable, justifiable and likely to be funded by either BLM or the range user?

4. What should BLM's timber sale program be: Intensive forest development; timber sales on request only; or eliminate the forestry program in part or whole?

5. In what areas should BLM allow or restrict mineral entry, mineral leasing and/or material sales?

6. What should BLM's access policy be in regard to public lands and user groups? What type of access should be required and for what purposes?

7. How can BLM resolve conflicts with other uses, protect and/or enhance resource and recreational uses such as camping, ORV use, environmental studies, and rockhounding on public lands?

8. How and where should BLM's watershed resources be protected and enhanced? What objectives for weed control and water rights are appropriate for BLM?

Input from all segments of the general public, including other governmental agencies and the Spokane District's Advisory Council, will be an integral part of the finished plan. Public comments will also be solicited following the publication of draft planning criteria, during formulation of alternatives, after publication of the draft RMP, after publication of the final RMP, and in the event of significant change(s) in the plan resulting from action on a protest.

All persons with an interest in management of the BLM, Spokane District lands and resources are requested to submit comments on the identification of issues by August 31, 1983. Comments and requests for further information should be addressed to Roger Burwell, District Manager, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202. You can also call the office at (509) 456–2570 and ask that your name be included on the RMP mailing list. Anyone who wishes to discuss the BLM planning effort and availability of information and planning documents should contact the District Office. Planning documents will generally be available for public review at the Spokane District Office. Public announcements will indicate exact locations, dates and times of public meetings, workshops or open houses.

Dated: July 13, 1983.

Roger Burwell,

District Manager.

[FR Doc. 83-19733 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Sale of Public Lands in Madison County, Montana

This Notice modifies the original Notice of Realty Action for M57660 published on May 5, 1983 (48 FR 20295). No bids were received before or on the sale date and the tract will now be offered on a continuing basis during regular office hours until October 4, 1983. The tract will be sold on a first-come, first-served basis. Buyers must comply with the requirements of the original Notice. Minimum acceptable price is $34,000. Bids will be accepted by mail or in person at the Butte District Office, P.O. Box 3388, Butte, Montana 59702.

Dated: July 11, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-19751 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

San Juan River Basin Regional Coal Team; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Amendment and notice of additional public meetings.

SUMMARY: Federal Register dated Tuesday, May 17, 1983, Vol. 48, No. 96, page 22214, announced that the Fair Market Value (FMV) subgroup would present its report at the July 1983 San Juan River Basin (SJRB) Regional Coal Team (RCT) meeting. The RCT meeting has been postponed and will be rescheduled at a later date.

In view of the postponement of the RCT meeting, additional public meetings are being scheduled by the FMV subgroup.

DATES: The next series of meetings will be held on July 26, August 9 and August 23, 1983. Each meeting will begin at 1:30 p.m., MDT.

ADDRESS: The FMV subgroup meetings will take place in the conference room at the New Mexico Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Charles Turpen, 525 Camino de los Marquez, Santa Fe, New Mexico 87501, telephone number (505) 827–5950.

Persons planning to attend these meetings should verify the time and location by calling Mr. Turpen on the day preceding each meeting.

Leroy C. Montoya,

Acting State Director.

[FR Doc. 83-19748 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Susanville District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 (FLPMA) that a meeting of the Susanville District Advisory Council will be held on August 5, 1983.

The meeting will begin at 10:00 a.m. on August 5, in the Conference Room of the Bureau of Land Management, Susanville District Office, 705 Hall Street, Susanville, California.

The agenda for the meeting will include: 1. Establish process for Wilderness Review in the Susanville

District and the Council's role in that process.

The meeting is open to the public and time will be provided for public comment.

Summary minutes of the council meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 83-19747 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[A 12038]

Termination of Classification For Public Sale; Arizona

1. On August 12, 1981 (FR Doc. No. 81-23203 on page 40810), the land described below was identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, and segregated from all other forms of appropriation under the public land laws, including the general mining and mineral leasing laws:

2. Pursuant to the authority delegated by BLM Manual, Section 1203 (48 FR 85), and the regulations set forth in 43 CFR 2462.4(c)(2), the classification is hereby terminated in its entirety as to the following described land:

Gila and Salt River Meridian, Arizona

T. 21 N., R. 28 E.,
Sec. 22, NE¼SW¼.

The area described contains 40 acres in Apache County.

3. At 10:00 a.m. on August 18, 1983, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, classifications, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on August 18, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10:00 a.m. on August 18, 1983, the public land described in paragraph 2 will be open to operation of the United States mining laws and the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, classifications, and the requirements of applicable law. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such appempted appropriation, including attempted adverse posession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-19746 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

Ukiah District, California; District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Ukiah District Advisory Council will be held on Tuesday and Wednesday, August 23 and 24, 1983.

The meeting will begin at 1:00 p.m. on August 23 and at 8:00 a.m. on August 24 in the Empire Room, Lu-Ann Motel, 1340 North State Street, Ukiah, California 95482.

The agenda will include: (1) Timbered Crater, Lava, and Red Mountain wilderness study areas draft environmental impact statements, (2) Yokayo and Redding grazing environmental impact statements, and (3) asset management program update.

The meeting is open to the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make an oral statement should make advance arrangements with the District Manager, P.O Box 940, 555 Leslie Street, Ukiah, California 95482, telephone (707) 462-3873.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Edwin G. Katias,

Acting District Manager.

[FR Doc. 83-19760 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Filing of Plat of Survey

July 14, 1983.

The plats of survey of the following lands were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 1, 1983.

New Mexico Principal Meridian

T. 12 S., R. 13 E.

The plats representing the dependent resurvey of a portion of the north boundary of the Mescalero Indian Reservation identical with a portion of the north boundary of the township, a portion of the south boundary, the west boundary and a portion of the subdivisional lines of T. 12 S., R. 13 E., NMPM, was accepted June 27, 1983, under Group 730, New Mexico.

T. 23 N., R. 12 E.

The plat representing the dependent resurvey of a portion of the east boundary of the Picuris Pueblo Grant, a portion of the subdivisional lines and certain boundaries of private claims in Sections 28 and 33 within the Picuris Pueblo Grant of T. 23 N., R. 12 E., NMPM, was accepted June 27, 1983, under Group 789, New Mexico.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plats will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Leroy C. Montoya,

Deputy State Director, Operations.

[FR Doc. 83-19781 Field 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. C-36736]

Realty Actions; Exchange of Land; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Serial No. C-36736, Determinations of land suitable for exchange under the authority of Sections 20, 206, 302(b), and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1732, and 1740).

SUMMARY: Approximately 2,022 acres of public land under the jurisdiction of the Bureau of Land Management located northeast of Basalt, Colorado, in Eagle County have been determined suitable for exchange. The determination of suitability has been made response to a Bureau-benefiting exchange proposal received from the Colorado Division of Wildlife. In the proposal, the Colorado Division of Wildlife has offered approximately 2,677 acres for exchange located southeast and southwest of Gypsum, Colorado, in Eagle County. The exchange proposal has been made to facilitate the consolidiation of land holdings of each agency and thus increase managerial efficiency and the

public values of natural resources found on the land being considered for exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The following is a list of public land determined suitable for exchange.

	Township	Range	Section	Subdivision	Size
6th P.M.	8S.	86W.	3	Lots: 5, 6, 7, 8, 9, 10, 11, 12, 16, S½NW¼, N½SW¼, SW¼SW¼.	
			4	Lots: 5, 6, 7, 12, 15, 16, 17, SE¼NE¼, NE¼SE¼.	
			5	Lots: 18, 19, 20, N½SW¼.	
			6	Lots: 8, 9, 16, 17, S½NE¼, SE¼.	
			8	Lots: 8, 10, NE¼.	
6th P.M.	8S.	86W.	9	Lots: 1, 2, 3, 4, 5, W½NW¼.	
			10	Lots: 1, 2, 3, S½SNE¼, NW¼NW¼, S½NE¼S W¼NW¼, NW¼SW¼N W¼, S½SW¼N W¼, SE¼NW¼.	
		87W.	2	Lots: 18, 19, 22, 23, 24, E½SE¼.	
			11	Lots: 18, 19.	
Total public land suitable for exchange					2,021.92

The following is a list of land being offered for exchange by the Colorado Division of Wildlife.

	Township	Range	Section	Subdivision	Size
6th P.M.	5S.	85W.	23	NW¼, E½SW¼, S½SE¼, NW¼SE¼.	
			25	NW¼, N½SW¼.	
			26	NE¼.	
			27	S½SW¼, SW¼SE¼.	
			28	S½SE¼.	
			30	Lots: 7, 8, SW¼SW¼.	
			31	Lots: 5, 6, 7, 15, 16, 17,18, 21, NE¼SW¼.	
			33	N½NE¼.	
			34	W½NE¼, NW¼, N½SW¼, NW¼SE¼.	
	6S.	85W.	6	Lots: 8, 9, 10, 11.	
	5S.	86W.	22	S½.	
			27	N½.	
	6S.	86W.	1	Lots: 5, 6.	
Total Colorado division of wildlife land offered for exchange.					2,677.52

Terms and Conditions: The following reservations for existing uses and users will be made in the patent issued for the public lands.

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1980 (43 U.S.C. 945).

2. C–31537 Public Service Company—Power Transmission Line
D–011779 Public Service Company—Power Transmission Line
C–9582 Holy Cross Electric—Power Distribution Line
C–11910 Holy Cross Electric—Power Distribution Line
C–23323 Holy Cross Electric—Power Distribution Line
C–18734 Holy Cross Electric—Power Distribution Line
C–30212 Colorado Ute Electric Association—Power Transmission Line
C–27657 Mountain States Telephone and Telegraph Co.—Phone Line
C–9909 Town of Basalt—Water Transmission Line
C–0115586 Vinance Favre—Water Transmission Line
C–16084 John V. Hyrup—Water Transmission Line and Spring Development
Eagle County Road #104, application pending.

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant. This segregation will expire two years from the date of publication of this notice.

The non-Federal lands described above are subject to prior Federal reserved minerals. The prior Federal interests are hereby segregated to the extent that such interests will not be subject to appropriation under the mining laws until a notice pursuant to 43 CFR 2200.3(a) is issued.

Further Information and Public Comment: Additional information concerning this exchange, including the planning documents and environmental assessment, is available for review in the Glenwood Springs Resource Area Office at 50629 Highway 6 and 24, Glenwood Springs, Colorado. For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Grant Junction District Office, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue his final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Dated: July 12, 1983.

David A. Jones,

District Manager, Grand Junction District Office.

[FR Doc. 83-19784 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–163 that a meeting of the Winnemucca District Grazing Board will be held in September 8, 1983. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Synopsis of Multi-activity Management Plans
2. Fiscal year 1984 Range Betterment Funds—8100 monies (Range Improvements. Wildlife, Projects)
3. New proposed grazing regulations
4. Public statements
5. Update on status of district programs (Wild horses, Wilderness EIS, 1984 funding, Water rights, etc.)
6. Grazing fee study
7. Non-permittee grazing on public lands

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by August 25, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: July 12, 1983

Jeannette M. Ugaldea,

Acting District Manager for State Director, Nevada.

[FR Doc. 83-19787 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14858-A]

Alaska Native Claims Selection

On October 16, 1974, Notaaghleedin, Limited, for the Native village of Galena, filed selection application F-14858-A, as amended under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611), (1976) (ANCSA), for certain lands in the vicinity of Galena.

On May 4, 1978, as authorized by Pub. L. 94-204, Sec. 30 (43 U.S.C. 1627), and in accordance with Title 10, Chapter 05, of the Alaska Business Corporation Act, the Native villages of Galena (Notaaghleedin, Limited), Kaltag (Takathleetondin, Incorporated), Nulato (Nik'aghun, Limited), and Koyukuk (Mineelghaadza', Limited), formed a new corporation which consolidated individual village interests into one single constituent corporation, Gana-a 'Yoo, Limited.

As to the land described below, village selection application F-14858-A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. This land does not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described land, selected pursuant to Sec. 12(a) of ANCSA, containing approximately 0.45 acre, is considered proper for acquisition by Gana-a 'Yoo, Limited, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lot 2, Block 7 of U.S. Survey No. 4179, Alaska, Galena Townsite.

Containing approximately 0.45 acre.

There are no inland water bodies considered to be navigable within the above-described land.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The conveyance issued for the surface estate of the land described above shall contain the following reservation to the United States: The subsurface estate therein, and right rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

The grant of the above-described land shall be subject to:

1. Valid existing rights therein, of any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANSCA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

2. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the land hereinabove granted, as are prescribed in said section.

Gana-a 'Yoo, Limited (for the Native village of Galena) is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. To date, approximately 105,468 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 9,732 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Gana'a 'Yoo, Limited, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Galena shall be subject to the consent of Gana-a 'Yoo, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until August 22, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Gana-a 'Yoo, Limited, Box 38, Galena, Alaska 99741, and

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

B. LaVelle Blac

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-19724 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14927-A]

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 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Russian Mission Native Corporation for approximately 79,847

acres. The lands involved are within the Seward Meridian:

T. 21 N., R. 64 W.
T. 22 N., R. 64 W.
T. 21 N., R. 65 W.
T. 18 N., R. 66 W.
T. 19 N., R. 66 W.
T. 20 N., R. 66 W.
T. 21 N., R. 66 W.
T. 22 N., R. 66 W.
T. 19 N., R. 67 W.
T. 20 N., R. 67 W.

The decision to issue conveyance will be published once a week, for four (4) consective weeks, in The Tundra Drums upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until August 22, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Russian Mission Native Corporation, Russian Mission (Y), Alaska 99657, and
Calista Corporation,
516 Denali Street,
Anchorage, Alaska 99501.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-19728 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[F-19155-12]

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 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Doyon, Limited, for approximately 153,009 acres. The lands involved are within the Fairbanks Meridian, Alaska:

T. 2 N., R. 20 W.
T. 6 N., R. 20 W.
T. 5 N., R. 21 W.
T. 2 N., R. 22 W.
T. 6 N., R. 22 W.
T. 3 N., R. 23 W.
T. 5 N., R. 23 W.
T. 2 N., R. 24 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until August 22, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701, and
State of Alaska, Division of Land and Water Management, Alaska Department of Natural Resources, Pouch 7-005, Anchorage, Alaska 99510.

B. LaVelle Black,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-19725 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

[W-15468]

Wyoming; Partial Termination of Classification for Multiple-Use Management and Partial Termination of Mineral Segregation

1. Pursuant to the authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), the Bureau of Land Management Multiple-Use Classification Order dated December 1, 1970 (Serial No. W-15468), published in the **Federal Register** December 9, 1970, vol. 35, No. 238, Page 18683, is hereby terminated and relieved from mineral segregation insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

T. 58 N., R. 94 W.,
Sec. 20, lots 3 to 6 inclusive;
Sec. 28, S½SE¼.

The area described contains 178.75 acres in Big Horn County, Wyoming.

2. The classification order segregated the lands described above from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sales under section 2455 of Revised Statutes, 28 Stat. 687 (formerly 43 U.S.C. 1171), and the lands were further segregated from appropriation under the mining laws (30 U.S.C. 21). However, the lands are presently withdrawn for a Recreational Area and therefore, will not be subject to the appropriation of the public lands laws, including the mining laws.

3. The lands have been and will continue to be open to the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Nyles L. Humphrey,

Acting State Director, Wyoming.

[FR Doc. 83-19776 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming, Chevron Phosphate Project; Environmental Impact

AGENCIES: Office of Industrial Siting Administration (ISA), State of Wyoming, Bureau of Land Management (BLM), Department of the Interior.

ACTION: Notice of availability of the final environmental impact statement (FEIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM and ISA have prepared and FEIS for the proposed Chevron Phosphate Project.

SUPPLEMENTARY INFORMATION: The BLM and ISA have prepared the final EIS on the proposed Chevron Chemical Company (Chevron) phosphate plant and ancillary facilities to be located in the southeastern Rock Springs, Wyoming, and northeastern Vernal, Utah, areas. The proposed project would consist of a phosphate fertilizer plant, 4.5 miles southeast of Rock Springs, Wyoming, and an 84-mile slurry line to supply the plant with phosphate from an existing mine near Vernal, Utah. There would also be two water supply pipelines and intake structures and a 6.4-mile railroad spur. Water for the project would be obtained from the Fontenelle Reservoir. The FEIS, which will be available July 22, is a supplement to the DEIS, which was published January 12, 1983.

Reviewed together, the DEIS and FEIS incorporate the analyses of the affected environment and environmental consequences resulting from Chevron's proposed phosphate project. In addition, the recently proposed Nightingale Station alternative is also assessed. For further information contact: Donald Sweep, District Manager, Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82901; (307) 383-5350.

Copies of the FEIS will be available for inspection at the following locations:

Bureau of Land Management, Public Affairs, Interior Building, 18th and C Street, NW., Washington, D.C. 20240;
Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001;
State of Wyoming, Office of Industrial Administration, 1720 Carey Avenue, Cheyenne, Wyoming 82002;
Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82901;
Bureau of Land Management, Vernal District Office, P.O. Box F, Vernal, Utah 84078; and
Bureau of Land Management, Division of EIS Services, 555 Zang Street, First Floor East, Denver, Colorado 80228.

Public Libraries

Uintah County Public Library, 155 E. Main, Vernal, Utah 84078;
Roosevelt City Library, 33 North State, Roosevelt, Utah 84066; and
Rock Springs Public Library, 400 C Street, Rock Springs, Wyoming 82901.

A limited number of single copies of the FEIS can be obtained from the District Manager, Rock Springs District Office; District Manager, Vernal District Office; State Director, Wyoming State Office; or Project Leader, Division of EIS Services, at the above address.

James H. O'Connor,

Acting State Director.

[FR Doc. 83-19774 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; C. Truman Clem, Jr., et al.; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 2-10772
C. Truman Clem, Jr., Lewisville, TX

The applicant requests a permit to import one captive-born male bontebok (*Damaliscus dorcas dorcas*) trophy legally taken on the ranch of Victor Pringle, Bedford, South Africa.

PRT 2-10745
Game Conservation International, San Antonio, TX

The applicant requests a permit to import for semi-wild propagation in Texas, three male and three female black rhinoceros (*Diceros bicornis*) 6 to 9 years old, to be taken from the wild in South Africa.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: July 18, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-19818 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-55-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information

collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer at 202-395-7340.

Title: Alaska National Wildlife Refuges Regulations, 50 CFR Part 36 (for the issuance of permits and the provision of other statutory and administrative benefits in the management of Alaska refuges)
Bureau Form Numbers: N/A
Frequency: Annually
Description of Respondents: Individuals or households, State and local Governments, and small businesses
Annual Responses: 1,650
Annual Burden Hours: 1,370
Service Clearance Officer: Arthur J. Ferguson, 202-653-7499.

Dated: July 11, 1983.

Don W. Minnich,

Acting Associate Director—Wildlife Resources.

[FR Doc. 83-19691 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; McMoRan Offshore Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Co. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 5501, Block 210, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 13, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-19677 Filed 7-20-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 83-16392 beginning on page 28149 in the issue of Monday, June 20, 1983, make the following correction:

On page 28152, middle column, MC 148069 (Sub-II-1TA), Susquehanna Transit Company, in line thirteen, "Hwy 654" should have read "Hwy 254", and in line fifteen, "542" should have read "642".

BILLING CODE 1505-01-M

Motor Carrier Permanent Authority Decision; Decision-Notice

Correction

In FR Doc. 83-16391 beginning on page 28158 in the issue of Monday, June 20, 1983, make the following correction:

On page 28160, middle column, MC 108449 (Sub-419), Indianhead Truck Lines, Inc., fifteenth line, "LA, AZ" should have read "AL, AZ".

BILLING CODE 1505-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rule under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demostrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, or, if the application later becomes unopposed) appropriate authorizing Documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebutal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under Contract. Applications filed under 49 U.S.C. 10922(c)(2)[B] to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 1, (202) 275–7038

Volume No. OP–1–287(N)

Decided: July 14, 1983

By the Commission, Review Board Members Williams, Dowell, and Carleton.

MC 14321 (Sub-17), filed July 5, 1983. Applicant: ENGEL VAN LINES, INC., 901 Julia St., Elizabeth, NJ 07201. Representative: Joseph W. Engel, (same address as applicant). (201) 354–7800. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Exec-Van Systems, Inc., of Deerfield, IL.

MC 161171 (Sub-3), filed June 16, 1983. Applicant: V.K. PUTMAN, INC., 509 Grand, Bozeman, MT 59715. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163710 (Sub-5), filed June 8, 1983, and previously noticed in FR issue of June 24, 1983. Applicant: WESTERN LIQUID TRANSPORT, 2120 Harbor St., Pittsburg, CA 94565. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–6696. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI), under continuing contract(s) with Union Chemicals Division, Petrochemical Group, of Union Oil Company of California, of Schaumburg, IL, and Quaker Chemical Corporation, of Conshohocken, PA.

Note.—The purpose of this republication is to show all contracting shippers.

MC 169011(A), filed June 16, 1983. Applicant: EUGENE M. HOOPS, d.b.a. ROADRUNNER BUS LINE, N. 1126 Wildrose Land, Post Falls, ID 83854. Representative: Eugene M. Hopps, (same address as applicant), (208) 773–3150. Over regular routes, transporting *passengers*, between Coeur D Alene, ID, and Lewiston, ID, over U.S. Hwy 95, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce. Applicant has also filed for authority under the fitness procedures docketed MC–169011(B), published in this same **Federal Register** issue.

MC 169050, filed July 5, 1983. Applicant: DAVID GEISLER AND SUSAN GEISLER, d.b.a., D&S GEISLER TRUCKING, 125 Phillips Land, McKees Rocks, PA 15136. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Nabisco Brands USA, of East Hanover, NJ.

MC 169060, filed July 5, 1983. Applicant: SPRING'S SPUMONI CO., INC., 77 Federal Ave., Quincy, MA 02169. Representative: Carl R. Johnson III, 1259 Hancock St. at McIntyre Mall, Quincy, MA 02169, (617) 471–0600. Transporting *ice cream and related products*, between points in CT, IL, ME, MA, NH, NJ, OH, PA, RI, and VT, under continuing contract(s) with Thin N' Creamie, Inc., of Saddle Brook, NJ and McCarthy Bros. Ice Cream Co., Inc., of Whitman, MA.

Please direct status inquiries to Team 2, (202) 275–7030

Volume No. OP–2–301

Decided July 13, 1983.

By the Commission, Review Board Members Fortier, Williams, and Dowell.

MC 135824 (Sub-9), filed June 10, 1983. Applicant: KLAPEC TRUCKING COMPANY, R.D. #1, 673 North Seneca St., Oil City, PA 16301. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215, 614–228–1541. Transporting *metal products*, between points in AZ, CA, and WA, on the one hand, and, on the other, points in AR, GA, ME, MN, NH, NC, RI, SC, VT, VA, and DC.

Note.—This gateway elimination application is directly related to the section 11343(e) exemption petition filed in No. MC–F–15321, wherein Tryon Trucking, Inc. (Tryon) (No. MC–117313) and Klapec seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase, by Klapec, of Tryon's Sub–No. 10 certificate, authorizing the transportation of metal products, between those points in the U.S. in and east of MN, WI, IL, KY, TN, AR, and TX.

Volume No. OP–2–315

Decided July 13, 1983.

By the Commission, Review Board Members Fortier, Williams, and Dowell.

MC 52793 (Sub-134), filed June 27, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Chessie System Railroads, of Baltimore, MD.

MC 110683 (Sub-213), filed June 27, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, 1090 Vermont Ave., N.W., Washington, DC 20005, 202–783–8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under contract(s) with Heck's Inc., of Nitro, WV.

MC 110683 (Sub-214), filed July 5, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24410. Representative: Harry J. Jordan, 1090 Vermont Ave., N.W., Washington, DC 20005, 202–783–8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing

contract(s) with Travenol Laboratories, Inc., of Morton Grove, IL.

MC 134872 (Sub-21), filed June 27, 1983. Applicant: GOSSELIN EXPRESS LTEE., 1699 Smith Blvd, North, C.P. 248, Thetford Mines, Quebec, Canada G6G 5S5. Representative: Keith G. O'Brien, 1729 H St., N.W., Washington, DC 20006, 202-337-6500. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with W. R. Grace & Co., and its following divisions (a) Dewey & Almy Chemical Division, Organic Chemicals Division, and Polyfibron Division, all of Lexington, MA, and (b) Construction Products Division, of Cambridge, MA.

MC 139243 (Sub-9), filed June 21, 1983. Applicant: RIVER BEND TRANSPORT COMPANY, Sunset Ave., North Bend, OH 45052. Representative: David F. Boehm, 2208 Central Trust Tower, Cincinnati, OH 45202, 513-621-1045. Transporting *general commodities* (except classes A and B explosives and household goods), between Cincinnati, OH, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IA, KS, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, and WY.

MC 143853 (Sub-16), filed July 1, 1983. Applicant: S. M. E. EXPRESS, INC., 101 East Washington St., Upland, IN 46989. Representative: John F. Wickes, Jr., 1301 Merchants Pl., Indianapolis, IN 46204, 317-638-1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148152 (Sub-7), filed June 30, 1983. Applicant: K & H TRUCKING, INC., 3301 S. Lamar St., Dallas, TX 75215. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214-255-6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI).

Volume No. OP-2-316

Decided July 14, 1983

By the Commission, Review Board Members Krock, Dowell, and Carleton.

MC 118832 (Sub-10), filed July 1, 1983. Applicant: WESTOURS MOTOR COACHES, INC., 300 Elliott Ave. West, Seattle, WA 98119. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, D.C. 20005, 202-783-3515. Transporting, over regular routes, *passengers*, in interstate or foreign commerce, (1) between Haines, AK and the International Boundary Line between the U.S. and Canada at or near Porcupine, AK, over AK Hwy 7 (Haines Hwy), (2) between Fairbanks, AK and the International Boundary Line between the U.S. and Canada at or near Beaver Creek, Yukon Territory, Canada, over AK Hwy 2 (Alaska Hwy), (3) between Tetlin Junction, AK and the International Boundary Line between the U.S. and Canada at or near Boundary, AK, over AK Hwy 5 (Taylor Hwy), (4) between Valdez, AK and junction AK Hwys 2 and 4 at or near Delta Junction, AK, over AK Hwy 4 (Richardson Hwy), (5) between junction AK Hwys 1 and 2 at or near Tok, AK, and Seward, AK: from junction AK Hwys 1 and 2 at or near Tok, over AK Hwy 1 (Glenn Hwy), to Anchorage, AK, then over AK Hwy 1 (Anchorage-Seward Hwy) to junction AK Hwy 9 northwest of Moose Pass, AK, then over AK Hwy 9 (Anchorage-Seward Hwy) to Seward, and return over the same route, and (6) serving all intermediate points on routes (1) through (5) above.

Notes.—Applicant seeks to provide regular-route service only in interstate or foreign commerce, and (2) applicant may tack this authority with existing authority.

MC 143522 (Sub-9), filed July 5, 1983. Applicant: CONSOLIDATED CARRIERS, INC., P.O. Box D, 123 Sunrise Dr., Irwin, PA 15642. Representative: John T. Wirth, 717—17th St., Suite 2600, Denver, CO 80202-3357, 303-892-6700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156522 (Sub-2), filed June 28, 1983. Applicant: COUNTRY ROADS TRUCKING, INC., Rte. No. 5, Box 165, Sullivan, IN 47882. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave. NW., Suite 500, Washington, D.C. 20006, 202-828-5015. Transporting *explosives and blasting agents*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, brokers, distributors, and dealers of explosives and blasting agents. Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date if issuance.

MC 157312 (Sub-1), filed July 1, 1983. Applicant: ARROW-ILLINOIS COMPANY, 8801 South Chicago, Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312 263-2306. Transporting *food and related products, and such commodities* as are dealt in or used by medical laboratories, between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162952 (Sub-2), filed June 27, 1983. Applicant: CORONET TRUCK LINES, INC., P.O. Box 1775, Des Moines, IA 50306. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, 515-245-2725. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Vulcan Materials Company, of Birmingham, AL.

MC 165183 (Sub-1), filed July 5, 1983. Applicant: FLEETWOOD TRANSIT, INC., 3104 N.E. 71st Terrace, Kansas City, MO 64119. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, 402-397-7033. Transporting *general commodities* (except classes A and B explosives, and household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 168723, filed June 30, 1983. Applicant: WAYNE LILES, SR., d.b.a. BRYAN'S SERVICES, 446 Flat Rock Cemetery Rd., Stockbridge, GA 30281. Representative: Benjy W. Fincher, P.O. Box 577, Jonesboro, GA 30237, 404-477-1529. Transporting *general commodities* (except classes A and B explosives, and household goods, and commodities in bulk), between points in the U.S. (except AK and HI), uner continuing contract(s) with Medical Disposables Co., Inc., of Marietta, GA.

MC 168902, filed June 27, 1983. Applicant: G&B LEASING, INC., 18 Mile Creek Rd., Westport, KY. Representative: John M. Nader, 1600 Citizen Plaza, Louisville, KY 40202, 502-589-5400. Transporting *general commodities* (except classes A and B explosives, and household goods, and commodities in bulk), between points in KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169012, filed June 27, 1983. Applicant: CONRAD'S TRUCKING, INC., Rt. 1, Box 1063, Lake Nebagamon, WI 54849. Representative: Conrad Johnson (same address as applicant), 715-374-2721. Transporting *petroleum products*, between points in St. Louis County, MN, on the one hand, and, on the other, points in WI and MI.

[FR Doc. 83-19672 Filed 7-20-83; 8:45 am]

BILLING CODE 7035-01-M

[OP2-301-MCF-15321]

Motor Carriers; Notice of Proposed Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: July 13, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[No. MC-F-15321]

Klapec Trucking Company—Purchase Exemption—Tryon Trucking, Inc.

Klapec Trucking Company (Klapec) (No. MC 135824) and Tryon Trucking, Inc. (Tryon) (No. MC 117313) seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase, by Klapec, of Tryon's Sub-No. 10 certificate, authorizing the transportation of metal products between those points in the U.S. in and east of MN, WI, IL, KY, TN, AR, and TX. Klapec has filed a directly related gateway elimination application in No. MC 135824 (Sub-No. 9), wherein it seeks a certificate authorizing the transportation of metal products between points in AZ, CA, and WA, on the one hand, and, on the other, points in AR, GA, ME, MN, NH, NC, RI, SC, VT, VA, and DC.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative, John P. McMahon, Baker & Hostetler, 100 East Broad Street, Columbus, OH 43215

Comments should refer to No. MC-F-15321.

[FR Doc. 19668 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

[AB 36 ADM]

Rail Carriers; Amended System Diagram Map; Oregon Short Line Railway Co.

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Oregon Short Line Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 36 SDM. The Commission on June 27, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 36 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19669 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

[AB 16 SDM]

Rail Carriers; Amended System Diagram Map; San Diego and Arizona Eastern Railway Co.

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the San Diego and Arizona Eastern Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 16 SDM. The Commission on July 11, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 16 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19670 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Texas City Refining; Proposed Consent Decree; Action to Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 27, 1983 a proposed Consent Decree in *United States* v. *Texas City Refining, Inc.*, Civil Action No. G-83-261, was lodged in the United States District Court for the Southern District of Texas.

The proposed Decree provides for a civil penalty of $50,000 for past violations of Section 301 of the Clean Water Act, 33 U.S.C. 1311, as well as stipulated penalties for future violations, and injunctive relief. The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments related to the proposed Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to *United States* v. *Texas City Refining, Inc.*, DJ Ref. No. 90-5-1-1-1784.

The proposed Consent Decree may be examined at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270 and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. All requests for copies should be accompanied by a check in the amount of $2.20 (10 cents per page reproduction costs) made payable to the Treasurer of the United States.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-19788 Filed 7-20-83; 8:45 am]

BILLING CODE 4410-01-M

Consent Judgment in Clean Water Act Enforcement Action

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Midwest Solvents Company, Inc.*, Civil Action No. 83-4197, has been lodged with the United States District Court for the District of Kansas. The consent decree requires the Midwest Solvents Company, Inc. To comply with the terms of its NPDES permit; to pay stipulated penalties and take corrective measures in the event of failure to comply therewith; and to pay a civil penalty of $25,000.

The consent decree may be examined at: (1) the office of the United States Attorney, District of Kansas, 385 Federal Building, 444 Quincy Street, Topeka, Kansas 66683, (2) the office of the Environmental Protection Agency, Region VII, Office of Regional Counsel, 324 E. 11 St., Kansas City, Missouri 64106, and (3) the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice. The Department of Justice will receive comments relating to the consent decree for a period of thirty (30) days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States* v. *Midwest Solvents Company, Inc.*, DOJ Reference #90-5-1-1-1264.

F. Henry Habicht, II,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 83-19698 Filed 7-20-83; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree for Violations of the Clean Water Act by the City of Vernon, Texas and the Celanese Corporation at Vernon's Treatment Facility

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 23, 1983, a proposed consent decree in *United States* v. *City of Vernon, Texas; Celanese Corporation; and the State of Texas*, Civil Action No. CA7-83-42 was lodged with the United States District Court for the Northern District of Texas. The proposed consent decree requires the Celanese Corporation to cease introduction of pollutants into the Vernon treatment works in violation of pretreatment standards and for the processing of a NPDES permit regarding discharges by Celanese into the Pease River. It also requires the City of Vernon to submit for EPA approval a correction plan to bring its treatment facility into compliance with the Clean Water Act, and to implement the plan as approved. In addition, the consent decree requires the defendants, jointly and severally to pay a penalty for past violations.

The Department of Justice will receive, for a period of thirty (30) days from date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Vernon, Texas et al.*, D.J. No. 90-5-1-1-1847.

The proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Texas, U.S. Federal Building and Courthouse, 1100 Commerce Street, Dallas, Texas 75242, the Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270 and the United States Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check or money order in the amount of $1.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-19699 Filed 7-20-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL ADVISORY COMMITTEE ON OCEAN AND ATMOSPHERE

Changed Meeting Date

July 14, 1983.

Pursuant to Section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) has changed the October 17-18 meeting.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The revised schedule is as follows:

January 24-25, 1983, Monday and Tuesday
March 7-8, 1983, Monday and Tuesday
April 13-14, 1983, Wednesday and Thursday
May 23-24, 1983, Monday and Tuesday
July 11-12, 1983, Monday and Tuesday
August 25-26, 1983, Thursday and Friday
(Revised) October 18-19, 1983, Tuesday and Wednesday
December 5-6, 1983, Monday and Tuesday

The public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning these meetings may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven St., NW., Washington, D.C. 20235. The telephone number is 202/653-7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 83-19658 Filed 7-20-83; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL CAPITAL PLANNING COMMISSION

Revised Procedures for Public Participation

AGENCY: National Capital Planning Commission (NCPC).

ACTION: Notice of adopted amendment.

SUMMARY: The amendment to the Commission's Revised procedures for Public Participation (48 FR 9095, March 3, 1983) sets forth guidelines for oral presentations at Commission meetings by members of the public.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Samuel K. Frazier, Public Affairs Officer, National Capital Planning Commission, 1325 G Street NW., Washington, D.C. 20576, (202) 724–0174.

SUPPLEMENTARY INFORMATION: The proposed amendment was published for comment in the **Federal Register** on May 5, 1983 (48 FR 20308) with a deadline for comment of June 6, 1983. No comments were received. Add at end of the section entitled *"How do you express your views to the Commission?":*

The following guidelines are applicable to oral presentations:

(a) *Length of presentation:* Presentations of individuals who are representing themselves are ordinarily limited to 5 minutes. Presentations of representatives of organizations are ordinarily limited to 10 minutes. Organizations may use one or more participants in making their presentation. However, the Chairman may set different time limits for both individuals and organizations, depending on the nature of the item, the number of speakers who registered, and the total time available.

(b) *Copies of written statements:* Written statements are not required of those who make oral presentations. However, they are preferred if at all possible. If a speaker desires to submit a written statement or other materials to each member of the Commision, they must be submitted to the Secretary to the Commission by noon of the day preceding the day of the meeting, and copies will be reproduced by the Secretary and distributed to each member of the Commission prior to the beginning of the meeting. Otherwise, materials must be delivered in twenty-five copies to the Public Affairs Office prior to the beginning of the meeting.

(c) *Representatives or organizations:* Speakers representing organizations should preface their remarks by identifying the organization, its purpose, and the number of members, indicating their position or title in the organization, and stating the date on which the organization met and took a position on the matter before the Commission.

(d) *Nature of comments:* Comments are solicited on all matters before the Commission. However, comments on non-Federal plans and projects should be limited to their effect on Federal interests in the National Capital Region. For more detailed information, please refer to the section below entitled: "What should your statement contain?"

(e) *Order of speakers:* Ordinarily the order of speakers is determined by the date and time on which they register. However, the Chairman may adjust the order of speakers.

Daniel H. Shear,

Secretary to the Commission.

July 14, 1983.

[FR Doc. 83-19765 Filed 7-20-83; 8:45 am]

BILLING CODE 7520-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel (AFI–Film Preservation; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (AFI–Film Preservation) to the National Council on the Arts will be held on August 5, 1983, from 9:00 a.m.–5:30 p.m. in Room 716–718 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting 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 discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, 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.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-19792 Filed 7-20-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978; Point Reyes Bird Observatory, , et. al.

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45, Part 670 of the Code of Federal Regulations.

DATES: interested parties are invited to submitt written data, comments, or views with respect to these permit applications by September 1, 1983. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations may be found at Title 45, Part 670 of the Code of Federal Regulations. Copies are available from the National Science Foundation.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

- To take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird or to attempt to enagage in such conduct)
- To collect any plant native to Antarctica in specially protected areas

• To enter any Specially Protected Area or certain Sites of Special Scientific Interest

• To import into or export from the United States any mammal or bird native to Antarctica or any plant collected in a Specially Protected Area

• To introduce to Antarctica any nonindigenous plant or animal.

• The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commission, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific Interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or nursing) or the scientific names and numbers of native plants to be collected in a Specially Protected area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objectives of the Antarctic Conservation Act, that is, the conservation and protection of Antarctic flora and fauna and the Antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act. Permit applications involving native mammals or native birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The applications received by the National Science Foundation are as follows:

1. *Applicant:* David G. Ainley, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970.

A. *Activities for Which Permit Requested:* Taking, Entry into Site of Special Scientific Interest (Cape Crozier).

The applicant requests permission to enter Cape Crozier, Ross Island to conduct a population surevy of South Polar Skuas. Birds are to be captured, banded and released. Up to 100 birds will be banded.

B. *Location:* Cape Crozier, Ross Island, Antarctica.

C. *Dates:* November 15, 1983 to January 15, 1984.

2. *Applicant:* David G. Ainley, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970.

A. *Activities for Which Permit Requested:* Taking, import into U.S.A.

The applicant is investigating how food availability may limit seabird populations in the Antarctic and energy cycling in upper trophic levels. The applicant proposes to collect the following species:

Species	Number
Adelie Penguin	25
Chinstrap Penguin	25
Rockhopper Penguin	25
Macaroni Penguin	25
Sooty Albatross	25
Black-browed Albatross	25
Gray-headed Albatross	25
N. Giant Fulmar	30
S. Giant Fulmar	30
Antarctic Petrel	100
Snow Petrel	100
Cape Petrel	100
Kerguelen Petrel	100
Soft-plumaged Petrel	100
Diving Petrel	100
Blue Petrel	100
Antarctic Prion	100
Other prions (4)	100
Wilson's Storm Petrel	100
Black-bellied Storm Petrel	100
Gray-faced Storm Petrel	100
South Polar Skua	75
Brown Skua	75
Arctic Tern	75

B. *Location:* Soctia and Weddell Seas.

C. *Dates:* October 1, 1983 to December 31, 1983.

3. *Applicant:* Arthur L. DeVries, Department of Physiology, 524 Burrill Hall, University of Illinois, Urbana, Illinois 61801.

A. *Activities for Which Permit Requested:* Introduction of a non-indigenous species into Antarctica.

The applicant requests permission to introduce up to 12 specimens of the fish *Notothenia angustata* (black cod) into a closed laboratory environment at McMurdo Station, Antarctica. The specimens will be used in experiments on the role of glycopeptides in prevention of freezing of the intestinal fluid of nototheniid fishes.

B. *Location:* McMurdo Station, Antarctica.

C. *Dates:* October 1, 1983 to February 28, 1984.

4. *Applicant:* Donald B. Siniff, 108 Zoology Building, University of Minnesota, Minneapolis, Minnesota 55455.

A. *Activity for Which Permit Requested:* Taking, import into the U.S.A.

The applicant proposes to capture, tag and release seals in the McMurdo Sound area, Antarctica in support of continuing research on the population dynamics of Weddell seals. Incidental approach or capture of other Antarctic seals is a possibility during this survey. Up to 10 Weddell seals may be killed for age-growth studies. Transport of parts of Weddell seals collected by the New Zealand Antarctic Research Program is requested. The applicant requests permission to capture and release up to the following number of seals:

Leptonychotes weddelli (Weddell Seal)	1,000
Ommatophoca rossi (Ross Seal)	15
Hydrurga leptonyx (Leopard Seal)	15
Mirounga leonina (Elephant Seal)	15
Lobodon carcinophagus (Crabeater Seal)	15

B. *Location:* Vicinity of McMurdo Station, Antarctica; Western McMurdo Sound, Ross Sea, Antarctica.

C. *Dates:* October 1, 1983 to October 1, 1984.

5. *Applicant:* Wayne Trivelpiece, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970.

A. *Activity for Which Permit Requested:* Taking, entry into site of Special Scientific Interest (Point Thomas).

The applicant requests permission to take (by banding only) up to 1,000 Adelie and Gentoo penguins and up to 500 Chinstrap Penguins for a study of the population dynamics of the Pygoscelid penguins. The applicant also requests permission to enter Point Thomas Site of Special Scientific Interest.

B. *Location:* Arctowski Station, King George Island, South Shetland Islands; Point Thomas Site of Special Scientific Interest.

C. *Dates:* January 1, 1984 to March 1, 1984.

6. *Applicant:* Frank S. Todd, Hubbs-Sea World Research Institute, 1700 South Shores Road, San Diego, California 92109.

A. *Activity for Which Permit Requested:* Taking, import into U.S.A.

The applicant proposes to collect Antarctic avifauna eggs for return to the Hubb-Sea World Research Institute breeding facility. Eggs of the following species will be collected:

Species	Number of eggs
Chinstrap Penguin	150
Gentoo Penguin	150
Sheathbill	30
Giant Petrel	20
Blue-eged Shag	50
Brown Skua	25
Kelp Gull	25
Antarctic Tern	25

B. *Location:* Nelson Island, Antarctic Peninsula area.

C. *Dates:* November 1, 1983 to December 31, 1983.

7. *Applicant:* Vera Komarkova, INSTARR, University of Colorado, Boulder, Colorado 80309.

A. *Activity for Which Permit Requested:* Taking, enter Specially Protected Area, enter Site of Special Scientific Interest.

The applicant requests permission to collect plants in the Antarctic Peninsula in Specially Protected Areas (Litchfield Island, Coppermine Peninsula, Cape Shirreff) and Sites of Special Scientific Interest (Fides Peninsula, Byers Peninsula, western shore of Admiralty Bay) as part of aplant community study.

B. *Location:* Litchfield Island; Coppermine Peninsula; Cape Shirreff; Fides Peninsula, Byers Peninsula; western shore of Admiralty Bay.

C. *Dates:* November 15, 1983 to April 30, 1984.

8. *Applicant:* William M. Hamner, Department of Biology, University of California, Los Angeles, California 90024.

A. *Activity for Which Permit Requested:* Taking, import into U.S.A., enter Specially Protected Area.

The applicant proposes to study the transformation of lipids in krill into the stomach oil storage products of various seabird predators, and to document photographically the behavior of marine mammals, seabirds, and fish that are krill predators. The applicant proposes to concentrate on 4 penguin species which are pursuit divers that feed in groups on krill underwater. He requests shotgun collection of 25 specimens of each species for both stomach content analysis and collection of stomach oils. The applicant proposes to collect up to 75 live specimens of each species at sea with a gill net. The captured penguins will be forced to regurgitate stomach contents and will then be released. The other 3 birds of central interest, the Antarctic Tern, the Snow Petrel and Wilson's Storm Petrel, are all surface pickers with krill feeding strategies quite different from those of penguins. The applicant requests shotgun collection of 25 specimens of each of these species for both stomach content analysis and stomach oil samples.

The applicant request is for taking the following species:

SHOTGUN

Species	Number
Adelie Penguin	25
Chinstrap Penguin	25
Gentoo Penguin	25
Macaroni Penguin	25
Antarctic Tern	25
Snow Petrel	25
Wilson's Storm Petrel	25
Black-browed Albatross	5
Giant Petrel	5
Blue Petrel	5
Antarctic Petrel	5
White-chinned Petrel	5
Peal's Petrel	5
Silver-gray Fulmar	5
Prion	5
Arctic Tern	5
S. Black-backed Gull	5
South Polar Skua	5
Brown Skua	5
Blue-eyed Shag	5
American Sheathbill	5
Cape Pigeon	5

CAPTURE AND RELEASE

Species	Number
Adelie Penguin	75
Chinstrap Penguin	75
Gentoo Penguin	75
Macaroni Penguin	75

Photography—(will not require handling or catching animals. Long lens photography will minimize their disturbance.)

Birds:
- Black-browed Albatross
- Giant Petrel
- Blue Petrel
- Silver-gray Fulmar
- Cape Pigeon
- Prion
- S. Black-backed Gull
- Antarctic Petrel
- White-headed Petrel
- Peal's Petrel
- Snow Petrel
- Wilson's Petrel
- Brown Skua
- South Polar Skua
- Antarctic Tern
- Arctic Tern
- Blue-eyed Shag
- American Sheathbill
- Adelie Penguin
- Chinstrap Penguin
- Gentoo Penguin
- Macaroni Penguin
- Rockhopper Penguin

Mammals:
- Antarctic Fur Seal
- Crabeater Seal
- Elephant Seal
- Leopard Seal
- Ross Seal
- Weddell Seal
- Blue Whale
- Fin Whale
- Humpback Whale
- Killer Whale
- Sei Whale
- S. Right Whale

B. *Location:* Antarctic Peninsula area, Litchfield Island.

C. *Dates:* December 1, 1983 to April 30, 1984.

Authority to take action under the Antarctic Conservation Act of 1978 including publication of this notice, has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Director, Division of Polar Programs.

July 14, 1983.

[FR Doc. 83-19606 Filed 7-20-83; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports, Safety Recommendations, and Responses; Availability

Responses from:

Aviation—*Federal Aviation Administration: Apr. 1: A-82-152:* Changes to 14 CFR 139.31 and 14 CFR 139.33 are being

considered to require that airports certificated under 14 CFR 139 and located in areas subject to snow or freezing precipitation have an adequate snow removal plan, which includes criteria for closing, inspecting, and clearing contaminated runways following receipt of "poor" or "nil" braking action reports and to define the maximum snow or slush depth permissible for continued flight operations. *A–82–153 and –154:* Is considering several alternative proposals for action involving the use of friction measuring devices for evaluating runway pavement surface conditions. *A–82–155 and –169:* A Joint Aviation/Industry Landing and Takeoff Performance Task Group has been meeting. *A–82–156:* Will amend FAA Handbook 7110.65C, paragraph 49, Pilot Information Report, to provide for timely solicitation and dissemination of pilot braking action reports during those times when "braking action advisories" are in effect. *A–82–157:* Will modify FAA Handbook 7210.3F, paragraph 430, Letters of Agreement, to establish responsibilities for the prompt exchange of braking action reports between the tower and airport management. Additionally, we propose to provide procedures within FAA Handbook 7110.65C, paragraph 980, Departure Information, and paragraph 1010, Landing Information, that will ensure the timely relay of current braking action reports to departing and arriving aircraft. *A–82–158:* Training materials developed by the FAA Academy concernig braking action are being reviewed to assure appropriate emphasis is being placed on the current procedures contained in FAA Handbook 7110.65C, Chapter 5, Section 3, Airport Conditions. *A–82–159:* Will include procedures within FAA Handbook 7210.3F, paragraph 1230, Automatic Terminal Information Service that will clarify the need to update broadcasts based on braking action reports, and is considering procedures for inclusion of the statement "braking action advisories are in effect," during periods when braking action is changing rapidly or the terms "poor" or "nil" are used to describe braking action. *A–82–160:* The Airman's Information Manual will be amended to describe the pilots' involvement in the collection and relay of braking action advisories. The December 1982 Air Traffic Service Bulletin No. 82–2 was devoted to winter operations. *A–82–161:* Will evaluate Air Carrier Operations Bulletin 7–76–33, Suggested Procedures When Landing on Slippery Runways to determine if the procedures remain valid in view of current information and if there are any additional procedures that need emphasis. *A–82–162:* Because there are a number of different control laws utilized in the design of autothrottle speed control systems, FAA is continuing its review of the recommendation to require airplane manufacturers and air carriers to provide advisory information and recommended procedures for flightcrew use during a landing approach with the autothrottle speed control system engaged when there is a disparity between the minimum speed the autothrottle speed control system will accept and the flight manual reference speed. *A–82–163, –164, and –165:* Is reviewing comments and recommendations developed by the Joint Aviation/Industry Landing and Takeoff Performance Task Group concerning the general subject of reduced decision speed (V1). *A–82–166:* Because of the variability in methods of measuring and comparing braking efficiency, and because of the FAA's lack of confidence in simulation for use in predicting braking performance, FAA does not agree with recommendation to amend 14 CFR 25.735 to require that manufacturers of transport category airplanes determine and demonstrate the efficiency of brake control systems on surfaces with low friction coefficients representative of wet and icy runways by using simulation techniques incorporating dynamometer tests and actual brake system components, or by actual flight test. *A–82–167:* Because of the FAA's response to recommendation A–82–166, the FAA does not plan to amend 14 CFR 121.135 to require that air carriers and other commercial operators of large transport category airplanes include in flightcrew operations manuals takeoff acceleration retardation data in accordance with guidance provided in Advisory Circular 91–6A and stopping performance data on surfaces having low friction coefficients, beginning immediately when such data are available from airplane manufacturers. *A–82–168:* FAA and the National Aeronautics and Space Administration are formulating a test program to develop means to provide runway braking condition information which has a more qualitative basis than subjective pilot reports. *Apr. 4: A–82–140 and –141:* A fuel filler neck insert has been developed for aircraft that use aviation gasoline that will not allow a jet fuel nozzle to enter the fuel tank. The inserts will soon be made available in kit form for installation on existing aircraft. Also, two new different-sized nozzle spouts—one for jet fuel and one for aviation gas—have been developed. *Arp. 7: A–82–56:* Airworthiness Directive 82–26–06, effective December 27, 1982, eliminated the use of isopropyl alcohol windshield washer/deicing systems on deHavilland DHC–6 airplanes, and requires the installation of electrically heated windshields on those deHavilland DHC–6 airplanes certificated for flight into icing conditions. *A–82–57:* Is reviewing and evaluating the design of all isopropyl alcohol windshield deice systems on small airplanes, the installation of these systems in occupied compartments, and system compliance with applicable Federal Aviation Regulations. *Apr. 12: A–82–19:* Issed on December 12, 1982, Change 12 to FAA Handbook 8710.4, which transmitted Certification Bulletin No. 82–3, The Need for Increased Emphasis on Partial Panel Instrument Skills, and on the Early Detection of Instrument and Equipment Failure/Malfunctions During the Training and Testing of Airmen. *Apr. 19: A–81–157 through –160:* Is reviewing the public comments received in response to Notice of Proposed Rulemaking No. 82–CE–34–AD concerning problems associated with the operation of the fuel system on Piper PA–24, PA–30, and PA–39 airplanes, and also with the replacement of the fuel selector strainer housing on PA–30 airplanes.

Highway—*Federal Highway Administration: Apr. 1: H–82–23:* Reviewed the Louisiana Department of Transportation and Development's bridge maintenance practices and procedures for following through with temporary maintenance repairs and made recommendations for improvement.

U.S. Department of Health and Human Services: May 4: H–82–37: Informed all Head Start grantees and delegate agencies of the circumstances of the school van accident in Hermanville, Mississippi, on December 17, 1981, and urged them to use the Pupil Transportation Safety Standard, Highway Safety Progarm Standard Number 17 to assess the adequacy of their transportation system.

National Association of Student Personnel Administrators, Inc.: Mar. 24: H–83–5 and –6: Advised its members of the circumstances of the October 6, 1982, accident near Lynchburg, Virginia, involving students from the University of Virginia, and urged them to establish a policy for the transportation of student groups to and from offcampus events.

American Trucking Associations, Inc.: Apr. 19: H–82–17: Issued a technical bulletin concerning the correct procedures for installing bearings to avoid damage to aluminum wheels.

Marine—*U.S. Coast Guard: Apr. 29: M–75–10:* To improve coordination throughout the country, guidance will be issued in the Marine Safety Manual for Captains of the Port to work with local fire departments in determining adequacy of firefighting capabilities on marine terminals. *M–79–38:* Is participating in the establishment of a new National Fire Protection Association standard for marine terminals. *M–78–40:* Visitor movement control on terminals is accomplished by the guard force required in 33 CFR 126, and warning signs are displayed on tank vessels and transfer docks prohibiting visitors.

International Association of Drilling Contractors: Apr. 6: M–83–37: Distributed to members the recommendation that they review the suitability of lifeboat, liferaft, and other launching systems on mobile offshore drilling units under severe weather conditions.

Texaco, U.S.A. Apr. 8: M–80–44: Individual low-pressure flowlines are not usually marked because of the reduced hazard, but are buried beneath the bottom. *M–80–45:* Normally does mark all crossings of natural waterways. *M–80–46:* Tank batteries do exhibit "no smoking" signs, although the signs are not always visible from the waterside. *M–80–47:* Field operations involving equipment such as a pile driver receive proper supervision. *M–80–48:* Contractors are instructed on basic safety practices by Texaco supervisors on the job, and are required to perform their work in a safe manner by the terms of the contract agreements.

Gas Research Institute: Apr. 18: P–83–11: A current research program will identify scenarios that would benefit from the use of excess flow valves and ascertain potential benefits in terms of achievable risk reduction. *P–74–44 through –46:* Recently completed proof-of-concept development for three different approaches for odorant monitoring

devices and has chosen one for further development.

American Public Works Association: Apr. 29: P–83–5: Will inform its members of the circumstances of the accident in Portales, New Mexico, on June 28, 1982, and will urge them to cooperate with the pipeline operator in determining the extent of damage when pipeline facilities have been damaged.

Mountain Bell: Apr. 7: P–80–48 and –49: All contractors performing work for Mountain Bell must sign Bell System Practices and Contract Documents, which apply to both Mountain Bell employees and contract workers and which are strictly enforced.

The Gas Service Company (Kansas City, Missouri): Apr. 5: P–78–68, –69, and –73: Issued written policy in April 1979 concerning: (1) the need to establish and maintain lines of communication with cities and others relative to public works projects, (2) paying strict attention to requests for facility locations and keeping proper records, (3) maintaining field contact with contractors doing excavating work, along with continued field observation of work progress, so as to maintain integrity of markers, etc., and (4) requiring that on-site inspections in areas of excavation include being sure previously installed markers are visible and accessible. Introduced a new "Request to Locate Form" to provide a record of requests for locations in May 1981. *P–78–70:* Continually stresses that proper records must be kept so as to document any work effort. *P–78–71 and –75:* A procedure was written into the Operation, Maintenance and Inspection Manual in May 1979 regarding repairs, especially regarding the need to consider downward a revision of pressures and/or the shutdown of a piping system so as to accomplish a repair. Also specified was the need to train workmen as to how to properly install various repair fittings and to periodically check repair fitting stock to be sure of continued property so as to be ready for use. *P–78–72:* A revised emergency plan format was issued in May 1980 which meets the requirements of 49 CFR 192.615. Company Claims Department personnel present audiovisual programs to fire departments, along with dispensing handout-type information. *P–78–74:* Has required the use of flame-retardant clothing since December 1979.

U.S. Research and Special Programs Administration: Mar. 21: P–72–63; P–73–3, –37, and –50; P–74–29 and –38; P–75–1, –7, and –8; P–76–5, –10, –16, –43, –44, –45, and –66; P–77–34, –35, and –36; P–78–11, –44, –50, –58, –59, –60, and –61; P–79–30; P–80–29, –47, –59, –69, –72, –74, –89, and –90; P–81–6, and –14; and P–83–1: Response letter summarizes the actions taken by the Dept. of Transportation to improve the public safety in the pipeline transportation of natural gas and liquid hazardous materials; and the relationship between these actions and the 38 recommendations listed.

Railroad—*National Railroad Passenger Corporation (Amtrak): Mar. 31: R–82–89:* Modifications have placed the original equipment strobe lights on the battery side of the "protector" of all AEM–7 locomotives so that the lights will remain on after a battery protector trip. *R–82–90:* Original equipment of the AEM–7 includes a DC current meter in the battery charging system which is located in the locomotive machine room at a main control panel. There is also a fault light indicating no battery charge in the engineer's cab. R–82–91: AEM–7 locomotives had only three critical systems connected to the battery side of the battery voltage protector relay, and have been modified to add the white and red strobe lights to the battery side of the voltage protector. *R–82–92:* Modified the wording of the Format "Q" Train Order to include the maximum permissible speed in the body of the train order, and lowered that speed from "reduced" to "restricted." *R–82–93:* Believes recommendation that the maximum allowable speed of a locomotive be posted in a conspicuous location adjacent to the operating position is not warranted because all locomotives operating within the Northeast Corridor have maximum allowable speeds which are governed by their operating configuration and which are subject to track speed restrictions. *R–82–94:* Believes that the provisions of 49 CFR 218.37 as reflected in rule 99 of Amtrak's operating rules are adequate to provide protection against following moves in automatic block territory. *R–82–95 and –96:* Holds a 5-day training class for transportation supervisors and train dispatchers that focuses directly on the proper interpretation of operating rules and instructions, and holds a 6–week review program in transportation management for trainmasters and road foremen. Will increase the length of its annual operating rules requalification classes for train and engine personnel. *R–82–97:* Believes that the format and structure of the Northeast Corridor Timetable is not undly complex considering that, although it may in total be a "formidable document," its schedules are arranged by division, and although the Special Instructions are arranged in relationship to the operating rules and to subject matter, a code system is used to identify on which division or divisions a given instruction applies. *Apr. 19: R–82–5:* Revised switch inspection and test report.

New Jersey Department of Transportation: Apr. 14: R–82–107: Electric lock mechanisms for facing point switches have been requested in the FY 84 Capital Program.

The Atchison, Topeka and Santa Fe Railway Company: Apr. 18: R–82–4: Reevaluated its practices and procedures in the inspection and maintenance of special track areas.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

July 15, 1983.

[FR Doc. 83-19595 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Discontinuance of NRC Authority and Assumption Thereof by States Through Agreement; Criteria for Guidance of States and NRC

AGENCY: Nuclear Regulatory Commission.

ACTION: Statement of policy: Revision.

SUMMARY: Criterion 9 of the NRC's Policy for Discontinuance of Authority dated January 23, 1981 appearing at 46 FR 7540–7546, deals with waste disposal. It states that the standards for disposal into air, water and sewer, and burial in soil shall be in accordance with 10 CFR Part 20. The Commission's regulation 10 CFR Part 61, which became effective December 27, 1982, provides licensing procedures, performance objectives, technical requirements and financial assurance requirements for the issuance of licenses by NRC for the land disposal of most wastes that are commonly referred to as low-level waste. In addition, the Nuclear Waste Policy Act of 1982 requires that the NRC and the Agreement States provide and approve certain stated financial arrangements prior to issuance of a license for low-level radioactive waste disposal or in the case of licenses in effect, prior to termination of such licenses. The financial arrangements are to cover completion of all requirements for the decontamination, decommissioning, site closure and reclamation of sites, structures and equipment used in conjunction with low-level waste disposal.

The Commission believes that States seeking an agreement pursuant to Section 274b of the Atomic Energy Act of 1954, as amended, to regulate land disposal of radioactive waste should establish standards for disposal which are in accord with the applicable technical definitions, performance objectives, technical requirements, and financial assurance requirements of 10 CFR Part 61 and the waste transfer and manifest system prescribed in 10 CFR Part 20. For the waste manifest system to function effectively on a national basis, it is necessary for all licensees, both NRC and Agreement State, to follow the same system. Thus, the Agreement States are expected to adopt and implement this system for their licensees.

Therefore, the NRC is revising Criterion 9 to include reference to the performance objectives, technical requirements and financial assurance requirements contained in Part 61 and the waste transfer and manifest system

contained in Part 20. The revision also satisfies the provisions of the Nuclear Waste Policy Act of 1982. Criterion 9 will be used in judging the adequacy and compatibility of that aspect of a State's regulatory program for regulating land disposal of low-level radioactive waste. No additional revisions to the criteria are considered necessary at this time to enter into an agreement with a State which includes authority to regulate low-level radioactive waste disposal.

For Agreement States currently regulating operating burial sites, NRC has been and will continue to work with the States to implement Part 61 provisions on a case-by-case basis, to the extent practicable. The waste transfer and manifest system, 10 CFR 20.311 becomes effective December 27, 1983. On an interim basis, arrangements are being made with the Agreement States regulating the existing burial sites to implement the waste classification system and waste transfer and manifest system through the burial site licensees.

FOR FURTHER INFORMATION CONTACT: Kathleen N. Schneider, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301–492–9893.

SUPPLEMENTARY INFORMATION: Criterion 9 is revised to read as follows:

* * * * *

9. Radioactive Waste Disposal.

(a) Waste disposal by material users. The standards for the disposal of radioactive materials into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

(b) Land disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (section 151(a)(2), Pub. L. 97–425).

Commissioner Roberts, in disapproving, stated "Given the states' and the public's interest in all aspects of our waste disposal regulations and guidance, this revision should go out for public comments."

Dated at Washington, D.C. this 14th day of July, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-19710 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–366]

Georgia Power Co. et al.; Confirming Licensee Commitments on Pipe Crack Related Issues

I

The Georgia Power Company (GPC or the licensee) and three other co-owners are the holders of Facility Operating License NPF–5 which authorizes operation of the Edwin I. Hatch Nuclear Plant, Unit 2 (Hatch or the facility) at steady state reactor power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Appling County, Georgia.

II

During the current 1983 refueling outage at Hatch Unit 2, augmented inservice inspection was performed on the recirculation reactor heat removal and reactor water cleanup system piping in accordance with Office of Inspection and Enforcement Bulletin 83–02. The original sample size was expanded to 108 welds after ultrasonic indications were reported on welds in the original sampling. Welds most likely to crack were selected for the expanded inspection. Overall, out of a total of 108 welds inspected, a total of 39 were found to show linear indications which consist of 23 12-inch riser welds, four 22-inch manifold end cap welds, nine 28-inch recirculation welds, two residual heat removal system 20-inch welds and one residual heat removal system 24-inch weld. All indications were reported to be parallel to the weld in the heat-affected-zone. The deepest indication reported in the 12-inch riser welds is 32% of wall thickness. The deepest indication in the large-size pipe welds is 42% of the wall thickness in a 22-inch manifold end cap weld.

Evaluation by the licensee, submitted by letters dated May 26 and June 8, 1983, indicates that the projected crack sizes, due to intergranular stress corrosion cracking (IGSCC) and fatigue crack growth, in the 12 large-diameter defective welds at the end of an 18-month fuel cycle would be within the ASME Code limits.

The licensee's evaluation also showed that the 23 12-inch riser welds and the four 22-inch manifold end cap welds required repair for continued service because their calculated projected cracks would exceed the Code limits at the end of an 18-month fuel cycle.

All 23 of the defective 12-inch riser welds and three of the four defective end cap welds were repaired using a weld overlay process. The remaining end cap was replaced. The licensee's evaluation showed that each weld overlay was designed such that the weld joint meets the ASME Code Section III requirements, including fatigue. The predicted ultimate failure load based on tearing modulus approach was calculated for each overlay design. The ultimate failure load was shown to be at least three times the normal applied loads, which provides a safety margin larger than that inherent in the Code.

The staff has reviewed the licensee's submittals including analysis of weld overlay design and the calculation of IGSCC crack growth, based on current crack growth data, to support the continuing service for an 18-month fuel cycle with the 25 overlay repaired 12-inch riser and 22-inch manifold end cap welds, and the 12 unrepaired large-diameter defective welds.

The staff has performed independent calculations of crack growth, also based on current crack growth data, on the worst circumferential crack among the 12 large-diameter defective welds. Our calculated final crack depth at the end of an 18-month period meets the Code limit with adequate margin. Therefore, based on the staff's calculations and review of the licensee's analyses using current crack growth data, we conclude that the continuous service of the 12 large-diameter defective welds without repair for one 18-month fuel cycle would be acceptable because the Code design margin is maintained. However, recent field experience has indicated that the

current crack growth data may not be conservative. As a result, the staff will require that the piping be inspected well before the completion of the 18-month cycle to evaluate changes in the crack depth for already cracked pipe (both repaired and unrepaired) and any indications of new cracks in previously unflawed pipe.

III

Although the calculations discussed above indicate that the cracks in the 12 large-diameter unreinforced welds will not progress to the point of leakage during the next fuel cycle, and margins are expected to be maintained over crack growth which could compromise safety, uncertainties in crack sizing and growth rate still remain. Further, not all welds were examined, and significant cracks could be present in welds that were not examined.

Because of these uncertainties, we have determined that interim inspection of pipes and monitoring in the containment for unidentified leakage is required; therefore, new limiting conditions for operation and surveillance requirement are hereby issued. These enhanced surveillance measures will provide adequate assurance that possible cracks in pipes will be detected before growing to a size that will compromise the safety of the plant.

The staff also has some concern regarding the long-term growth of IGSCC cracks and its effect on the long-term operation of the plant. Therefore, we will require that plans for corrective action or modification including replacement of the recirculation and other reactor coolant pressure boundary piping systems during the next refueling outage be submitted for staff review at least three months before the start of the next refueling outage.

By letters dated May 25, June 2, and June 8, 1983, the licensee committed to the above described conditions on leakage monitoring and early submittal of inspection and/or modification plans. By letter dated July 8, 1983, the licensee also committed to submit its plans for interim inspection of some of the welds for staff review. I have determined that the public health and safety requires that these commitments should be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Section 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

1. The licensee shall operate the reactor in accordance with the present requirements on coolant leakage in Section 3.4.3 and 4.4.3 of the Technical Specifications, as modified by Attachment A to this Order.

2. Plans for additional inspections during the present 18-month cycle to include examination of the repaired and unrepaired pipe shall be submitted for staff review within 30 days of issuance of this order. These plans shall include provisions for identifying crack depth and crack propagation rates to support continued plant operation.

3. Plans for corrective actions and/or modification, including replacement of the recirculation and other reactor cooling pressure boundary piping systems during the next refueling outage shall be submitted for NRC review at least three months before the start of the next refueling outage.

4. The Director, Division of Licensing, may in writing relax or terminate any of the above provisions upon written request from the licensee, if the request is timely and provides good cause for the requested action.

V

The licensee may request a hearing within twenty (20) days of the date of publication of this Order in the Federal Register. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent ot the Executive Legal Director at the same address. A request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 8th day of July 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachment A.—Augmented Reactor Coolant Leak Detection

1. Grab samples of the containment atmosphere, as discussed in the ACTION statement of Technical Specification 3.4.3.1. (one leakage detection system inoperable) will be obtained and analyzed once per 4 hours, instead of 24 hours as presently required.

2. Primary system gaseous and particulate system channel checks (Technical Specification 4.4.3.1.a) will be performed once every 4 hours, instead of 12 hours as presently required.

3. Actions required by Technical Specification 3.4.3.2.c will be implemented if reactor coolant leakage increases by 2 gpm unidentified leakage within any 24-hour period or less instead of within any 4-hour period as presently required.

4. With greater than 5 gpm unidentified RCS leakage, or 25 gpm total RCS leakage averaged over any 24-hour period (Technical Specification 3.4.3.2 Action b.) the leakage rate will be reduced to within these limits within 4 hours, or the provisions of this ACTION statement will apply. Presently, 8 hours is allowed to reduce leakage rates.

5. Monitoring of primary containment floor drain sump and equipment sump levels will take place per 4 hours, instead of once per 12 hours, as presently required (Technical Specification 4.4.3.2.a).

6. Monitoring or primary containment atmospheric particulate and gaseous radioactivity levels will take place once per 4 hours, instead of once per 12 hours, as presently required (Technical Specification 4.4.3.2.b).

7. In addition to the present requirements of Technical Specification 3.4.3.1, operability of at least one of the leakage measurement instruments associated with each sump shall be maintained per Surveillance Requirement 4.4.3.1.b.

8. Perform a sensor check at least once per 4 hours for the primary containment sump level and flow monitoring system in addition to the surveillance presently required by Technical Specification 4.4.3.1.b.

[FR Doc. 83-19700 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is

then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D9, "Design Aspects of Radiation Protection for Nuclear Power Plants," has been developed. The working group, consisting of Mr. R. Hock from the Federal Republic of Germany; Mr. B. F. Chamany from India; Mr. P. A. Solari from the United Kingdom; and Mr. E. Kunz from Czechoslovakia, developed the initial draft of this guide from an IAEA collation. This draft was subsequently modified by the IAEA Technical Review Committee for Design and the Senior Advisory Group, and we are now soliciting public comment on a modified draft (Rev. 7, dated November 12, 1982). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by August 12, 1983, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C., this 13th day of July 1983.

For the Nuclear Regulatory Commission.

Denwood F. Ross,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-19709 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL; ASLBP No. 77-347-01-OL]

Long Island Lighting Co.; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Long Island Lighting Company* (Shoreham Nuclear Power Station, Unit 1), Docket No. 50-322-OL, is hereby reconstituted by appointing Dr. George A. Ferguson to the Board in place of Dr. James H. Carpenter, who is presently unable to continue his service on the Board.

As reconstituted, the Board is comprised of the following Administrative Judges:

Lawrence Brenner, Chairman
Dr. Peter A. Morris
Dr. George A. Ferguson

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Administrative Judge George A. Ferguson, School of Engineering, Howard University, 2300 5th Street, N.W., Washington, D.C. 20059

Issued at Bethesda, Maryland, this 14th day of July, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-19701 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania.

The amendment would add to the Technical Specifications limiting conditions of operation and surveillance requirements for a Hydrogen Recombiner System, in accordance with the NRC staff's recommended requirements for restart of Three Mile Island Nuclear Station, Unit 1, and in accordance with licensees' application for amendment filed on January 26, 1982.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples, published in the Federal Register on April 6, 1983 (48 FR 14870). The proposed amendment provides operability requirements and a surveillance program to provide high assurance that the hydrogen recombiner system will be available to perform its post-LOCA function of maintaining hydrogen concentration in containment below 4.1 volume percent. The amendment is similar to example (ii) of amendments not likely to involve significant hazards considerations in that the amendment contains restrictions, controls and surveillance requirements not presently in the Technical Specifications.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By August 22, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated

by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secetary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 13th day of July 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-19702 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania.

In accordance with the licensees' application for amendment dated March 9, 1983, the amendment would add four snubbers supporting safety-related piping to the list of Safety Related Snubbers and delete three snubbers which previously supported safety-related piping from the list of Safety Related Snubbers. These changes are required because of piping modifications and additions to plant piping made in response to NRC Bulletin 79–14 and to upgrading the pressurizer pressure relief piping. The addition of and the elimination of certain snubbers is consistent with these piping changes.

Before issuance of the proposed license amendment, the Commission

will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment represents a change required to the Technical Specifications to achieve consistency of the Technical Specifications with the facility as it physically exists. Because it does not result in a relaxation of requirements or a change in the design bases as described in the FSAR, the amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any accident previously evaluated. The change will update the existing list of safety-related snubbers in the Technical Specifications to be consistent with the "as-built" plant piping and will not result in any reduction in the margins for safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By August 22, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filled by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Department or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding, the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions,

supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 13th day of July 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-19703 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania.

In accordance with the licensees' application for amendment dated June 20, 1983, the proposed amendment would make four revisions to the Technical Specifications. First, it would revise the Technical Specifications to offset a potential non-conservatism in the prediction of peak cladding temperature during a loss of coolant accident (LOCA). The potential non-conservatism had been previously discovered and reported by the facility vendor. Second, it would revise the centerline fuel melt limit in the Technical Specifications for Cycle 5 operation from 19.6 kw/ft to 20.15kw/ft. The 19.6 kw/ft limit was for Cycle 4 operation and was incorrectly retained for Cycle 5 operation.

Third, the proposed amendment would reduce the reactor protection system flux to pump trip setpoint for two pump operation from 91 percent (%) to 55 percent (%) of rated power. This reduction is based upon a vendor recommendation and will provide a common basis for future vendor analyses. Fourth, it would revise the quadrant tilt instrumentation requirements with respect to the preferred order of use of the three detector systems. The allowable quadrant tilt limits remain unchanged.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission proposes, with respect to the first revision discussed above, to determine that a significant hazards consideration is not involved because the allowable peak LOCA derived linear heat generation rates (LHR) at the 2, 4, and 6 foot core elevations will be reduced in the Technical Specifications for the first 50 effective full power days to compensate for the nonconservatism of the TAFY fuel performance code used in the TMI-1 Cycle 5 ECCS analysis. The TAFY analysis results coupled with the revised LOCA kw/ft limits provide conservative LOCA predictions relative to the predictions using the as-approved TACO-1 code. Thus, this proposed revision would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated since it adds conservatism, (2) create the possiblity of a new or different kind of accident from any previously evaluated since it reduces existing Technical Specification limits, or (3) involve a significant reduction in a margin of safety since it is based on more conservative analyses.

With respect to the second revision of the proposed amendment, the Commission proposes that a significant hazards consideration is not involved since the centerline fuel melt limit being proposed is the same as that cited in the licensees' earlier application for amendment for Cycle 5 operation dated December 28, 1978, which was subsequently reviewed and approved by the Commission. (See Amendment No. 50 to DPR-50 dated March 16, 1979). Amendment No. 50 included a determination that a significant hazards consideration is not involved. Thus, based on documented analysis, this proposed revision would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any previously evaluated, or (3) involve a significant reduction in a margin of safety.

With respect to the third revision of the proposed amendment, the Commission proposes that a significant hazards consideration is not involved since the reactor protection system setpoint is being revised so as to introduce additional conservatism. Thus, this proposed revision would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated since it adds conservatism, (2) create the possibility of a new or different kind of accident from any previously evaluated since it reduces existing Technical Specification limits, or (3) involve a significant reduction in a margin of safety since it adds conservatism.

With respect to the fourth revision of the proposed amendment, the Commission proposes that a significant hazards consideration is not involved since the existing quadrant tilt Technical Specification limits remain unchanged. Thus, this proposed revision, since it does not revise existing Technical Specification limits, would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any previously evaluated, or (3) involve a significant reduction in a margin of safety.

In summary, the Commission proposes to determine that the amendment (revisions one through four) does not involve a significant hazards consideration for reasons as cited above.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of

publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By August 22, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests of hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 13th day of July 1983

For the Nuclear Regulatory Commission.

John F. Stolz, Chief,

Operating Reactors Branch No. 4 Division of Licensing.

[FR Doc. 83-19704 Filed 7-20-83; 8:45]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment

to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania.

In accordance with the licensees' application for amendment dated June 8, 1981, the amendment would modify the Technical Specifications applicable to operability requirements and inservice surveillance of safety-related hydraulic snubbers (shock suppressors). The changes would clarify the wording of certain of the specification provisions, and add requirements for (1) certain engineering evaluations in the events a snubber is found to be inoperable, (2) snubber operability when the plant is in cold shutdown or refueling, (3) visual inspection acceptance criteria, (4) functional testing and acceptance criteria, and (5) record keeping.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples, published in the **Federal Register** on April 6, 1983 (48 FR 14870). This proposed license amendment incorporates changes, clarifications and improvements in surveillance and controls required of all licensees by the NRC in accordance with recent operating experience to ensure snubber operability. The proposed amendment is similar to example (ii) of amendments not likely to involve significant hazards considerations. It contains additional limitations, restrictions or controls, and surviellance requirements not presently in the Technical Specifications.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By August 22, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 13th day of July 1983.

For the Nuclear Regulatory Commission.

John. F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-19705 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co, et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania.

In accordance with the licensees' application for amendment dated January 21, 1983, the amendment would permit increasing by 50 psig, the Reactor Coolant System pressure at or below which the High Pressure Injection (from 1725 psig to 1775 psig), Low Pressure Injection (from 875 psig to 925 psig), and Reactor Building isolation (from 1725 psig to 1775 psig) actuation signals may be bypassed during plant cooldown and depressurization. The setpoints for actuation of these systems during operation and the Reactor Coolant System pressure above which the bypass is automatically removed (when system pressure is increasing) remain unchanged.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated since the increase of 50 psi in the level at which the signals may be bypassed represents only a slight increase in the risk of a loss of coolant event occurring while the signals are bypassed and corresponds only to a slightly earlier time in normal plant cooldown, thus, only slightly higher decay heat generation. The proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated since bypassing of these signals upon plant cooldown is presently permitted by the Technical Specifications and is required to prevent undesired actuation of the systems during normal cooldown. The proposed amendment would not involve a change in any margin of safety.

The proposed amendment should further reduce the possibility of spurious system actions since it will provide operating personnel with additional time in which to bypass the automatic initiation signals during normal plant cooldown and depressurization.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By August 22, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docket and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presenting officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 13th day of July 1983.

For The Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactor Branch No.4, Division of Licensing.

[FR Doc. 83-19706 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

Quality Assurance for Site Characterization of High Level Nuclear Waste; Availability of Draft Review Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) has completed a draft on the "NRC Review Plan—Quality Assurance for Site Characterization of High Level Nuclear Waste Repositories."

A public comment period has been scheduled for 45 days following publication of this Notice of Availability.

ADDRESS: Copies of this draft document may be obtained free of charge upon written request to Nancy Still, Docket Control Center, Division of Waste Management, U. S. Nuclear Regulatory Commission, Mail Stop 623-SS, Washington, DC 20555, (301) 427-4426.

FOR FURTHER INFORMATION CONTACT: Jay E. Rhoderick, Project Manager, High-Level Waste Technical Development Branch, Division of Waste Management, U. S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone No. (301) 427-4682.

SUPPLEMENTARY INFORMATION: This review plan is one in a series of technical documents prepared by the NRC staff guiding review of quality assurance aspects of DOE site characterization programs at potential repository sites to assure that adequate information is being gathered for licensing. (Subsequent technical documents will be noticed in the Federal **Register**). In the review plan, the NRC staff has identified its approach and the specific criteria to be applied in reviewing the quality assurance programs of site characterization activities. This review plan effectively provides guidance to DOE on what the NRC considers necessary in establishing

a quality assurance program for site characterization activities.

The principal mechanism for providing guidance to the DOE is completion by the NRC staff of Site Characterization Analyses which document critical reviews on DOE Site Characterization Plans submitted according to the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425). The NRC staff already has dealt with major issues of High Level Waste Isolation in a comprehensive fashion in NUREG–0960, the Draft Site Characterization Analysis of the Site Characterization Report for the Basalt Waste Isolation Project. In NUREG–0960, the NRC staff identifies the full range of issues that will need to be addressed in evaluating performance of the repository system, including both natural and engineered barriers.

On selected key issues important to repository performance such as quality assurance, the staff will be addressing generic concerns in technical documents which are developed through a process that allows for public comment. The intent of the staff is to assure that guidance is provided to DOE at an early time and thus assure that the DOE gathers needed data in site characterization programs.

Dated at Silver Spring, Maryland, this 12th day of July 1983.

For the Nuclear Regulatory Commission.

Hubert J. Miller,

Chief, High-Level Waste Technical Development Branch, Division of Waste Management.

[FR Doc. 83-19708 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Construction Permit No. CPPR-154; Docket No. 50-508; ASLBP No. 83-486-01 OL]

Washington Public Power Supply System, et al.; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Washington Public Power Supply System, et al.* (WPPSS, Unit 3), Docket No. 50–508, is hereby reconstituted by appointing Dr. Richard F. Foster to the Board in place of Dr. James H. Carpenter, who is presently unable to serve.

As reconstituted, the Board is comprised of the following Administrative Judges: Morton B. Margulies, Chairman; Mr. Frederick J. Shon; Dr. Richard F. Foster.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administative Judge Richard F. Foster, P.O. Box 4263, Sunriver, Oregon 97702.

Issued at Bethesda, Maryland, this 12th day of July, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-19707 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Westinghouse Water Reactors; Meeting

The ACRS Subcommittee on Westinghouse Water Reactors will hold a meeting on August 10, 1983, at the Howard Johnson's Motor Lodge, Route 22 and 48, Monroeville, PA, 8:30 a.m. until the conclusion of business. The Subcommittee will discuss the pre-Preliminary Design Approval review of Westinghouse Advanced Pressurized Water Reactor (WAPWR) design.

The entire meeting will be closed to public attendance in order to protect Westinghouse proprietary information concerning the WAPWR (Sunshine Act Exemption 4).

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of Westinghouse, NRC Staff, and their consultants regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it will be necessary to close this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: July 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-19712 Filed 7-20-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Performance Review Board; Membership

Notice is hereby given in accordance with 5 U.S.C. 4314 of a revision in the membership of the Performance Review Board of the Office of Management and Budget. The revision consists of the following appointments:

John Cogan, Associate Director for Human Resources, Veterans and Labor—two years
Phil DuSault, Deputy Associate Director for International Affairs Division—two years
Darwin Johnson, Chief, Fiscal Analysis Branch, Budget Review Division—two years.

The above will join Ken Ryder, Chief of the Housing Branch, Transportation, Commerce, and Housing Division and John McNicholas, Chief of Information Policy Branch, Office of Information and Regulatory Affairs who are currently on the Board. Ken Ryder has also been appointed as the new Chairman of the Performance Review Board. Candice C. Bryant, Deputy Associate Director for Administration will continue to serve as the Executive Secretary of the Board.

Candice C. Bryant,

Deputy Associate Director for Administration.

[FR Doc. 83-19753 Filed 7-20-83; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Notice of Visit

[Note.—This notice was originally published on Tuesday, July 19, 1983, at 48 FR 32908. It was incorrectly placed in the "Sunshine Act Meetings" section of that issue and is republished in the regular "Notices" section.]

July 15, 1983.

Notice is hereby given that Commission Staff Members will visit the Main Post Office, Washington, D.C., on Thursday, July 21, 1983, to observe the automated sorting equipment used as part of the ZIP + 4 program.

A report of the visit will be on file in the Commission's Docket Section.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 83-19950 Filed 7-15-83; 11:33 am]

BILLING CODE 1505-02-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of proposal(s): (1) collection title: Canadian Unemployment & Sickness Benefit Information

(2) Form(s) submitted: UI-62

(3) Type of request: Revision of a currently approved collection

(4) Frequency of use: On occasion

(5) Respondents: Individuals or households

(6) Annual responses: 1,000

(7) Annual reporting hours: 17

(8) Collection description: The collection obtains from a claimant information needed to avoid payment of unemployment or sickness benefits by the RRB and the Canadian social insurance system for the same period of unemployment or sickness.

Additional information or comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83-19695 Filed 7-20-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19977; SR-AMEX-83-16]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated and Temporary Approval of Proposed Rule Change

July 15, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 11, 1983, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York, 10006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

The proposed rule change would extend free trading in index options on the last trading day before expiration from 3:00 p.m. to 4:10 p.m. and would eliminate, except in unusual circumstances, a closing rotation in the expiring series. Amex has indicated that extending trading to 4:10 p.m. would enable investors with expiring index options positions to follow the final hour of trading in the securities composing the underlying index, placing them in a better position to decide whether to close out or exercise a position. It would also enable them to off-set their positions between 3:00 p.m. and the time the closing index value is determined.

Amex has also indicated in the filing that, absent unusual circumstances, closing rotation in an expiring index series may not be necessary. The Amex has expressed the concern that in the course of a closing rotation from 4:00 to 4:10 p.m., the underlying index value might change, resulting in inappropriate pricing of certain series. Free trading until 4:10 p.m. would remove this difficulty, while permitting the execution of public orders at a time when the underlying index is likely to be near its final value.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. SR-Amex-83-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publicaton of notice of filing thereof, in that an Amex Major Market Index option series will expire July 16, 1983, and approval at this time will enable the proposed rule change to be in effect for the last day of trading, July 15, 1983. Because the trading of index options is relatively new, it should be expected that experience in these early stages of market evolution will suggest a few late adjustments to the trading rules as originally approved. An extension of trading time past 3:00 p.m. (New York time), moreover, has already been approved for the Chicago Board Options Exchange in Securities Exchange Act Release No. 19874 (June 14, 1983), 48 FR 28380 (June 21, 1983).[2] The proposal will not impose any additional regulations or burdens on market participants; rather, it will provide them with additional flexibility in trading stock index options. Finally, the Amex's proposed elimination of a regular closing rotation in an expiring option is without prejudice to the ability of floor officials to require such a rotation in unusual market conditions pursuant to Amex Rule 1, Commentary .02.

The Commission is approving the rule change on a temporary basis for 45 days, however, so that Amex and the member firms can gain experience in trading index options without a closing rotation. After the Commission and Amex review the experience in the July series of expiring index options, the Commission will be in a position to determine whether to make pemanent its temporary order.[3]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19662 Filed 7-20-83; 8:45 am]

BILLING CODE 8010-01-M

[1] On July 15, 1983, the Amex filed a technical amendment indicating that its Board of Directors authorized the proposed rule change.

[2] *See* File No. SR-CBOE-83-10.

[3] Amex has consented to Commission approval on a temporary basis. *See* letter to Thomas G. Lovett, Division of Market Regulation, SEC, from Robin Yonis, Esq., Special Counsel, Amex, dated July 14, 1983.

[Release No. 19975; SR-CBOE-83-1, et al.]

Chicago Board Options Exchange, Inc., et al.; Order Approving Proposed Rule Change

In the matter of Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, IL, 60604; American Stock Exchange, Inc., 86 Trinity Place, New York, NY, 10006; Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA, 19104; Pacific Stock Exchange, Inc., 618 South Spring Street, Los Angeles, CA; 90014; (SR-CBOE-83-1), (SR-Amex-83-5), (SR-Phlx-83-4), (SR-PSE-83-9).

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, the above-mentioned options exchanges have filed with the Commission proposed rule changes to amend their respective position and exercise limit rules to increase limits for individual equity options.[1] The proposed rule changes would establish a two-tier system of position and exercise limits whereby limits for options on stocks with the greatest trading volume and public float would be 4,000 contracts and limits on other options classes would be 2,500 contracts.[2]

Notice of each of the proposed rule changes together with their terms of substance was given by publication of Commission releases and by publication in the Federal Register.[3] All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule changes were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

II. Background

Position and exercise limits for stock options originally were adopted by the options exchanges to prevent the establishment of large options positions that could be used or might create incentives to manipulate or disrupt the underlying market so as benefit the options positions. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. Secondarily, they serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.

Position and exercise limits must accommodate competing concerns. They must be sufficient to prevent investors from disrupting the underlying security's market by acquiring and exercising a number of options contracts disproportionate to the deliverable supply and average trading volume of the underlying security. At the same time, they must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors having substantial hedging needs.

In December 1978, the Report of the Special Study of the Options Market ("*Options Study*"), while recognizing the important functions served by position and exercise limit rules, set forth some of the deleterious effects of the 1,000 contract position limit then in effect.[4] In particular, the *Options Study* noted that those limits impeded market access to institutional investors interested in using options in connection with large securities portfolios and might also have served to impair market depth and liquidity by restricting, for example, proprietary trading by member firms. Thus, the *Options Study* suggested that position and exercise limit rules be completely reviewed by the Commission and that their future relaxation or elimination be considered.

In October 1980, the Commission approved proposed rule changes of the four options exchanges to increase position and exercise limits from 1,000 to 2,000 contracts across-the-board for all options classes.[5] In approving those position and exercise limit increases, the Commission cited the observations of the *Options Study* and concluded that the information and experience that would be gained from increasing the limits at that time would enhance the ability of the options exchanges and the Commission to evaluate future proposals for modification. In conjunction with the approval, therefore, the Commission received commitments from the options exchanges to: (1) Monitor closely and collect data regarding the effect of the increased limits on the trading activities of options and underlying stocks and (2) evaluate the need for possible enhancements to their surveillance programs.

Over the course of the past year, the options exchanges and the Commission discussed the possibility of again increasing position and exercise limits for individual stock options, while these discussions were in progress, the four options exchanges each submitted proposals to increase position and exercise limits across-the-board from 2,000 to 3,000 contracts.[6] However, because substantial limit increases for options on stocks with the lowest trading volume and smallest public float pose significant intermarket manipulation and market disruption concerns, the Commission staff suggested the possiblity of a tiering approach to position and exercise limits whereby options on the more actively traded stock of companies with the largest number of outstanding shares would have higher limits than other options classes.[7]

Subsequently, the exchanges each submitted filings incorporating the tiering approach, in which the 4,000 contract limits for the higher tier options would be based on a threshold standard of trading volume and capitalization of the underlying stock with an alternate threshold standard based on trading volume alone, It was also agreed that lower tier options would have 2,500

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[1] Position limits impose a ceiling on the number of options contracts of each class on the same side of the market (*i.e.*, long calls and short puts or long puts and short calls) that can be held or written by an investor. Exercise limits prohibit the exercise by an investor of more than a specified number of contracts of each class on the same side of the market within five consecutive business days.

[2] Currently, position and exercise limits for all equity options classes are 2,000 contracts.

[3] Securities Exchange Act Release Nos. 19544 (February 25, 1983), 48 FR 9114 (March 3, 1983); 19626 (March 23, 1983), 48 FR 14101 (April 1, 1983); 19658 (April 7, 1983), 48 FR 16156 (April 14, 1983); 19723 (May 2, 1983), 48 FR 21405 (May 12, 1983). File Nos. SR-CBOE-83-1, Amex-83-5, Phlx-83-4 and PSE-83-9.

[4] 96th Cong., 1st Sess. at 189-191 (Comm. Print 1978).

[5] Securities Exchange Act Release No. 17237 (October 22, 1980), 45 FR 71453 (October 28, 1980) ("1980 Release").

[6] CBOE, PSE, Phlx and Amex submitted their 3,000 contract proposed rule changes on October 19, 1982, November 8, 1982, December 8, 1982, and January 3, 1983, respectively. Notice of the respective proposals was given by Securities Exchange Act Release Nos. 19200 (November 1, 1982), 47 FR 50793 (November 9, 1982); 19250 (November 18, 1982), 47 FR 53554 (November 26, 1982); 19341 (December 15, 1982), 47 FR 57382 (December 23, 1982); 19418 (January 11, 1983), 48 FR 2485 (January 19, 1983).

In addition to the 3,000 contract proposal filed by CBOE, on November 9, 1982, the exchange, on behalf of the CBOE membership, filed a separate proposal to increase limits across-the-board to 5,000 contracts. Securities Exchange Act Release No. 19252 (November 18, 1982), 47 FR 53580 (November 26, 1982).

[7] The Options and Derivative Products Committee of the Securities Industry Association ("SIA") also wrote a letter to the Commission expressing support for tiered position and exercise limits. Letter from Howard Brenner, Chairman, SIA Options and Derivative Products Committee, to Richard Ketchum, Associate Director, SEC, dated February 14, 1983. *See also* letter from B. Macon Brewer, former Chairman, SIA Options and Derivative Products Committee, to Charles Henry, President, CBOE, dated November 29, 1982.

contract limits rather than the current 2,000 contract limits.[8]

III. Discussion

The Commission believes that the proposed tiering approach to position and exercise limits will increase the depth and liquidity of the equity options markets without significantly increasing concerns regarding intermarket manipulations and disruptions of the market for the underlying security. Securities with active and deep trading markets, as well as with broad public ownership, are more difficult to manipulate than securities having less active and deep markets and having smaller public floats. In minimizing the restraints on those options classes that can accommodate larger limits without raising increased intermarket manipulation and market disruption concerns, the tiering approach recognizes that all underlying securities do not have identical trading characteristics.[9]

Tiering is consistent with the gradual, evolutionary approach that has been adopted by the Commission and the exchanges in increasing position and exercise limits. There are no ideal limits in the sense that options positions of any given size can be stated conclusively to be free of any manipulation concerns. However, the exchanges and the Commission have relied largely on the absence of discernible manipulation problems under the current limits as an indicator that modest additional limit increases are now justified.[10]

The Commission does not believe that tiering will have any significant adverse effects on the options markets.[11] It does not believe that requiring traders to keep track of two limits rather than one would be burdensome or confusing or would lead to inadvertent violations. On occasion, the exchanges currently establish limits greater than 2,000 contracts for particular options classes in the event of stock splits and stock dividends involving the underlying security. In addition, a variety of different position and exercise limits have been established for the various new options products. We do not understand that these differing position and exercise limits have created programming or monitoring problems for the securities firms, or that they have led to significant customer confusion. In any event, any monitoring and customer education concerns raised by tiering would not outweigh the greater potential for mini-manipulations, corners and squeezes that would be created should limits be increased significantly on options overlying thinly traded stock or stock of companies with relatively few outstanding shares.

Also, the proposed rules have been designed to minimize any customer confusion or market impact for those marginal stock options that, as a result of the six-month evaluation, may move from the higher tier to the lower tier.[12] In particular, because the proposed rules provide that a decrease from the higher to the lower tier will only occur after expiration of the last options series trading at the time an option ceases to meet the higher tier standards,[13] there should be little danger of inadvertent violations of forced liquidations.[14]

The Commission recognizes that tiered limits raise competitive concerns for Phlx and PSE, which would have relatively fewer options classes eligible for the higher tier than Amex and CBOE under the proposed system. Also, despite the increase from 2,000 to 2,500 contracts for the lower tier options classes, there has been some suggestion that investor attention will turn away from those options classes and focus primarily upon the higher tier options classes, exacerbating the impact of tiering on their options floors.

While the Commission believes it is important to monitor carefully the competitive consequences of the proposed rule changes, on balance the Commission concludes that this is not a sufficient reason for refusing to adopt tiered position and exercise limits. First, while the relative percentage of options *classes* on the Phlx and PSE that would be eligible for the higher tier is significantly lower than for CBOE and Amex, because of the proposed increase in limits from 2,000 to 2,500 contracts for lower tier options classes, the relative percentage increase in *contracts* in all options classes that may be held or exercised by an investor would not vary as significantly among the exchanges. Thus, the direct competitive impact of tiering on the two smaller options

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[8] In particular, the exchange proposals provide that:

(1) Position and exercise limits would be 4,000 contracts for options on an underlying stock which had either: (a) Trading volume of at least 20,000,000 shares during the most recent six-month trading period, or (b) trading volume of at least 15,000,000 shares during the most recent six-month trading period and at least 60,000,000 shares currently outstanding;

(2) Position and exercise limits would be 2,500 contracts for all other options classes;

(3) The exchanges would review the volume and outstanding share information of all underlying stocks every six months to determine which limits would apply.

In conjunction with these filings, CBOE withdrew its 3,000 contract limit proposal, and Amex, Phlx and PSE indicated they would withdraw their respective 3,000 contract limit proposals upon approval of their respective proposed rule changes establishing a two-tier system. Similarly, CBOE intends to withdraw its proposal increasing limits to 5,000 contracts upon approval of that system. *See* note 6 *supra*.

[9] One year after the Commission approved the exchange proposals to increase position and exercise limits to 2,000 contracts, it approved uniform options exchange rule proposals to lower the criteria that underlying securities must meet before standardized options may be traded on them. *See* Securities Exchange Act Release No. 18286 (November 24, 1981), 47 FR 58630 (December 2, 1981). These reduced options listing standards made approximately 150 additional underling stocks eligible for options trading. They also served to increase the disparities between the market characteristics of the stocks underlying listed options and thereby accentuated the need for tiered limits.

[10] In the 1980 Release approving limit increases from 1,000 to 2,000 contracts, the Commission noted that there was no intrinsic reason why increases in exercise limits must accompany position limit increases, particularly in view of liquid secondary markets that permit market participants efficiently to close out options positions. In this connection, the Commission staff's October 21, 1982 letters to the exchanges suggested that the exchanges consider not increasing exercise limits, a recommendation which was not followed by the exchanges and strongly opposed by the SIA Options and Derivative Products Committee, which was particularly concerned about possible market dislocations and pricing distortions if market participants were unable to exercise entirely large options positions and instead forced to liquidate in the secondary market. *See* letter from B. Macon Brewer, former Chairman of the SIA Options and Derivative Products Committee, to Charles Henry, President, CBOE, dated November 29, 1982. While the Commission does not necessarily share the Committee's concerns, it does not believe serious manipulative or disruptive problems are created by increasing exercise limits to 4,000 and 2,500 contracts for higher and lower tier options classes, respectively. Nevertheless, the Commission remains of the view that proposals to increase position and exercise limits must be justified and evaluated separately.

[11] Only one comment letter was received on any of the position limit proposals. The PSE, despite its subsequent filing for tiered limits, wrote a letter opposing any kind of tiering, contending that tiered limits would give rise to customer confusion, reduce liquidity in less active options classes and have certain other competitive implications. Letter from Jim Gallagher, President, PSE, to Douglas Scarff, Director, Division of Market Regulation, SEC, dated March 10, 1983.

[12] *See* note 8 *supra*. For purposes of the six-month review, each of the exchanges has informed the Commission that it will use the periods from January 1 to June 30 and July 1 to December 31 as the bases of review.

[13] For example, stock options on the January/April/July/October cycle that move to the lower tier as a result of the January-June review would remain in the upper tier until after the then-trading October and January series expired.

[14] Conversely, if a stock option moves from the lower to the higher tier based on the most recent six-month review, the new, higher limits would become effective on the Monday following the next expiration. For example, if a stock option moved from the lower to the higher tier during the six-month period from January 1 to June 30, the stock option would become eligible for the higher limits on the Monday following expiration of the July series, regardless of the cycle the option is traded on.

exchanges may not be as significant as it may at first appear. Second, the options classes traded on PSE and Phlx, on average, currently are less active than those traded on CBOE and Amex. Accordingly, it is questionable whether the lower tier limits necessarily will act as a significant constraint on trading activity in the options traded on the Phlx and PSE. Finally, the Commission is unable to discern any basis for concluding that investors will elect not to trade an options class simply because the permissible limits for that class are less than the limits for other classes. Accordingly, the Commission believes at this time that any competition concerns that may result from tiering are far outweighed by the regulatory benefits tiering will provide.

In connection with the Commission's review of the possible adoption and implementation of a two-tiered system for position and exercise limits, the Commission suggested that the options exchanges implement certain enhancements to their surveillance systems. This recommendation stemmed from concerns expressed in the 1980 Release regarding the ability of the options exchange to detect manipulation activities of public customers and broker-dealers and from deficiencies found to exist during inspections of the options exchanges' surveillance systems. In late 1982, each options exchange was informed by the Commission of the improved surveillance techniques that should be established to minimize the manipulation concerns that arise from increased position and exercise limits. In response, each options exchange has adopted or is developing new or modified surveillance procedures or techniques. The Commission is satisfied that sufficient short-term enhancements are being made or have been committed to be made by the options exchanges to permit modification at this time of the position and exercise limit rules.

IV. Conclusion

In view of the foregoing, the Commission finds that the proposed rule changes establishing a two-tier system of position and exercise limits are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved, effective July 18, 1983.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19060 Filed 7-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19979; SR-CBOE-83-21]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 30, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois, 60604, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule would prohibit members who make markets in either Standard & Poor's 500 options or Standard & Poor's 100 options from also acting as floor brokers in either on the same day. Current CBOE rules forbid marketmaking and floor brokerage on the same day in options contracts covering the same security. The expansion of this prohibition to cover these indices is a recognition of the fact that they are traded in the same location and have similar characteristics. CBOE states the restriction would prevent confusion in the pit as to who is making markets and who is taking orders and prevent broker order information from being inadvertently given to market makers. Finally, it would prevent a floor broker in one index option from exploiting his informational advantage as to orders in that option when he trades for his own account in the other index option, insofar as similarities in the underlying indices may make this procedure attractive.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-CBOE-83-21.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change adapts an established principle of CBOE options trading to the particular circumstances of trading in the Standard & Poor's index options. The options on the two indices considered here are so closely related that the Commission believes it appropriate to extend the prohibition on same-day market maker brokerage transactions to these index options. Furthermore, since trading in these options has already commenced, prompt approval of this proposal is in order.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19061 Filed 7-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23002; 70-6726]

Louisiana Power & Light Co. and System Fuels, Inc.; Proposal to Enter Into Intrasystem Agreements Relating To Coal Supply Arrangements

Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary of Middle South Utilities, a registered holding company, and System Fuels, Inc. ("SFI"), Noro Plaza, 666 Poydras Street, New Orleans, Louisiana 70130, a fuel supply subsidiary of LP&L and its affiliate operating companies, have filed a

declaration with this Commission pursuant to Sections 12 and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 90 thereunder.

LP&L has requested SFI to arrange for coal to be supplied to LP&L's two generating units under construction in Wilton, La. Accordingly, on July 28, 1980, SFI entered into a coal supply agreement ("Contract") with Antelope Coal Company ("Antelope"), a non-affiliate and a subsidiary of NERCO, Inc. which has guaranteed Antelope's obligations under the Contract. LP&L proposes to guarantee SFI's obligations. The Contract states that Antelope will sell SFI approximately 100 million tons of coal between August 1, 1986 and August 1, 2006 with provision for changes in schedules and quantities. A base price per ton of $7.03, as of March 1, 1978, is specified, with adjustments permitted for Btu content and other cost factors.

LP&L and SFI have entered into a Coal Sale Purchase Contract ("Purchase Contract"), subject to Sections 12 and 13(b) of the Act and Rules 45 and 90, under which LP&L will purchase at SFI's cost the coal acquired by SFI under the Contract. Among other things, the Purchase Contract provides that SFI may not amend the Contract without the approval of LP&L and that LP&L will reimburse SFI for any losses and receive any profits from sales of the coal to third parties necessitated by changes in LP&L's needs.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 83-19829 Filed 7-20-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 23004; 70-6886]

Louisiana Power & Light Co.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

LP&L proposes to issue and sell not more than $50 million in principal amount of its first mortgage bonds ("Bonds"), in one series, not later than November 30, 1984. The price, exclusive of accrued interest, specified by LP&L in soliciting bids, shall be in a range of not more than 5 percentage points, but shall not exceed 5 percentage points above or below 100% of the principal amount of the Bonds. The Bonds will be issued under a supplemental indenture which will prohibit, for not more than five years, the refunding of the Bonds, directly or indirectly, with funds borrowed at an effective interest cost lower than that of this series. The Bonds will mature from five to thirty years from date of issuance.

LP&L intends to sell the Bonds by competitive bidding using alternative procedures authorized in HCAR No. 22623 (September 2, 1982). Depending on market conditions, however, it is represented that LP&L may seek an exception from the requirements of Rule 50 in order to offer the Bonds through a negotiated sale.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 9, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 83-19830 Filed 7-20-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19976; File Nos. SR-NYSE-83-26]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to the Expiration Cycle for Composite Index Group Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 14, 1983, the New York Stock Exchange Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes that its composite index group option contract trade on a February-May-August-November expiration cycle.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the placed specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.*—(1) *Purpose.* The purpose of

the proposed rule change is to specify a February expiration cycle for the Exchange's composite index group options. This will afford investors an opportunity to trade index group options on a cycle not presently available.

(2) *Statutory Basis.* The specification of an expiration cycle as part of the Exchange's implementation of its index stock group option rules comports with the requirements of section 6(b)(5) of the 1934 Act, in that such implementation will provide members of the public with useful new hedging and trading opportunities under a scheme of regulation designed to facilitate the maintenance of a fair and orderly market, to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.*—The Exchange believes that neither the proposed rule change nor the option rules as implemented in part by the proposed rule change will impose any burden on competition. By enabling the Exchange to commence trading of its index stock group options, the proposed rule change will foster competition among markets trading derivative instruments involving stock indices.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*—The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 15, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19664 Filed 7-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13388; 812-5550]

Pacific Century Tax-Exempt Funds, Inc.; Filing of Application for an Order

Notice is hereby given, That Pacific Century Tax-Exempt Funds, Inc. ("Applicant"), No. 6, The Commons, 3512 Silverside Road, Wilmington, DE 19810, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on May 18, 1983, and an amendment thereto on June 10, 1983, requesting an order of the Commission, pursuant to Section 6(c) of the Act exempting Applicant to the extent necessary: (1) From the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit Applicant to calculate the net asset value per share of its Money Market Portfolio based on the amortized cost method of valuing assets; (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire stand-by commitments from brokers and dealers; and (3) from the provisions of Section 2(a)(41) of the Act to value stand-by commitments in the manner described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable sections and rules.

Applicant represents that it is a series investment company which currently intends to offer two classes of shares, each class representing interests in one of two separate investment portfolios, namely, the Money Market Portfolio and the Fixed Income Portfolio. According to the application, the investment objective of the Money Market Portfolio is to seek as high a level of current income exempt from Federal income taxes and California state personal income tax as is consistent with preservation of capital and relative stability of principal by investing in debt obligations issued by or on behalf of the State of California and other states, territories and possessions of the United States, the District of Columbia and their authorities, agencies, instrumentalities and political sub-divisions. Applicant further intends to invest in variable rate master demand notes. With respect to variable rate demand notes purchased for its Money Market Portfolio, Applicant represents that it will satisfy the requirement of, and will determine the maturity of such obligations in accordance with the procedures set forth in, proposed Rule 2a-7 as set forth in Investment Company Act Release No. 12206, (February 1, 1982), and will satisfy the requirements of Rule 2a-7 as and when Rule 2a-7 is ultimately adopted.

Applicant represents that its charter authorizes it to create up to eight separate investment portfolios in addition to the Money Market Portfolio and Fixed Income Portfolio. Applicant further represents that shares of each investment portfolio will be sold to investors who may include clients of Security Pacific National Bank ("Security Pacific")'s financial Management Group and other individuals and businesses which maintain accounts at Security Pacific or its correspondents. Applicant does not intend to purchase or otherwise acquire certificates of deposit or other securities of Security Pacific or its affiliates, except that Applicant may enter into repurchase agreements with Security Pacific or its affiliates to the extent permitted by the Commission.

Applicant further proposes to improve portfolio liquidity by assuring same-day settlements on portfolio sales (and thus facilitate same-day payment of redemption proceeds) through the acquisition of "stand-by commitments." According to Applicant a stand-by commitment, which is also known as a "put," is a right of an investment

company, when it purchases municipal securities for its portfolio from a broker, dealer or other financial institution, to sell the same principal amount of such securities back to the seller, at the investment company's option, at a specified price. Applicant represents that its investment policies will permit the acquisition of stand-by commitments soley to facilitate portfolio liquidity. Applicant further represents that the acquisition or exercisability of a stand-by commitment will not affect the valuation or maturity of the Applicant's underlying municipal securities, which if held in the Money Market Portfolio will be valued based on their amortized cost in accordance with the conditions set forth herein, and if held in the Fixed Income Portfolio will be valued on the basis of market factors or amortized cost, as described in Applicant's prospectus.

Applicant seeks an order of the Commission pursuant to Section 6(c) of the Act exempting it to the extent necessary from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to permit Applicant to calculate the net asset value per share of its Money Market Portfolio at amortized cost and to value stand-by commitments acquired from brokers, dealers or banks in the manner described herein, and from Section 12(d)(3) of the Act to permit Applicant to acquire such stand-by commitments. Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that it believes that investors in the Money Market Portfolio would be unfairly treated if Applicant were forced to price instruments in such portfolios in a manner which would produce artifical price or yield volatility for instruments which Applicant expects to hold until maturity. Applicant further agrees that the following conditions may be imposed in any order of the Commission granting such relief:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the investment objective of Applicant's Money Market Portfolio to stabilize the net asset value per share of this portfolio, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included within the procedures to be adopted by the Board shall be the following:

(a) Review by the Board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of the Money Market Portfolio as determined by using available market quotations from this portfolio's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event that such deviation from the Money Market Portfolio's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board will promptly consider what action, if any, should be initiated.

(c) Where the Board believes that the extent of any deviation from the $1.00 amortized cost price per share of the Money Market Portfolio may result in material dilution or other unfair results to new or existing investors in this portfolio, it shall take such action as it deems appropriate to eliminate or to reduce to the greatest extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of such Portfolio; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity in the Money Market Portfolio appropriate to its objective of maintaining a stable price per share; *provided*, however, that this portfolio will neither: (a) Purchase any instrument with a remaining maturity greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and Applicant will include in the minutes of Board meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to the rules adopted under Section 31(a) of the Act.

(5) Applicant will limit portfolio investments in the Money Market Portfolio to those United States dollar-denominated instruments which, as determined by the Board present minimal credit risks, and which are of high quality, as determined by any major rating service, or, in the case of any instruments that are not rated, are of comparable quality, as determined by the Board.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

According to Applicant, stand-by commitments will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they will be exercisable by Applicant at any time prior to the maturity of the underlying securities; (3) they will be entered into only with brokers, dealers and banks which, in the opinion of Applicant's investment adviser, present minimal risks of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they will not be transferable, municipal securities purchased subject to a commitment could be sold to a third party at any time, even though the commitment is outstanding; and (6) their exercise price

[1] To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board in the exercise of its discretion to be appropriate indicators of value, which may include among others (i) quotations or estimates of market value for individuals portfolio instruments, or (ii) values obtained from yield data relating to classes of similar instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average maturity in the Money Market Portfolio in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

will be: (i) Applicant's acquisition cost of the municipal securities which are subject to a commitment (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period it owned the securities; plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant asserts a stand-by commitment will not obligate Applicant to sell the underlying securities back to the seller, nor entitle the seller to demand the return of the securities at its option, although a sale of the underlying securities by Applicant to a third party will terminate Applicant's rights under the related stand-by commitment to sell the securities back to the seller.

Applicant intends to value the securities in the Money Market Portfolio on an amortized cost basis pursuant to an exemptive order from the Commission, and thus, asserts that the exercise cost under a stand-by commitment will be substantially the same as the amortized cost value of the underlying securities in such portfolio. Applicant submits that there is little risk of an event occurring that would make the amortized cost valuation of securities in its Money Market Portfolio inappropriate. However, in the unlikely event that the market or fair value of securities in Applicant's Money Market Portfolio (including those subject to stand-by commitments) were not substantially equivalent to their amortized cost value, Applicant represents that its Board could determine that the securities should be valued on the basis of available market information. Securities held in the Fixed Income Portfolio will be valued on the basis of available market information, or (in the case of securities with less than 60 days remaining to maturity) on the basis of amortized cost, as described in Applicant's prospectus. Applicant states that it will value securities in the Fixed Income Portfolio without regard to the existence of stand-by commitments. Applicant expects to refrain from exercising stand-by commitments to avoid imposing a loss on a seller of securities and jeopardizing Applicant's business relationship with that seller. Applicant states that it will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares or to obtain research services.

Applicant's investment adviser intends to evaluate periodically the credit of institutions issuing stand-by commitments to Applicant in accordance with current procedures used to evaluate the quality of the institution's short-term debt securities, including periodic review of the institution's assets, liabilities, contingent claims and other relevant financial information. Applicant further believes that its acquisition of such commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business.

Applicant further expects that stand-by commitments generally will be available without the payment of any direct or indirect consideration. However, if necessary and advisable, Applicant asserts that it will pay for stand-by commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to a commitment. Applicant further represents that as a matter of policy, the total amount paid in either manner for outstanding stand-by commitments held in either portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any stand-by commitment is acquired.

Applicant submits that it will be difficult to evaluate the likelihood of exercise or the potential benefit of a stand-by commitment. Therefore, Applicant's Board believes that the value of any such stand-by commitment is zero, regardless of whether any direct or indirect consideration is paid. Applicant states that where it has paid for a stand-by commitment, the cost will be reflected as unrealized depreciation for the period during which the commitment is held. Applicants further assert that stand-by commitments will be valued at zero and, as a result, the dollar-weighted average maturity of such portfolio will not be affected by the acquisition of a stand-by commitment.

Notice if further given, That any interested person wishing to request a hearing on the application may, not later than August 9, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personaly or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19828 Filed 7-20-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0003]

Southeastern Capital Small Business Investment Corp.; License Surrender

Notice is hereby given that Southeastern Capital Small Business Investment Corporation (SCSBIC), Suite 219, 2285 Peachtree Road, NE., Atlanta, Georgia 30309, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). SCSBIC was licensed by the Small Businsess Administration on July 20, 1959.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on June 14, 1983, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-19826 Filed 7-20-83; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of the Lower Rio Grande Valley of Texas, will hold a public meeting at 2:00 p.m., on Tuesday, August 9, 1983, at Cano Coors Distributing Company warehouse, 101 N. Ware Rd., McAllen, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Rodney W. Martin, District Director, U.S. Small Business Administration, 222

E. Van Buren, Suite 500, Harlingen, Texas; (512) 423–8933.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83-19827 Filed 7-20-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Magnuson Fishery Conservation and Management Act; Applications for Permits To Fish in the United States Fishery Conservation Zone

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires all foreign vessels fishing in the U.S. Exclusive Economic Zone to have a permit. Section 204 of the Magnuson Act requires the Secretary of State to publish a summary of applications received.

Individual vessel applications for fishing in 1983 have been received from the Governments of Spain, Portugal, Japan, Denmark (Faroe Islands), the Federal Republic of Germany and Taiwan.

If additional information regarding any application is desired, it may be obtained from: Fees, Permits, and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634–7432).

Dated: July 18, 1983.

James A. Storer,

Director, Office of Fisheries Affairs.

FISHERY CODES AND DESIGNATION OF REGIONAL COUNCILS WHICH REVIEW APPLICATIONS FOR INDIVIDUAL FISHERIES ARE AS FOLLOWS:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	Do.

FISHERY CODES AND DESIGNATION OF REGIONAL COUNCILS WHICH REVIEW APPLICATIONS FOR INDIVIDUAL FISHERIES ARE AS FOLLOWS:—Continued

Code	Fishery	Regional council
GOA	Gulf of Alaska	Do.
NWA	Northwest Atlantic	New England, Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl.	Pacific.
PBS	Pacific Billfish and Sharks Western Pacific.	

Activity codes specify categories of fishing operations applied for are as follows:

Activity Code and Fishing Operations

1—Catching, processing, and other support.
2—Processing and other support only.
3—Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Denmark (Faroe Islands): Vestlandia, cargo vessel	DA-83-1006	NWA	3
Japan:			
Nisshin Maru No. 51, medium stern trawler	JA-83-1168	BSA	1, 2
Koryo Maru No. 23, medium stern trawler	JA-83-0423	BSA	1, 2
Federal Republic of Germany: Satsuma, Reefer cargo carrier	GE-83-0016	BSA, GOA	3
Taiwan: Highly No. 301, bottom trawler	TW-83-0002	BSA	2, 3
Joint Venture: The Highly Enterprise Corp, Taiwan and Pribilof-Highly Seaproducts, Inc., Alaska, have applied to engage in a joint venture fishery for 1,800 metric tons of Flounder (excluding yellowfin sole), 2,400 m.t. of Pacific Cod and 1,800 of other, between September 1, 1983 and December 31, 1983. The principal contacts in the United States with owners/operators of U.S. ships are: (1) Flore Lekanof, Sr., c/o St. George Tanag Corp., 2609 Fairbank St., Anchorage, Alaska 99503, phone: (907) 276-3800, and (2) Mr. Conan Huang, Dragon (North America), Inc., 2208-143rd Place, SE Bothell, Washington, 98011, phone: (206) 743-6090.			
Spain: Maria Eugenia G., medium stern trawler	SP-83-0170	NWA	2
Joint Venture: This vessel is a substitute for the *TEUCRO*, SP-83-0101, which was published in the FEDERAL REGISTER, March 1983. The *TEUCRO* was to engage in a joint venture fishery aimed at producing 900 m.t. of Illex Squid, 450 m.t. of Loligo Squid and incidental bycatch during the months of May through December 1983.			
Portugal:			
Brites, stern trawler	PO-83-0018	NWA	2
Coimbra, stern trawler	PO-83-0009	NWA	2
Inacio Cunha, stern trawler	PO-83-0003	NWA	2
Joint Venture: Portugal and Lund's Fisheries Inc., 997 Ocean Drive, Cape May, New Jersey, 08204, have applied to engage in a joint venture fishery aimed at producing 10,000 m.t. of Illex Squid between the months of May, 1983 and October, 1983. (This Portuguese joint venture for the above three vessels, was announced in the FEDERAL REGISTER in February, 1983). At the request of Portugal an amendment has been made to this joint venture application between Portugal and Lund Fisheries to include 1,000 metric tons of Loligo Squid.			

[FR Doc. 83-19842 Filed 9-20-83; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–2 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: The feasibility of separating aircraft and runway use by specific aircraft categories will be studies. Based on this review, specific procedures may be developed for use at some airports. A review of existing IFR departure procedures will also be conducted.

DATE: Beginning August 15, 1983, at 11 a.m, continuing daily, except Saturdays, Sundays, and holidays not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7 A/B 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by August 8, 1983. Time permitting and subject to the approval of the chairman, these

individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on July 12, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 83-19502 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 23676]

Petition for Exemption of Supersonic Express: Civil Aircraft Sonic Boom

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for exemption; request for comments.

SUMMARY: This notice publishes for public comment the petition for exemption of Supersonic Express Corportion, date June 14, 1983, for relief from Federal Aviation Regulation § 91.55 (14 CFR 91.55). This section relates to civil aircraft sonic boom. The Supersonic Express petition for exemption is to permit supersonic flight operations in U.S. Airspace.

DATE: Comments must be received on or before August 10, 1983.

ADDRESSES: Comments on the petition should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (ACC-204), Docket No. 23676, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in triplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 23676. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. John Wesler, Director of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8406.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the position for exemption as they may desire. Communications should identify the docket and be submitted in triplicate to the address for submitting comments indicated above under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered by the FAA before taking action on the petition for exemption. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

The Supersonic Express Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for exemption of the Supersonic Express Corporation dated June 14, 1983.

Issued in Washington, D.C., on July 1, 1983.

John E. Wesler,

Director of Environment and Energy.

Petition

Filed With—Federal Aviation Administration, Rules Docket (AGC 204), 800 Independence Avenue SW., Washington, DC 90591.

Requesting—Exemption from FAR 91.55.

Summary

Pursuant to FAR 11.25 and FAR 11.27, Supersonic Express Corporation hereby petitions for exemption from FAR Part 91 Section 91.55, including Appendix B Section 2(b)(1), for the purpose of operating two Concorde aircraft for limited periods at supersonic speeds within segments of U.S. airspace over routes to be determined jointly by representatives of the FAA and employees of the Supersonic Express Corporation. The proposed supersonic flights would cross the continental U.S. in both directions at supersonic speeds. They would be part of the U.S. celebration of the Bicentennial of Air and Space Flight which honors the 200th anniversary of the first manned flight by Etienne de Montgolfier in a balloon near Paris on November 21, 1983. The flights would also serve to raise funds for the U.S. Olympic Committee.

Time Constraint

In compliance with FAR 11.25(b)(1), this petition is hereby filed at least 120 days prior to the proposed effective date of the exemption.

FAR 91.55: Civil Aircraft Sonic Boom

(a) No person may operate a civil aircraft in the United States at a true flight Mach number greater than 1 except in compliance with conditions and limitations in an authorization to exceed Mach 1 issued to the operator under Appendix B of this part.

In addition, no person may operate a civil aircraft, for which the maximum operating limit speed exceeds a Mach number of 1, to or from an airport in the United States unless—

(1) Information available to the flight crew includes flight limitations that insure that flights entering or leaving the United States will not cause a sonic boom to reach the surface within the United States; and

(2) The operator complies with the flight limitations prescribed in paragraph (b)(1) of this section or complies with conditions and limitations in an authorization to exceed Mach 1 issued under Appendix B of this part.

FAR 91 Appendix B: Authorization To Exceed Mach 1

Section 2—Issuance

(b) For a flight outside of a designated test area, an authorization to exceed Mach 1 may be issued if the applicant shows conservatively under paragraph (a)(3) of this section that—

(1) The flight will not cause a measurable sonic boom overpressure to reach the surface when the aircraft is operated under conditions and limitations demonstrated under paragraph (a)(3) of this section; and

(2) Those conditions and limitations represent all foreseeable operating conditions.

Petitoner's Interest

The Supersonic Express Corporation has two purposes in submitting this petition requesting a limited exemption from the absolute contraints of FAR 91.55:

(1) To celebrate the Bicentennial of Air and Space Flight, thereby implementing the January 3, 1983 Presidential Proclamation and the January 22, 1982 Joint Resolution of the 97th Congress.

(2) To raise additional funds for the U.S. Olympic Committee in support of the 1984 U.S. Olympic Team.

President Reagan is the Honorary Chairman of the U.S. Organizing Committee for the Air and Space Bicentennial.

Relief Sought

The Supersonic Express Corporation petitions for relief from FAR 91.55 in order to conduct round trip charter flights using two leased Concorde aircraft. The flights will originate in New York after 7:00 A.M. on or about November 21, 1983. The Concordes will fly at supersonic speeds to land in Los Angeles and then continue on to Honolulu. They will return immediately to land again in Los Angeles and continue on to Washington, D.C., to land at Dulles International Airport before 10:00 P.M. the same day. The exact routing shall be determined jointly by representatives of the FAA and employees of the Supersonic Express Corporation.

Aircraft Description

Two Concorde supersonic transport aircraft will be utilized for these charter flights. Each aircraft will fly four legs. The aircraft will be chartered by Supersonic Express Corporation.

Supporting Documentation

The following five sections summarize the supporting arguments for this petition. In accordance with FAR 11.25 and FAR 11.27, documentation is provided in the Appendices to this petition and noted in the text.

Public Interest

Transportation Secretary William A. Coleman's February 4, 1976 decision to permit Concorde operation noted the benefit that would accrue to the American people from observing first hand limited and controlled demonstrations of supersonic aircraft. Such flights would enable government officers to determine whether the SST is commercially viable, whether the consumer is willing to pay for the extra benefits of reduced travel time, the extent that fatigue and jet lag are reduced, and the advantages for international commerce.

His decision further stated that limited Concorde operation would "permit further assessment of the environmental impact by measuring noise levels during actual commercial operation, evaluating subjective community response to the Concorde's unique noise characteristics, determining relative fuel efficiency per passenger mile, monitoring air pollution, and enabling stratospheric testing. The information derived from this demonstration will be invaluable in determining how the technology might be developed to control adverse environmental effects and in developing the appropriate U.S. and international environmental standards for the SST. Participation in the international SST route structure will also give the U.S. a more meaningful role in the international standard development process particularly concerned in the stratosphere."

The foregoing is equally applicable to the proposed overland operation of the Concorde. Notwithstanding, the farsighted decision of Secretary Coleman which was a clear indication of the DOT expectation in 1976 that commercial operation of the Concorde into the United States would afford opportunity for a further determination as to whether expansion or development of such operation would foster the interests of domestic and international air transportation or whether the environmental objection would forever doom the operation of supersonic aircraft for commercial use. Until now the development of the Concorde has been circumscribed by the artificial restriction imposed by FAR 91.55 some three years before Secretary Coleman made his evaluation of the potential that the Concorde offered. He gave a clear indication that if such operation proved as compatible to the communities, as it has, then more extended operation could be approved.

The officers of Supersonic Express Corporation support Secretary Coleman's decision and would further argue that the joint purposes of the Air and Space Bicentennial celebration and the opportunity to raise funds for the U.S. Olympic Committee constitute the appropriate occasion for additional supersonic flight.

Safety Considerations

The proposed Supersonic Express Corporation Concorde charter operations, if permitted, shall be conducted in accordance with the operations specifications issued to the foreign flag carrier(s) for standard Concorde operations, and in full compliance with any restrictions or limitations imposed by the terms of the exemption. Consequently, the level of safety presently enjoyed by Concorde passengers will be fully observed on the proposed charter flights.

Environmental Considerations

The projected environmental impact of supersonic Concorde operations was addressed in the 1975 FAA Concorde Environmental Impact Statement (Draft) which stated that sonic booms with intensities ranging from 1 to 65 pounds per square foot do not produce any harmful effects on hearing, vision, or circulatory systems. The report stated that psychological effects are complex and depend mostly upon mental attitude and familiarity with this phenomenon.

The NASA environmental impact statement for the Colombia operations which was developed in 1978 identifies the Concorde and Colombia sonic boom overpressure characteristics as producing a sound wave lasting about 0.2 second and producing an overpressure of approximately 2 lbs. per square foot which is "equivalent to closing a car door." *Effects of Sonic Boom* by John H. Wiggins addresses all property damage issues associated with the overpressures caused from supersonic overflight.

The National Environmental Policy Act of 1969 mandates continued support of activities necessary to create and maintain conditions under which man and nature can exist in productive harmony, in order to fulfill the social, economic, and other requirements of present and future generations of aircraft. Hence it is the continuing responsibility of the Federal Government to use all practicable means to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety or other undesirable and unintended consequences. Furthermore, the Act directs all agencies of the United States to lend appropriate support to initiatives, resolution and programs designed to maximize international cooperation.

Liability Issues

Supersonic Express Corporation will procure all necessary liability insurances for this charter flight. A Certificate of Insurance will be provided upon request.

Legal Considerations

Recent history of sonic boom litigation has resulted in a majority of defendant decisions, including U.S. Superior Court of Claims. Two cases in particular, alleging property damage caused by supersonic overflight by military supersonic aircraft, were found in favor of the U.S. Government. (Jim Nick Nelms, et al v. United States, Court of Claims, NO. 295–74, October 4, 1977, and Wheeler Brothers Grain Company v. United States of America, USDC/WD Oklahoma City, Civ. NO. 80–1–73–T, February 18, 1983.)

Conclusion

In view of the foregoing, it is submitted that the granting of the requested exemption would be in the public interest of the United States and international air transportation, would not adversely affect safety, and would advance the aerospace arts and sciences. In addition, the operation of the proposed charter flights would substantially assist the efforts of the U.S. Olympic Committee by providing financial support to athletes preparing for the 1984 Olympic Games.

Respectfully submitted,

William A. Good,

Supersonic Express Corporation, President.

[FR Doc. 83-19500 Filed 7-20-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Docket No. 83-31; Delegation Order 22]

Order of Succession To Act as Comptroller

Correction

In FR Doc. 83-17756 beginning on page 30509 in the issue of Friday, July 1, 1983, make the following correction in column three, paragraph two, line two should read "during the absence or disability of the".

BILLING CODE 1505-01-M

[Docket No. 83-35]

Public Hearings on Multistate Charter Applications

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice.

Notice: On March 3, 1983, the Office of the Comptroller of the Currency accepted for filing applications to charter 31 national banks in 25 states. The applications were all filed by Dimension Financial Corporation, a Delaware corporation recently organized for the purpose of establishing, owning and operating the proposed banks. The banks would be affiliated with Valley Federal Savings and Loan Association, an existing savings and loan association in Hutchinson, Kansas. The applications propose that the banks provide consumer loans, trust services, and consumer and commercial deposit services, including demand deposits; they would not offer commercial loans.

In a May 20, 1983, publication in the **Federal Register**, the Comptroller's Office gave notice that it would hold public hearings on the applications. 48 FR 22833. That notice established procedures for submitting requests to participate in the hearings. The notice indicated that the Comptroller's decision on where and when to hold the hearings would be based on the requests received in response to the notice and other factors. The notice set a deadline of June 6, 1983, for requests to participate in the hearings. However, the Comptroller's Office found it in the public interest to accept and grant requests received after that date. In order to make final preparations for the hearings possible, the Office is no longer accepting such requests.

Although requests to participate in the hearings are no longer accepted, the Comptroller's Office wishes to invite all interested parties to attend the hearings. The hearings will be held as follows:

A three-day hearing will be held beginning at 9 a.m. on August 8, 1983, at the Doral Inn, 49th Street and Lexington Avenue, New York, New York.

A two-day hearing will be held beginning at 9 a.m. on August 11, 1983, at the Marriott-City Center, 1701 California Street, Denver, Colorado.

In addition to attending the hearings, any interested party may also submit any written materials relevant to the applications to the Comptroller of the Currency. Such submissions will be accepted by the Comptroller's Office up to 5 p.m. Eastern Standard time on Friday, September 16, 1983. Such materials should be sent to: the Director, Bank Organization and Structure, Comptroller of the Currency, Washington, D.C. 20219. Any materials received after that time will be returned unopened to the submitter.

Because of unusual aspects of the above hearings, including the large number of parties scheduled to participate, the Comptroller's Office has, pursuant to 12 CFR 5.2(b), adopted special procedures to govern the hearings and certain aspects of the availability of the public files on the applications. Those procedures and/or a schedule of the participants at each hearing may be obtained by a written request to: Director, Bank Organization and Structure, Comptroller of the Currency, Washington, D.C. 20219.

Dated: July 14, 1983.

Doyle L. Arnold,

Acting Comptroller of the Currency.

[FR Doc. 83-19694 Filed 7-20-83; 8:45 am]

BILLING CODE 4810-33-M

Customs Service

[T.D. 83-152]

Customhouse Cartman's License Number 3146 Issued by the District Director of Customs, Honolulu, to Takashi Brian Uyeno on December 5, 1979; Revocation

Notice is hereby given that the Commissioner of Customs on July 15, 1983, pursuant to section 565, Tariff Act of 1930, as amended (19 U.S.C. 1565), and Part 112 of the Customs Regulations, as amended (19 CFR Part 112), decided to revoke the customhouse cartman's license of Takashi Brian Uyeno, Number 3146, issued on December 5, 1979, in the Honolulu District.

This revocation becomes effective as of July 26, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-19750 Filed 7-20-83; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circular 570, 1982 Rev., Supplement No. 27]

Rochdale Insurance Co.; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Rochdale Insurance Company, New York, New York under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable reinsurer on Federal bonds is hereby terminated effective June 30, 1983. The company was last listed as an acceptable reinsurer on Federal bonds at 47 FR 28875, July 1, 1982.

With respect to any bonds currently in force with Rochdale Insurance Company, bond-approving officers of the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Questions concerning this termination notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone (202) 634-5745.

Dated: July 14, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-19793 Filed 7-20-83; 8:45 am]

BILLING CODE 4810-35-190-M

Internal Revenue Service

Availability of Application Packages; Tax Counseling for the Elderly

AGENCY: Internal Revenue Service, Treasury.

ACTION: Availability of Application Packages.

SUMMARY: This document provides notice of the availability of Application Packages for the 1984 Tax Counseling for the Elderly program.

DATES: Application packages are available from IRS at this time. The deadline for submitting an application package to the IRS for the 1984 Tax

Counseling for the Elderly program is August 31, 1983.

ADDRESS: Application Packages may be requested by contacting: Internal Revenue Service, Tax Counseling for the Elderly Program, Taxpayer Service Division D:R:T:I, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Carlos Rosario of the Taxpayer Service Division, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 7215, Washington, DC 20224, (202) 566–4904, not a toll-free call.

SUPPLEMENTARY INFORMATION: Authority for the Tax Counseling for the Elderly program is contained in Section 163 of the Revenue Act of 1978 (92 Stat. 2810). Regulations were published in the **Federal Register** at (44 FR 72113) on December 13, 1979. Section 163 gives the Internal Revenue Service authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Applications are being solicited before the fiscal year 1984 budget has been approved and, therefore, cooperative agreements will be entered into subject to funds being appropriated. Subject to funding, volunteers may receive reimbursement for expenses incurred in training and in providing tax return assistance, and sponsoring agencies and organizations may receive reimbursement for administrative expenses. The Tax Counseling for the Elderly program is referenced in the Catalog of Federal Domestic Assistance in §21.006.

Walter M. Alt,

Director, Taxpayer Service Division.

[FR Doc. 83-19831 Filed 7-20-83; 8:45 am]

BILLING CODE 4830-01-M

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Notice of Public Hearings

Summary: The purpose of this notice is: (1) To announce the acceptance for review of petitions to modify the list of articles eligible to receive duty-free treatment under the Generalized System of Preferences (GSP); (2) to announce the timetable for public hearings to consider petitions accepted for review; and (3) to announce that the list of articles herein is to be sent by the United States Trade Representative to the United States International Trade Commission with respect to designating articles as eligible for GSP.

I. Acceptance of Petitions for Review

Notice is hereby given of acceptance for review of petitions requesting modification of the list of articles eligible to receive duty-free treatment under the GSP, as provided for in Title V of the Trade Act of 1974 (19 U.S.C. 2461–2465). These petitions were submitted, and will be reviewed, pursuant to regulations codified at 15 CFR, part 2007.

1. Requests for "Graduation" of Products from Countries

As part of this product review, a special effort will be made to include on the GSP list products of interest to low income beneficiary countries. In addition, requests to add products to or remove them from the list of articles eligible for GSP duty-free treatment will be evaluated in accordance with the "graduation" policy. In considering GSP eligibility for products, limitations on GSP benefits will be considered for the more economically advanced beneficiary developing countries in specific products where it is determined that they have demonstrated international competitiveness. This approach will help to ensure that a greater share of GSP benefits is reserved for less competitive beneficiaries. Three criteria will be taken into account when any such "graduation" action is considered: the development level of individual beneficiary countries, their competitive position in the product concerned, and the overall economic interests of the United States. The GSP Subcommittee will review information for the relevant United States industry as enumerated in 15 CFR 2007.1(5) when considering the removal of any beneficiary developing country from GSP eligibility with respect to a specific designated product or from proposed GSP eligibility with respect to a petition requesting the designation of a new item.

Product designations announced at the conclusion of the review process, therefore, may be made on a differential basis. This means that certain beneficiary developing countries may not be designated for GSP benefits on certain products even though those countries are not excluded under the competitive need provisions set forth in Section 504(C)(1) of the Trade Act of 1974, as amended. It also is possible to withdraw GSP treatment from certain beneficiary developing countries rather than remove the product entirely from GSP coverage. The competitive need limitations of the program will continue to apply to countries remaining eligible for GSP treatment with respect to particular products.

The implementation of this policy is designed to provide increased opportunities for less developed, less competitive beneficiary developing countries to benefit from GSP treatment. In accordance with U.S. trade policy toward developing countries, this action is designed also to promote continued graduation of more advanced developing countries from GSP benefits in products where they have demonstrated competitiveness. Over time, such action should provide a more balanced distribution of GSP benefits among developing countries by helping to shift more of the program's benefits to the less competitive developing countries.

For additional information on this policy, refer to the Report to the Congress on the First Five Years' Operation of the U.S. Generalized System of Preferences (GSP), transmitted by the President of the United States on April 17, 1980. A copy of the report is available for inspection at the GSP Information Center, Office of the United States Trade Representative, 600 Seventeenth Street, NW., Room 316, Washington, D.C. 20506. Information also can be obtained by calling the GSP Information Center at (202) 395–6971.

2. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and on each page within the document, where appropriate, that confidential material is included. Non-confidential summaries of all confidential material must be submitted in twenty copies, in English, at the same time that confidential submissions are filed.

3. Communications

All communications with regard to these hearings should be addressed to: GSP Subcommittee, Office of the United States Trade Representative, 600 Seventeenth Street, NW., Room 316, Washington, D.C. 20506. The telephone number of the Secretary of the GSP Subcommittee is (202) 395–6971.

Questions may be directed to any member of the staff of the GSP Information Center.

Acceptance for review of the petitions listed herein does not indicate any opinion with respect to a disposition on the merits of the petitions. Acceptance indicates only that the listed petitions have been found to be eligible for review by the GSP Subcommittee and the TPSC, and that such reviews will take place.

II. Deadline for Receipt of Requests to Participate in the Public Hearings

The GSP Subcommittee of the Trade Policy Staff Committee invites submissions in support of or in opposition to any petition contained in this notice. All such submissions should conform to 15 CFR 2007, particularly parts 2007.0, 2007.1(1), 2007.1(2), and 2007.1(3).

Requests to present oral testimony in connection with public hearings should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee no later than the close of business Friday, September 16, 1983. Oral testimony before the GSP Subcommittee will be limited to five minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if submitted in twenty copies, in English, no later than close of business Friday, October 14, 1983. Rebuttal briefs should be submitted in twenty copies, in English, by close of business Friday, October 28, 1983.

Parties not wishing to appear may submit written briefs or statements in twenty copies, in English, in connection with articles under consideration in the public hearings, provided that such submissions are filed by October 14 and conform with the regulations cited above.

Hearings will be held September 26 and 28, beginning at 10:00 a.m. in the Amphitheater of the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. The hearings will be open to the public and transcripts will be made available for public inspection or purchase from the reporting company.

III. List of Articles Which May Be Considered for Designation as Eligible Articles for Purposes of the GSP and On Which the United States International Trade Commission Will Be Asked to Provide Advice

1. In conformity with Sections 502(a) and 131(a) of the Trade Act of 1974 as amended (19 U.S.C. 2463(A) and 2151 (A)), notice is hereby given that the articles listed herein may be considered for designation as eligible articles for purposes of the GSP.

An article which is determined to be import sensitive in the context of the GSP cannot be designated as an eligible article. Recommendations with respect to the eligibility of any listed article will be made after public hearings have been held and advice has been received from the U.S. International Trade Commisssion on the probable effects of GSP designation on industries producing like or directly competitive articles and on consumers.

2. Advice of the United States International Trade Commission. On behalf of the President and in accordance with Sections 503(A) and 131(A) of the Trade Act of 1974 as amended, the United States International Trade Commission is being furnished with a list of the articles published herein for the purpose of securing from the Commission its advice on the probable economic effect on United States industries producing like or directly competitive articles, and on consumers, of the designation of such articles as eligible articles for purposes of the GSP.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.	
83-1	126.01	Garden and field seeds: Alfalfa	Government of Chile
83-2	146.85	Berries, fresh, or prepared or preserved: [Fresh or in brine; dried; frozen] Otherwise prepared or preserved: Strawberries	do.
83-3	161.60	Mustard, ground or prepared: [Ground] Other	Government of Peru
83-4	403.05	Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A or C of part 1 of schedule 4 of the Tariff Schedules of the United States: [Articles provided for in items 402.00 thru 402.32] Other: [Hydrocarbons; halogenated hydrocarbons] Other hydrocarbon derivatives: p-Toluenesulfonyl chloride	Government of Korea
83-5	403.16pt.	Alcohols, phenols, ethers (including epoxides and acetals), aldehydes, ketones, alcohol peroxides, ether peroxides, ketone peroxides, and their derivatives: 2,6-Di-tert-butyl-p-cresol	Cydsa Group, Mexico
83-6	404.04	Carboxylic acids, anhydrides, halides, acyl peroxides, peroxyacids, and their derivatives: Benzoic acid	Government of Colombia

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Cyclic organic chemical products, etc. (con.): Other (con.): Amines having one or more oxygen functions, and their derivatives: [Articles provided for in items 404.92 thru 405.02]	
		Other: [Products provided for in the Chemical Appendix to the Tariff Schedules]	
83-7	405.09pt.	Potassium-D-(-)-N-(1-methoxycarbonyl-propen-2-yl)-a-amino-p-hydroxy-phenylacetate (Dane salt)	Kaneka America Corp., New York, NY
		Heterocyclic compounds and their derivatives (including lactones and lactams but excluding epoxides with three membered rings, anhydrides and imides of polybasic acids, and cyclic esters of polyhydric alcohols with polybasic acids):	
83-8	406.16	2,2'-Dithiobisbenzothiazole	Cydsa Group, Mexico, Government of Mexico
		[Articles provided for in items 406.20 thru 406.32]	
		Other: [Articles provided for in item 406.36]	
83-9	406.40pt.	Other: 1,2-Dihydro-2,2,4-trimethylquinoline polymer; 2-Mercaptobenzothiazole; N-(Oxydiethylene)benzothiazole-2-sulfenamide	Cydsa Group, Mexico, Government of Mexico

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Cyclic organic chemical products, etc. (con.): Other (con.): Sulfonamides, sultones, sultams, and other organic compounds: Sulfonamides:	
83-10	406.48pt.	4-Amino-6-chloro-m-bezene-disulfonamide	Pliva of Zagreb, Yugoslavia
		Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States: Drugs: [Articles provided for in items 410.68 thru 411.27]	
		Other: [Alkaloids and their salts and other derivatives]	
		Antihistamines, including those chiefly used as antinauseants: [Articles provided for in item 411.52]	
		Other:	
83-11	411.56pt.	Meclizine hydrochloride	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)		
		Products suitable for medicinal use, etc.. (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.): Other (con.): Anti-infective agents: Anti-infective sulfonamides: [Articles provided for in items 411.80 and 411.81]	
83-12	411.83pt.	Other: Acetylsulfisoxazole; sulfamerazine, sodium	Pliva of Zagreb, Yugoslavia
		[Articles provided for in items 411.98 thru 412.67]	
83-13	412.69pt.	Other: Chlorpropamide; chlorothiazide	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)		
		Glass (whether or not containing wire netting), in rectangles, not ground, not polished and not otherwise processed, weighing over 4 oz. per sq. ft.:	
		[Cast or rolled glass]	
		Other, including blown or drawn glass, but excluding pressed or molded glass:	
		Colored or special glass:	
83-14	542.57	Weighing over 4 oz. but not over 12 oz. per sq. ft	Government of Mexico
83-15	542.67	Weighing over 12 oz. but not over 16 oz. per sq. ft	do.
		Weighing over 16 oz. but not over 28 oz. per sq. ft.:	
83-16	542.71	Measuring not over 40 united inches	do.
83-17	542.73	Measuring over 40 but not over 60 united inches	do.
83-18	542.75	Measuring over 60 but not over 100 united inches	do.
83-19	542.77	Measuring over 100 united inches	do.
		Weighing over 28 oz. per sq. ft.:	
83-20	542.92	Not over 2-2/3 sq. ft. in area	do.
83-21	542.94	Over 2-2/3 but not over 7 sq. ft. in area	do.
83-22	542.96	Over 7 but not over 15 sq. ft. in area	do.
83-23	542.98	Over 15 sq. ft. in area	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Glass (including plate glass and float glass), whether or not containing wire netting, in rectangles, ground or polished on one or both surfaces in whole or in part, but not further processed:	
		Ordinary glass:	
		Not containing wire netting:	
		Measuring not over 15/32 inch in thickness:	
83-24	543.21	Not over 2-2/3 sq. ft. in area	Government of Mexico
83-25	543.23	Over 2-2/3 but not over 7 sq. ft. in area	do.
83-26	543.27	Over 7 sq. ft. in area	do.
83-27	543.31	Measuring over 15/32 inch in thickness	do.
		Colored or special glass:	
		Measuring not over 15/32 inch in thickness:	
83-28	543.61	Not over 2-2/3 sq. ft. in area	do.
83-29	543.63	Over 2-2/3 but not over 7 sq. ft. in area	do.
83-30	543.67	Over 7 sq. ft. in area	do.
83-31	543.69	Measuring over 15/32 inch in thickness	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)		
83-32	685.1915	Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof: Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof: Television apparatus, and parts thereof: [Television receivers and parts thereof] Other television apparatus and parts thereof: Antennas	Government of Malaysia
83-33	737.24pt.	Dolls, and parts of dolls including doll clothing: [Doll clothing imported separately] Other: Dolls (with or without clothing): [Stuffed] Handmade, of wood or clay	Government of Thailand
83-34	745.32	Buttons: Of acrylic resin, of polyester resin, or of both such resins	Government of Colombia, Government of Malta
83-35	745.42	Button blanks and molds, and parts of buttons: [Button blanks of casein] Other	Government of Colombia

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.	
		Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		Pesticides:	
		Not artifically mixed:	
		[Fungicides]	
		Herbicides (including plant growth regulators):	
		[Articles provided for in item 408.21]	
		Other:	
83-36	408.22pt.	2,4-Dinitro-6-sec-butyl-phenol	Vertac Chemical Corp., Memphis, TN
		Nitrogenous compounds:	
		Cyanuric chloride, melamine, and other compounds containing a triazine ring:	
83-37	425.1020	Melamine	Melamine Chemicals, Inc., Donaldsonville, LA
		Acids:	
83-38	425.74	Citric	Pfizer, Inc., New York, NY
		Pipe and tube fittings of iron or steel:	
		Cast-iron fittings, not malleable:	
		For cast-iron pipe:	
83-39	610.62	Cast iron, other than alloy cast iron	American Pipe Fittings Association, Washington, D.C.
83-40	610.63	Alloy cast iron	do.
		Not for cast-iron pipe:	
83-41	610.65	Cast iron, other than alloy cast iron	do.
83-42	610.66	Alloy cast iron	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences (con.)	
		Pipe and tube fittings of iron or steel (con.): Cast-iron fittings, malleable: Not advanced in condition by operations or processes subsequent to the casting process:	
83-43	610.70	Cast iron, other than alloy cast iron	American Pipe Fittings Association, Washington, D.C.
83-44	610.71	Alloy cast iron	do.
83-45	610.74	Advanced in condition by operations or processes subsequent to the casting process	do.
83-46	610.80	Other fittings	do.
		Furniture, and parts thereof, not specially provided for: Of rubber or plastics: [Of reinforced or laminated plastics]	
83-47	727.50	Other	Waterbed Manufacturers Association, Washington, D.C., General Foam Plastics Corp., Norfolk, VA
		Pillows, cushions, mattresses, and similar furnishings, all the foregoing, whether or not fitted with covers and with or without electrical heating elements, fitted with springs, stuffed, or both, or of expanded, foamed, or sponge rubber or plastics: [Of cotton] Other:	
83-48	727.8630	Mattresses	Waterbed Manufacturers Association, Washington, D.C.
		Fishing reels and parts thereof: Reels:	
83-49	731.20	Valued not over $2.70 each	Zebco Division Brunswick Corp., Tulsa, OK

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
C.	Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences.2/		
		Containers (except ampoules) chiefly used for the packing, transporting, or marketing of merchandise, and containers chiefly used for home canning and preserving, all the foregoing, of glass, with or without their closures and whether or not coated with plastics materials:	
		[Ordinarily used for perfume or other toilet preparations, or if fitted with or designed for use with ground glass stoppers]	
		Other:	
83-50	545.21 (Mexico)	Holding not over 1/4 pint	Glass Packing Institute, Washington, D.C.
83-51	545.25 (Mexico)	Holding over 1/4 pint but not over 1 pint	do.
83-52	545.27 (Mexico)	Holding over 1 pint	do.
		Articles not specially provided for of a type used for household, table, or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof, of metal:	
		Articles, wares, and parts, of base metal, not coated or plated with precious metal:	
		Of iron or steel:	
		Enameled or glazed with vitreous glasses:	
83-53	654.02pt. (Taiwan)	Porcelain-on-steel cooking and kitchen ware	General Housewares, Corp., Stanford, CT

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
C.	Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences (con.)2/		
83-54	661.95pt. (Hong Kong, Taiwan)	Centrifuges; filtering and purifying machinery and apparatus (other than filter funnels, milk strainers, and similar articles), for liquids or gases; all the foregoing and parts thereof: [Centrifuges and parts thereof] Other: [Cast-iron (except malleable cast-iron) parts, not alloyed and not advanced beyond cleaning, and machined only for the removal of fins, gates, sprues, and risers or to permit location in finishing machinery] Portable air purifiers, not specially designed for industrial use, and filters thereof	Associated Mills, Inc., Chicago, IL
83-55	674.3227 (Taiwan)	Machine tools: Metal-working machine tools: Boring, drilling, and milling machines, including vertical turret lathes: Drilling machines: [Used or rebuilt] Other, valued under $2,500 each	Wilton Corp., Des Plaines, IL
83-56	683.05 (Republic of Korea)	Storage batteries and parts thereof: Lead-acid type storage batteries, and parts thereof: 12-volt batteries	Yuasa-General Battery Corp., Reading, PA

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
C.	Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences (con.)2/		
83-57	688.12 (Taiwan)	Insulated (including enamelled or anodized) electrical conductors, whether or not fitted with connectors (including ignition wiring sets, Christmas-tree lighting sets with or without their bulbs, and other wiring sets): With fittings: Ignition wiring sets and wiring sets designed for use in motor vehicles and craft provided for in part 6 of schedule 6 of the Tariff Schedules of the United States	National Industries, Inc., Montgomery, AL
83-58	722.1205 (Hong Kong, Republic of Korea, Taiwan)	Photographic cameras (other than motion-picture cameras), photographic enlargers, and combination camera-enlargers: [Having a photographic lens valued over 50 percent of the value of the article] Other cameras: Fixed-focus: Hand-held type: 110 cameras: With built-in electronic stroboscopic flash	National Association of Photographic Manufacturers, Inc., Harrison, NY
83-59	722.1212 (Hong Kong, Republic of Korea, Taiwan)	Other	do.
83-60	722.1225 (Hong Kong, Republic of Korea, Taiwan)	Other: [Instant-print cameras] Other	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
	C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences (con.)2/		
83-61	725.01 (Republic of Korea)	Stringed musical instruments: Pianos (including player pianos, whether or not with keyboards): harpsichords, clavichords, and other keyboard string instruments: Pianos (including player pianos, whether or not with keyboards), except grand pianos	National Piano Manufacturers Association of America, Inc., Chicago, IL
83-62	725.03 (Republic of Korea)	Other	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

[FR Doc. 83-19630 7-20-83; 8:45 am]
BILLING CODE 3190-01-C

Sunshine Act Meetings

Federal Register
Vol. 48, No. 141
Thursday, July 21, 1983

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).

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1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Friday, July 15, 1983, 10:15 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting was closed to the public—Pursuant to 11 CFR 3.5(b), the Commission determined that Commission business so required, and that no earlier announcement of this meeting was possible, and accordingly voted to hold an Executive Session to consider a personnel matter. This meeting was closed to the public under § 3.2(b)(1)(i) of the FEC Sunshine Regulations.

* * * * *

DATE AND TIME: Tuesday, July 26, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, July 28, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of Minutes
Elibility Report for Candidates to Receive Presidential Primary Matching Funds
Advisory Opinion: Draft AO 1983-17 Nicolas R. Yusrsa, on behalf of Idaho Power Company
Finance Committee Report
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-1061-83 Filed 7-19-83; 2:35 pm]
BILLING CODE 6715-01-M

2

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 31958, Tuesday, July 12, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, July 18, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Legislative proposals relating to banking structure. (This matter was originally announced for a closed meeting on June 29, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: July 18, 1983.

James McAfee,
Associate Secretary of the Board.

[S-1058-83 Filed 7-19-83; 9:06 am]
BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Friday, July 22, 1983. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Legislative proposals relating to bank structure.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: July 18, 1983.

James McAfee,
Associate Secretary of the Board.

[S-1057-83 Filed 7-18-83; 5:05 pm]
BILLING CODE 6210-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 11:10 a.m., Wednesday, June 22, 1983.

PLACE: 1776 G Street NW., Washington, D.C. (Sixth floor).

STATUS: Closed.

MATTER CONSIDERED:

1. Merger.

The Board voted that the agency business required that a meeting be held with less than the seven days advance notice.

The Board voted to closed the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1059-83 Filed 7-19-83; 1:02 pm]
BILLING CODE 7535-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 3 p.m., Tuesday July 26, 1983.

PLACE: 230 South Dearborn, Suite 346, Chicago, Illinois 60604.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Budget Authorization for FY 1984. Closed pursuant to exemptions (2) and (9)(B).
3. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357-1100.

[S-1060-83 Filed 7-19-83; 1:02 pm]
BILLING CODE 7535-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 18, 1983 (revised) and week of July 25, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Wednesday, July 20:*

10:00 a.m.
Discussion of Midland Adjudication (Closed—Exemption 10) (As Announced)

Thursday, July 21:

10:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (Time Change)
a. Final Rule on Immediate Notification of Significant Events at Operating Reactors
b. Review of Director's Denial
c. Review of ALAB-724

Monday, July 25:

2:00 p.m.
Briefing on President's Private Sector Survey on Cost Control (Public Meeting)

Thursday, July 28:

2:00 p.m.
Discussion of Regulatory Reform Task Force—Administrative Proposals—Revisions to Part 2 (Public Meeting)

Friday, July 29:

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

July 18, 1983.

[S-1062-83 Filed 7-19-83; 3:40 pm]

BILLING CODE 7590-01-M

federal register

Thursday
July 21, 1983

Part II

Department of Transportation

Office of the Secretary

Participation by Minority Business Enterprises in Department of Transportation Programs

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[OST Docket No. 64c and 64d]

Participation by Minority Business Enterprises in Department of Transportation Programs

AGENCY: Department of Transportation.

ACTION: Final rule; request for comments.

SUMMARY: This regulation implements section 105(f) of the Surface Transportation Assistance Act of 1982, which provides that, except to the extent that the Secretary determines otherwise, not less than ten percent of the amounts authorized to be appropriated under the Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals. The regulation adds a new Subpart D to the Department's existing minority business enterprise regulation. The Department also requests comments on § 23.67 of the final rule.

DATES: This regulation is effective August 22, 1983. Comments on § 23.67 should be provided no later than August 22, 1983.

ADDRESS: Comments on § 23.67 should be submitted to Docket Clerk, OST Docket No. 64, Department of Transportation, 400 7th Street, SW., Room 10105, Washington, D.C. 20590. Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. Comments will be available for review at the above address from 9:00 a.m. to 5:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of the Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street, S.W., Room 10105, Washington, D.C. 20590; (202) 426–4723.

SUPPLEMENTARY INFORMATION:

Background

The Existing Regulation

On March 31, 1980, the Department of Transportation published a regulation on "Participation by Minority Business Enterprise in Department of Transportation Programs" (45 FR 21172). This regulation, codified as 49 CFR Part 23, established requirements for recipients of Department of Transportation financial assistance. The key features of this regulation, in its current form, include requirements for recipients to set overall and contract goals, award contracts goals, and certify the eligibility of firms to participate in DOT-assisted contracts as MBEs.

The Department's implementation of section 105(f) of the Surface Transportation Assistance Act of 1982 (STAA) builds upon this existing rule. The new Subpart D changes the way FHWA and UMTA recipients establish overall goals and also makes some changes concerning the eligibility of firms to participate in the program. Otherwise, the Department's program continues to operate in the same way as it is under the existing regulation.

Notice of Proposed Rulemaking and Comments.

The Department of Transportation published a notice of proposed rulemaking to carry out section 105(f) on February 28, 1983 (48 FR 8816). The original comment closing date of March 21 was later extended to April 5. The Department has received well over 1600 comments on this rulemaking. Members of Congress, minority contractors, non-minority contractors, women-owned businesses, state transportation agencies, transit authorities, other state and local agencies, transit vehicle manufacturers, and other parties were represented among the commenters. The Department fully considered the issues raised by these commenters as it made the policy decisions on which this final regulation is based.

In preparing this final rule, the Department wanted to respond fully to the numerous suggestions, questions, and requests for guidance the commenters made. In order to be responsive to these comments, it has been necessary to add explanatory material (e.g., Appendices A-D), include a detailed discussion of responses to comments in the Preamble, and add some additional provisions to the rule itself. The addition of this material, which we believe will help to clarify the Department's policy and the actions recipients and others must take under the rule, results in an unusually lengthy preamble. However, the regulation itself is of modest length.

The Statute

The regulation implements section 105(f) of the STAA. Section 105(f) provides as follows:

> Except to extent that the Secretary determines otherwise, not less than ten percentum of the amounts authorized to be appropriated under this act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

This provision resulted from an amendment introduced by Representative Parren Mitchell on the House floor (Daily Congressional Record, December 6, 1982, at H 8954). The only legislative history for this amendment consists of a brief floor statement made by Representative Mitchell. In the statement, Representative Mitchell said that his amendment was designed, like a similar provision in the Public Works Act of 1977, "to ensure the participation of [small and disadvantaged] businesses in these massive public spending [programs.]" Mr. Mitchell said that the 1977 amendment had been found constitutional by the Supreme Court in 1980 and had succeeded in causing $600 million to be awarded to minority businesses. He pictured the amendment as a means of dealing with the high rate of unemployment among minority workers.

As originally introduced by Representative Mitchell and passed by the House, the amendment did not contain the introductory phrase "Except to the extent that the Secretary determines otherwise * * *." This phrase was introduced in the conference version of the STAA. The conference report provides no information concerning the rationale for the introduction of this language, saying only that section 105(f) "provides that not less than ten percent of amounts authorized to be appropriated under the bill shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals." This conference report language does not suggest, as some commenters asserted, that the added phrase was intended to free individual recipients from responsibility to set and meet goals commensurate with the statute.

There was no parallel Senate provision. Senator Cranston made a floor statement (*Daily Congressional Record*, December 8, 1982 at S 14211) very similar to that which Representative Mitchell made in the House. However, Senator Cranston did not actually introduce an amendment. In the Department's notice of proposed rulemaking, it was erroneously stated that Senator Cranston "sponsored" an amendment similar to Representative Mitchell's. In formulating its final rule on this subject, the Department relied for evidence of the intent of Congress solely on the text of section 105(f) as enacted

by Congress, Representative Mitchell's floor statement, and the conference report.

By referencing the Public Works Act of 1977 and by speaking of section 105(f) as a "set-aside for small and disadvantaged businesses," Representative Mitchell, in his floor statement, explicitly viewed the statute as requiring affirmative action. As the repeated references to the 1977 statute indicate, Congress also should be regarded as having taken into account the more lengthly discussion of the need for affirmative action which occurred during Congressional consideration of the 1977 provision. The Department has considered the history of Congressional action underlying the 1977 statute, much of which is cited in *Fullilove* v. *Klutznick*, 448 US 448 (1980), which upheld the constitutionality of the earlier statute and its implementation by the Department of Commerce.

Scope of the Statute

In the preamble to its notice of proposed rulemaking, the Department discussed the question of the scope of section 105(f). The question arises because of the ambiguity of the reference in section 105(f) to funds authorized to be appropriated under "this Act." Section 105(f) appears in Title I of the STAA, which is titled the Highway Improvement Act of 1982. The Department concluded that, in context of the entire statute and its legislative history, "this Act" should be taken to refer to the entire STAA, and not just to Title I.

The majority of comments received on this subject, including comments from minority and nonminority contractors, members of Congress, and state and local governments, agreed with the Department's interpretation. Comments from one transit authority and one non-minority contractors' association took the opposite view. The Department believes that the analysis of the scope of the statute explained in the NPRM is correct, and retains this interpretation for the final rule.

Program Exclusions

The NPRM proposed, under the Secretary's discretionary authority in section 105(f), to exempt from coverage under this regulation several programs for which funds are authorized by the Act. The reasons for proposing these exclusions were that they were not funded by the gasoline user fee or had relatively little potential for job and business opportunity creation. In the Department's judgment, the MBE contracting opportunities gained by coverage of these programs would not justify the additional administrative burdens involved for recipients.

Most of the comments on this issue were received from minority businesses, with additional comments being received from members of Congress and some state and local agencies. The majority of the comments from minority businesses and members of Congress opposed the proposed exclusions. These commenters said that since section 105(f) applies to the entire Act, all programs funded by the Act should be covered by the regulations. Other commenters, including minority business groups and some state and local agencies, agreed that the exclusions would not seriously impair achievement of the statute's objectives and could help to avoid confusion and unnecessary administrative burden.

The Department is committed to achieving the objectives of section 105(f). However, the Department also has a responsibility to avoid the imposition of additional administrative burdens, particularly in situations where doing so is not likely to increase significantly the Department's ability to implement the statute. With respect to the NHTSA Highway Safety Grant Program, grants to states for Commercial Motor Vehicle Safety Programs, the Coast Guard State Recreational Boating Program, and the Reforestation and Promotion of Fisheries Programs (the latter two of which are not directly implemented by DOT), the Department believes that too few contracting opportunities will be created, for minority businesses or anyone else, to justify covering those programs under this regulation. Indeed, doing so would require these recipients to create MBE programs under the Department's existing regulation where none are now required. Consequently, the Department has decided to retain these exemptions. Since these exemptions relate to programs for which the authorizations are relatively small, the exemptions should not seriously impair the Department's ability to achieve the objectives of the statute.

One of the programs proposed for exclusion by the NPRM was the authorization for a supplemental discretionary fund for the FAA's Airport and Airway Improvement Program. This program was of particular interest to some commenters. While it was not funded from the gasoline user fee, it was a fairly large authorization ($475 million over three years). In addition, funds in the FAA airport program are often spent in construction, planning, engineering and other types of work in which minority contractors are used. At the time that the Department proposed the NPRM, Congress had not appropriated any of the funds authorized by the STAA for the airport program. This was the primary reason that the Department propose to exclude the program from coverage. However, Congress subsequently appropriated $150 million of the $200 million authorized for fiscal year 1983.

The Department has reconsidered the status of the FAA Supplemental Discretionary Fund with respect to this regulation. The Department has decided, however, not to cover this program under the final regulation. The most important reason for this decision is that the administrative mechanics of the regulation are designed with the Department's highway and transit programs in mind. Unlike the highway and transit programs (which involve, for the most part, continuous assistance to the same recipients), the FAA airport program is a program that involves discrete, often one-time, grants to various airports. While some larger airports receive very frequent FAA grants, many medium-size and smaller airports receive grants only periodically. For this reason, the final regulation, with its emphasis on overall goals and long-term aggregate achievement of disadvantaged business goals, does not fit the situation of many FAA recipients too well.

In addition, the supplemental discretionary fund authorized by the STAA is only a small part of FAA's overall Airport and Airway Improvement Program. Most of the funds for this program were authorized by other statutes. Consequently, section 105(f) would apply only to a small portion of airport program funds granted to airports in any given fiscal year. It would be very difficult to apply separate sets of administrative requirements to FAA funds authorized by the STAA and grants resulting from other authorizations. This is particularly true because, in about half the cases, funds authorized by the STAA are intermingled with funds authorized by other statutes in the same grant to the same airport.

Timing is also a factor. The FAA has already apportioned the funds appropriated for fiscal year 1983. Many grants have already been made from these apportionments. This final regulation was not issued until the beginning of the fourth quarter of fiscal year 1983. It is uncertain whether Congress will appropriate funds authorized by the Surface Transportation Assistance Act of 1982 for the airport program for fiscal years 1984 or 1985. In these circumstances,

there could be little opportunity for the administrative provisions of this regulation to actually operate with respect to airport funds appropriated from the STAA authorizations.

At the same time, the Department recognizes a responsibility to achieve the minority business participation objectives of Congress in any program creating substantial potential opportunities for minority business involvement. For this reason, in implementing the Department's existing minority business regulation with respect to airports, the FAA will seek, as a matter of policy, to achieve the ten percent level of participation established by section 105(f). This means that, in working with grantees under the Supplemental Discretionary Fund, FAA will strongly encourage them to set and meet ten percent goals. The Department believes that this policy commitment under existing administrative machinery is the best way to achieve the objectives of the statute in the context of the airport program.

For these reasons, the Department determines, under the Secretary's discretionary authority in section 105(f), that this final regulation will not apply to the following provisions of the STAA:

Section 203—NHTSA/FHWA Highway Safety Grant Program
Section 402—Grants to States for Commercial Motor Vehicle Safety Programs
Section 412—State Recreational Boating
Section 422—Reforestation
Section 423—Promotion of Fisheries
Section 426—Airway and Airport Development Program

The Department also recognizes that the direct Federal highway program and UMTA direct procurement activities are covered by section 105(f). The Department is committed to carrying out the ten percent participation requirement of the statute under these programs. However, since these are not Federal financial assistance programs, the provisions of this regulation do not apply to them. UMTA and FHWA will seek to achieve the ten percent level of participation through the Small Business Administration (SBA) 8(a) program, the section 8(d) Federal subcontracting program, and other tools available to the Department to encourage the use of small and disadvantaged businesses.

Policy Issues and Comments

This portion of the preamble discusses the significant issues raised by comments to the NPRM. With respect to each issue, the discussion will describe comments made by various commenters, the Department's response to these comments, and the policy decisions the Department made for the final regulation. In preambles to final regulations, the Department usually includes a section-by-section analysis of the language of the final regulation. For this regulation, we are publishing the section-by-section analysis as Appendix A to the regulation. The reason for this decision is that, for this particular rulemaking, we think it would be useful to permit the descriptive and explanatory material of the section-by-section analysis to be codified along with the regulatory language to which it pertains. Consequently, this section-by-section material will be available to users of the Code of Federal Regulation who do not have a copy of the **Federal Register** publication available to them.

Definitions

Use of the Terms "Minority" and "Minority Business Enterprise"

The NPRM used the term "minority" to refer to groups presumed to be socially and economically disadvantaged and the term "minority business enterprise" to refer to businesses owned and controlled by socially and economically disadvantaged individuals. The Department proposed to use these terms in order to be consistent with the terminology of the existing minority business regulation. However, some commenters thought that the use of these terms in context of this rulemaking was confusing. In addition, a commenter expressed concern that the use of the term minority business enterprise would imply that only members of minorities could be considered eligible for participation in the section 105(f) program. Since the statute references the "socially and economically disadvantaged" concept of section 8(d) of the Small Business Act, this distinction might be misleading.

For these reasons, the Department has decided to drop the use of the two terms. In place of the term "minority business enterprise," the final rule uses the term "disadvantaged business." A disadvantaged business is a small business concern owned and controlled by socially and economically disadvantaged individuals. The Department believes that using this term should help to avoid the confusion about which commenters were concerned.

Several commenters urged the Department to ensure that there was only one set of definitions of eligible businesses for all DOT financial assistance programs. The Department agrees that unifying the definitions is desirable. However, the differences between 49 CFR 23.5 definition of minority business enterprise and Subpart D's definition of disadvantaged businesses are so slight that recipients and contractors should have little problem in working with them. The Department does, however, intend to publish a proposed clarification and revision of the existing 49 CFR Part 23 in the future. Proposing a single definition for all pruposes under Part 23 will be considered in the context of that proposed rulemaking.

Use of the "Social and Economic Disadvantage" Concept

The proposed rule defined eligible businesses as being small business concerns owned and controlled by socially and economically disadvantaged individuals. The NPRM did so because section 105(f) explicitly directs the Department to use this definition, derived from section 8(d) of the Small Business Act. Several commenters, including minority businesses and recipients, asked that the Department instead use its existing definition of minority business in 49 CFR Part 23. Some of these commenters made this recommendation because they thought it would be less confusing. Others did so because they were concerned that the use of the 8(d) definition would eliminate the eligibility of many MBE firms, with the result that these MBE firms would be injured and that recipients would have a harder time meeting goals.

Given the language of section 105(f), the Department believes that it is required to use the "social and economic disadvantage" concept as the basis for its definition of eligible firms. The Department believes further that using this definition should render few firms ineligible to participate in the Department's financial assistance programs covered by Subpart D. The impact of the change should be limited to persons with origins in Burma, Thailand, and Portugal. Under the existing definition of MBE, persons with origins in Burma and Thailand are considered to be Asian-Americans. They are not considered to be Asian-Pacific Americans under the section 8(d) definition.

On December 10, 1981, the Department amended its minority business enterprise definition to include persons with origins in Spain and Portugal. However, the section 8(d) definition of socially and economically disadvantaged individuals includes only the term "Hispanic Americans." This term is defined, as provided in Office of

Management and Budget (OMB) Office of Statistical Policy Directive No. 15, to include persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race. The Department was informed by OMB at the time it made its December 1981 amendment that it was not appropriate to include Portuguese-Americans within this definition.

At that time, the Department avoided the problem by defining Portuguese-Americans as a separate eligible group. However, under the section 8(d) definition that the Department is required to use in this rulemaking, only persons who are members of groups named in the statute or groups later designated by SBA as socially and economically disadvantaged may be presumed to be socially and economically disadvantaged. As a group, Portuguese-Americans have not been so designated. Consequently, the Department is unable to define Portuguese-Americans as one of the "presumptive" groups.

Another matter of concern to some commenters was the requirement that eligible businesses be small business concerns as defined by Small Business Act. Commenters were particularly concerned that more successful firms capable of performing larger contracts might be rendered ineligible, with resulting hardship to the firms and to recipients. In using the business size criteria of the Small Business Act in the NPRM, the Department was not proposing any change from its existing MBE regulation. To be eligible under the present 49 CFR Part 23, a firm must also be a small business as defined by section 3 of the Small Business Act. In addition, section 105(f) requires the Department to use the Small business Act's business size criteria. For the convenience of recipients and contractors, Appendix B to the final regulation summarizes the SBA's regulatory criteria for business size applicable to DOT financial assistance programs. Recipients and contractors should consult this Appendix, or the SBA regulation from which it is drawn, in making determinations of business size.

The Presumption of Social and Economic Disadvantage

The NPRM provided that recipients may make a rebuttable presumption that individuals in the designated groups are socially and economically disadvantaged. That is, Black Americans, Hispanic Americans and members of the other groups would be presumed socially and economically disadvantaged, but the recipient could determine that a member of one of these groups was in fact not socially and economically disadvantaged. For example, a wealthy Black business owner might be considered ineligible because he was not economically disadvantaged. This approach is consistent with SBA's under the 8(a) program.

However, a commenter contended that the legislative history of section 8(d) indicates that the presumption that members of these groups are socially and economically disadvantaged was intended to be conclusive. (See report from the Committee on Small Business, House Report 95–949, March 13, 1978, at 9–10.) The report says that, for purposes of the section 8(d) program in direct Federal procurement, any member of one of the named groups is always to be considered socially and economically disadvantaged, regardless of his or her actual economic situation. The Department has carefully considered the application of this legislative history to the section 105(f) program.

In its comment to the docket, the Department of Justice (DOJ) recommended that DOT retain the rebuttable presumption. The basic reason for this recommendation was DOJ's view that, in the event of a legal challenge to section 105(f), a conclusive presumption will be more difficult to defend. The Department believes that DOJ's view has merit particularly in light of the Supreme Court's suggestion in *Fullilove* v. *Klutznick* that racial or ethnic criteria should be narrowly tailored to achieve the objective of remedying the effects of discrimination or disadvantage (see 448 U.S. at 480, 487). In the context of an affirmative action statute like section 105(f), presuming that all members of a given group are entitled to the benefit of participating in DOT-assisted programs as socially and economically disadvantaged individuals, without allowing a showing that a particular member of the group is not truly disadvantaged (and at the same time requiring that individuals who are not members of the designated groups demonstrate disadvantage) could raise serious legal problems.

While the legislative history of section 8(d) indicates that Congress wanted the presumption of social and economic disadvantage to be conclusive in the context of Federal agency direct procurement, the language and legislative history of section 105(f) do not indicate that Congress intended to enact legislation that would guarantee minority business owners who are not, in fact, socially and economically disadvantaged an unchallengeable status as socially and economically disadvantaged individuals. Indeed, there is no indication that, in enacting section 105(f), Congress explicitly considered the issue at all. We have concluded that we should retain the rebuttable presumption concept.

In deciding to retain the rebuttable presumption, the Department is not imposing on recipients the burden of making a social and economic disadvantage determination for every firm seeking certification. The recipient shall presume that a member of one of the designated groups is socially and economically disadvantaged. This means that the recipient assumes, and does not inquire into, the actual social and economic situation of a member of one of the groups as part of the certification process. However, if a third party challenges the socially and economically disadvantaged status of a business owner that the recipient has certified, the recipient must follow the challenge procedure of section 23.69.

A related issue is whether recipients should have the ability to make determinations, on an individual, case-by-case basis, that persons who are not members of any of the presumptive groups are nevertheless socially and economically disadvantaged. Under the Department's proposed rule, it was intended that recipients would have this authority. Many commenters, especially firms owned by women, expressed concern that women-owned firms would not be able to participate in any way in the section 105(f) programs. In the Department's April 11 Policy Statement (48 FR 15476), we explicitly stated that the Department intended recipients to make individual determinations of this kind.

Under the final rule, recipients are authorized to make individual determinations of social and economic disadvantage with respect to any person who is not a member of one of the groups presumed to be socially and economically disadvantaged. This applies not only to women contractors, but also to Portuguese-Americans, handicapped veterans, Appalachian White males, Hasidic Jews, or any other individual who can make a case that he or she is socially and economically disadvantaged. Appendix C to the final regulation provides guidance to recipients for making these individual determinations of social and economic disadvantage. This appendix also responds to comments from a number of parties who requested additional

guidance on the meaning of social and economic disadvantage.

The Department wishes to emphasize that a finding by a recipient that an individual who is not a member of one of the presumptive groups is socially and economically disadvantaged is not binding on other parties. For example, SBA would in no way be required to find that a firm or an individual was socially and economically disadvantaged for purposes of the 8(a) program because a DOT recipient had made such a determination for purposes of 49 CFR Part 23. The eligibility of firms for the 8(a) and 8(d) programs themselves is a matter completely separate from the determinations by recipients under this regulation that a firm is socially and economically disadvantaged for purposes of their DOT-assisted contracts.

Section 105(f) and Businesses Owned and Controlled by Women

Many women business owners and their groups were concerned that the Department's NPRM proposed to eliminate consideration of women-owned businesses (WBEs) from the Department's program. In addition to the ability of WBEs to seek certification as socially and economically disadvantaged on an individual basis, the Department of Transportation has an existing WBE program in 49 CFR Part 23. There are separate overall and contract goals for WBEs. Contractors must make good faith efforts to meet the WBE contract goals. These requirements are unaffected by this rule and will continue fully in force.

WBE commenters, and state agencies and some nonminority contractors who commented on the subject, were also concerned that, because of pressures to meet ten percent goals for disadvantaged businesses under the regulation, recipients might deemphasize WBEs programs or find themselves unable to devote sufficient resources to them. As a matter of policy, the Department believes that WBE programs are no less important than disadvantaged business programs, and expects recipients to continue to devote appropriate attention and resources to these programs.

Some WBE commenters also expressed the concern that if, to meet higher goals established under section 105(f), recipients had to make greater use of disadvantaged specialty firms (e.g., fencing, guardrail, engineering), opportunities for WBE firms in these fields might be reduced. (Some male-owned nonminority specialty firms expressed the same concern.) It is possible that this problem could exist in some cases, although the comments the Department received do not provide information from which the Department could analyze the frequency of its occurrence. Because the absolute number of highway contracts under the STAA will be higher than in the past, it is reasonable to suppose that any adverse impact on WBEs of the problem will be mitigated to some extent.

Two commenters requested that the Department adopt language in the legislative history of Public Law 95–507, from which the present sections 8(a) and 8(d) of the Small Business Act are derived. This language suggests that sex discrimination should be regarded as a basis for presuming that a woman business owner is socially disadvantaged. The Department has decided against adopting this language. First, it pertains to the 8(a) program, not the 8(d) program to which section 105(f) refers. Second, SBA itself has not chosen to take this approach with respect to certifications for the 8(a) program, and the Department does not wish to be inconsistent with SBA practice in this respect. As the guidance in Appendix C suggests, sex discrimination is one of the factors that a recipient should consider in making a social disadvantage determination with respect to a nonminority woman applicant for certification. However, the social disadvantage determination should be made on the basis of the totality of all factors affecting a particular applicant, and not presumed once evidence of sex discrimination has been produced.

Goals

Minority Contractor Comments

As one of the key provisions of the proposed regulation, the requirement of the NPRM that recipients have a ten percent overall goal, unless the Department granted a lower goal through the waiver process, generated a substantial amount of comment. Comments from minority contractors, their supporters in Congress, some local governments, and other organizations stressed that it was important for the Department to insist on recipients meeting ten percent goals. Doing so is necessary to comply with the statute, in their view. Moreover, they asserted that minority contractors were available in sufficient numbers to enable recipients to meet ten percent goals, if recipients and prime contractors were serious about using them. These commenters emphasized the need for recipients to make substantial efforts to assist minority businesses, such as technical assistance, relief from burdensome bonding requirements, and outreach to locate minority businesses.

Comments From Nonminority Contractors and Recipients

Most state transportation agencies (as well as a few transit authorities) and nonminority contractors who commented took a very different view of the availability of minority businesses. These commenters said that there were not sufficient MBE contractors available to permit some jurisdictions to meet a ten percent goal. Many of the state transportation agencies asserting that they could not meet a ten percent goal were from small, relatively rural states with small minority populations. Some of these commenters cited specific information as to the numbers of minority businesses which they believed were available to work on their projects, saying that these small numbers and their remoteness from population centers with higher numbers of minority businesses made achieving higher goals very difficult.

These commenters also asserted that increases in goals to comply with section 105(f) would mean that virtually all MBE contractors would be fully employed in their own jurisdictions, and consequently unavailable to work elsewhere. These commenters also cited other reasons, like existing minority businesses having failed because of recent economic conditions and the concentration of minority businesses in certain specialty fields, as limitations on MBE availability.

In making a point that ten percent goals would be difficult to achieve, some commenters made the point that they would have to be sharp increases in MBE participation in many jurisdictions. For example, one nonminority contractor said that Illinois would have to increase its MBE participation over 500 percent in the four year period from 1982 to 1986 to make a ten percent goal. A general contractors' association cited sharp percentage increases that would be necessary in various states. Since many states and nonminority contractors believed that these jurisdictions are already straining to meet existing MBE goals, these large increases struck them as impossible to make.

As an alternative to a requirement that each recipient, absent a waiver, establish a ten percent overall goal, nonminority contractors and recipients who believed that they could not make the ten percent goal offered an alternative. Essentially, the alternative was to continue the procedures of the existing regulation with respect to

overall goals. That is, each state would submit a goal based on its own understanding of the MBE participation it was able to achieve. This overall goal would not be required to be ten percent or any other figure. FHWA or UMTA would have the same authority they have now to review and approve overall goals. If the recipient's goal was less than ten percent, the recipient would not have to make any special showing in order to justify the goal.

The alternative is explicitly premised on a view of the statute as setting a nationwide target for MBE participation that was not intended to result in the imposition of specific goal requirements on any particular recipient. This approach, the commenters contend, is the appropriate way for the Secretary to utilize what the commenters characterized as the "broad discretionary waiver authority" given her by the statute.

The Department's Response to the Comments

The Department already has an MBE program with a goal-setting mechanism similar to that endorsed by many commenters opposing the ten-percent goal requirement of the NPRM. It has made progress in improving MBE participation in DOT financial assisted program. However, with respect to the largest of these programs, the Federal-highway program, the level of minority business participation has remained well below ten percent. In section 105(f), Congress conveyed a clear message that it wanted disadvantaged participation to increase to ten percent. The Department has an obligation to comply with this statutory requirement.

The Department can succeed at meeting its obligation to ensure that ten percent of funds in the FHWA and UMTA programs are expended with disadvantaged businesses only to the extent that the Department's individual recipients set and meet goals at at least a ten percent level. If individual recipients do not set and meet goals of at least ten percent, it would be very difficult for the Department to argue that it was conscientiously attempting to carry out its responsibility under the statute to achieve an aggregate a ten percent level of participation.

In section 105(f), Congress said that DOT shall expend not less than ten percent of funds authorized by the Act with disadvantaged businesses. By adding the phrase "Except to the extent that the Secretary determines otherwise * * *," Congress clearly provided an exception to this mandate. The Department believes, however, that to construe the statute to require nothing more with respect to setting goals than the provisions of the Department's existing regulation would result in the exception swallowing the rule. Had Congress desired the continued implementation of the Department's existing rule without change, Congress would not have passed section 105(f). The Department cannot nullify the intent of Congress by interpreting a statute calling for change in the Department's performance to require no change. For these reason, a basic premise of the final regulation is that the ten percent participation requirement of section 105(f) will be met only if recipients set and meet goals of at least ten percent. This is why recipients for goals of less than ten percent must be supported by adequate justification.

The second major point made by commenters opposed to the NPRM's requirement for ten percent goals was that many recipients could not meet ten percent goals. If this is the case (and minority contractors who commented did not agree that it is), then, under the Department's final rule, recipients will have the opportunity to justify a goal lower than ten percent. The Department has no objection to approving a goal lower than ten percent for a recipient that is able to demonstrate that the reasonable expectation for disadvantaged business participation in its DOT-assisted program is less than ten percent. Approving lower goals in this fashion is a proper use of the exception authority granted of the Secretary by the introductory phrase of the statute. The existence of this mechanism for approving goals lower than ten percent should adequately handle the situation of those recipients who genuinely could not be expected to meet a ten percent goal.

The Issue of "Fronts"

In addition to the main issues concerning goal setting, commenters also raised a number of other issues. Several commenters said that setting goals at a ten percent or higher level would create an incentive for prime contractors to create "fronts," businesses ostensibly owned and controlled by socially and economically disadvantaged individuals but in fact under the control of individuals who are not socially and economically disadvantaged. The Department is very conscious of the need to guard against the infiltration of its disadvantaged business program by fronts.

For this reason, the Department requires that each firm seeking to do business as disadvantaged business in a DOT-assisted program be certified as eligible by the recipient. In so doing, the recipient certifies that the firm meets the eligibility criteria of § 23.53 of the existing regulation. This certification requirement applies to all firms seeking work as disadvantaged businesses under the new Subpart D. The Department strongly urges recipients to carefully screen firms seeking work as disadvantaged businesses to ensure that fronts are not permitted to participate as disadvantaged businesses.

Set-Asides, Quotas and Goals

For purposes of clarity, the Department believes that it is important to distinguish carefully among three terms often used in the discussion of programs to encourage the use of minority businesses. The first, of these terms is "set-aside." As used in 49 CFR Part 23, "set-aside" has a very narrow and distinct meaning. It refers to an arrangement in which a particular contract is reserved for competition solely among minority businesses. If a recipient's solicitation for bids on a given contract provides that only disadvantaged businesses may bid on the contract, and no one else need apply, the contract is a "set-aside."

Section 23.45(k) of the existing DOT MBE regulation permits, but does not require, recipient to use "set-asides" on contracts as a means of meeting overall goals. Recipients may choose to use "set-asides" if they have the authority to do so. Section 23.45(k) continues to apply in the context of the new Subpart D. However, despite the frequent reference in comments to section 105(f) as a "set-aside" program, neither section 105(f) itself nor this regulation require the use of "set-asides" on any particular contract.

The second term is "quota." A "quota" is a flat numerical requirement that a recipient or contractor is required to meet in order to obtain a benefit. For example, if a recipient, in its solicitation for bids, provides that contractor must have ten percent MBE subcontracting participation to get the contract, regardless of circumstances or the good faith efforts that the contractor might make, the recipient has imposed a "quota." Likewise, if the Department told a recipient that must achieve a ten percent level of disadvantaged business participation or forfeit eligibility for Federal financial assistance, the Department would be imposing a "quota."

The key feature of a "quota" is that it is a simple numerical requirement that a recipient or contractor must meet, without consideration of any other factors. The recipient or contractor either makes the number or loses the

benefit. Some commenters, principally nonminority contractors, used the term "quota" rhetorically to refer to the use of goals in the existing 49 CFR Part 23 or new Subpart D. This is an incorrect understanding of the term. Under the existing DOT regulation and the new Subpart D, the Department of Transportation does not operate a "quota" system. Neither the proposed nor final Subpart D could impose penalties or sanctions on recipients simply because they fail to meet an overall goal.

The third term is "goal." A "goal" is a numerically expressed objective which recipients or contractors are required to make efforts to achieve. The key requirement is to make efforts. Results are, of course, important, but compliance does not turn simply on quantifiable results. In the case of the overall goals established by Subpart D, this means that a recipient is not in noncompliance with the regulation simply because it fails to meet an overall goal. Rather, if the recipient is unable to meet the goal, it must explain its inability to do so and, if directed by the Administrator, take remedial steps.

Base for Calculating Goals

Several commenters, principally minority contractors and some members of Congress, said that the base from which recipients' overall goals should be calculated should be the total amount of funds received from DOT by a recipient. The NPRM had proposed, by contrast, that the base amount be the funds received from DOT by the recipient and spent in contracts. The commenters reasoned that, since the statute referred to ten percent of funds authorized by the Act, basing goals on total funds received by the state rather the total funds used in contracts was closer to the language and intent of section 105(f).

However, the Department continues to believe that it is more sensible to base the goals on the amount of funds recipients use in contracts. Only funds that recipients use in contracts create contracting opportunities for minority businesses. If funds that recipients use for other purposes (e.g., purchase of right-of-way from land owners, payment of bus drivers' salaries) are included in the base from which goals are calculated, recipients would have to achieve MBE participation at a rate higher than ten percent of the funds that actually create contracting opportunities. In the Department's view, such a requirement would not be equitable. Consequently, the Department has decided to make use of the Secretary's discretionary authority under section 105(f) to exempt from the base from which overall goals are calculated Federal financial assistance not used by recipients in contracts.

Some minority contractors and associations also suggested that a ten percent minority business participation requirement be imposed with respect to each project or contract as well at the overall goal level. Adopting this suggestion would bring the program closer to a traditional "set-aside." The Department's existing regulation provides that recipients set contract goals for each of their contracts. However, these contract goals do not have to be ten percent or any other particular percentage for a given contract. A particular contract goal may be above or below the recipient's overall goal. The Department believes this flexibility is desirable in that it permits recipients to adapt contract goals to the particular circumstances of each contract. Moreover, imposing a ten percent project or contract goal requirement would probably involve the Department in a much more specific, extensive and probably burdensome program of waivers. For these reasons, the Department has decided not to adopt this suggestion.

Requests for Goals of Less Than Ten Percent.

Should the Department Approve Goals of Less Than Ten Percent?

Many minority contractors commenters were opposed to the waiver provision in the NPRM. In their view, section 105(f) requires states to use ten percent of their Federal assistance funds with minority businesses, and the Department should not approve goals of less than this level. If any waiver provision was implemented, they said, it should be used only in rare instances and applied very stringently.

As a matter of both policy and law, the Department believes it has an obligation to avoid imposing requirements that are factually beyond the capacity of recipients to achieve. In addition to being unfair, doing so would probably exacerbate the "front" problem. A process for approving goals of less than ten percent is an important way of avoiding this undesirable result. The Department's responsibility is to consider requests for goals of less then ten percent reasonably, on their merits, without making a prejudgment that they should be granted only rarely or applied very stringently.

Should a Recipient Have to Justify a Request for a Goal of Less Then Ten Percent?

Most nonminority contractors who commented on this issue, as well as a few recipients, recommended that recipients should not have to make any special justification in order to obtain approval for a goal of less then ten percent. Having to provide information about minority business availability and efforts being made to increase disadvantaged business participation were said to be unduly burdensome. These commenters asked that DOT, under what they called its "broad discretionary waiver authority," agree to goals of less then ten percent when recipients requested them, based on DOT's existing knowledge of each recipient's situation. Some of these comments also suggested that the Department should assume a "burden of proof" if it intended to reject any recipient's proposed goal of less than ten percent.

As mentioned in the discussion of goals, the Department's view is that achieving the objective of the statute is dependent on individual recipients setting and meeting overall goals of at least ten percent. Under the Secretary's discretionary authority, approval of lower goals may be granted in cases where the reasonable expectation for the recipient's performance is something less than ten percent. The Department believes that it is reasonable to seek information from recipients about the circumstances that would warrant the approval of a goal of less then ten percent, in the absence of which it would be difficult for the Department to make a well-informed decision. State transportation agencies and transit authorities, who are familiar with local conditions and the details of their own programs, are better situated to provide this information than FHWA or UMTA.

The Department will evaluate this information fully and fairly. However, the Department does not believe it would be useful to assume any "burden of proof" with respect to this information. A request for approval of a goal is not an adversary proceeding, to which litigation procedure terms like "burden of proof" are appropriate. The Department is interested solely in making a rational determination based on the best available information.

Grounds for Requesting Lower Goals

The NPRM proposed various "waiver criteria." Much of the comment about these criteria centered on statements made in the proposed rule or its

preamble concerning the weight which the Department would give to various kinds of information. For example, several state transportation agencies and other commenters said that the minority population of a jurisdiction should be given more weight concerning request for goals of less than ten percent than the NPRM indicated. Many of these same commenters also objected to the idea that the Department would give relatively little weight to state or local legal barriers that impede the participation of disadvantaged businesses.

After considering these comments, the Department has concluded that it is preferable not to establish, as a matter of regulation, the weights to which different kinds of information should be entitled. Doing so could cause the Department to appear to have prejudged the merit of certain grounds for lower goals that recipients have requested. The Department believes strongly that each request for a goal of less than ten percent should be considered on its individual merits, in light of the totality of circumstances relevant to that request. Consequently, while the final rule requests information with respect to such matters as legal barriers, minority participation, outreach efforts, etc., the final rule does not prescribe the weight which the Department is required to give to any of these factors or any other information recipients submit.

Who Should Make the Decision?

Many minority contractors suggested that the Secretary, rather than the FHWA or UMTA Administrator, should make the decision or whether to approve a goal of less than ten percent. This request seemed to be based on the ground that the statute says "except to the extent that *the Secretary* * * *." In other words, these commenters said that the statute prescribed that the Secretary personally has this responsibility. However, most statutes affecting the Department of Transportation provide that "the Secretary" shall carry out various duties and functions. This common statutory usage does not preclude the delegation of functions by Secretary to other responsible officials of the Department. Indeed, most highway or transit program functions are delegated by the Secretary to the FHWA or UMTA Administrator. Delegation of goal-approving responsibility under the rule is consistent with normal program delegations. In addition, this delegation places the decisionmaking authority with the offices closest to and most familiar with the program circumstances involved.

Procedures

Commenters raised two major procedural issues. First, several commenters (mostly minority contractors and some members of Congress) suggested that requests for goals lower than ten percent should be made at some point during the fiscal year to which the goals apply rather than at the beginning of fiscal year, as the NPRM suggested. The rationale for this suggestion was that, if recipients begin the year knowing they have a ten percent goal and could seek a waiver of that goal only after some months of the fiscal year had passed, recipients would have an additional incentive to increase their disadvantaged business participation efforts so that they could amply justify a waiver request.

The Department has not adopted this suggestion. In the Department's view, an overall goal is a statement of the reasonable expection for the recipient's future performance. Establishment of a goal is not a punishment or a reward for a recipient; it is simply a statement about the best performance that it is realistic to expect. Consequently, it makes the most sense to determine this expectation before the beginning of the period to which it applies. This permits all parties concerned to have firmly in mind what recipient's goal is, without the potentially disruptive possibility of a major mid-course correction. Moreover, providing that requests for goals of less than ten percent would be submitted in the middle of fiscal year could cause administrative problems for the Department and recipients.

For these reasons, the Department has decided that requests for goals of less than ten percent will be made prior to the beginning of the fiscal year to which the goals pertain. This is consistent with the procedural recipients have followed under the existing regulations for submitting overall goals, and it also will not require recipients to change their current timetables for determining and submitting goals.

The second procedural issue raised by recipients was that requiring a separate waiver request was burdensome. That is, if recipients have to submit their requested goal and have to make a separate submission for a waiver, they will have more steps to take than is necessary or desirable. In response to this comment, the Department has decided to combine the two steps into one. Sixty days prior to the beginning of the next fiscal year, the recipient will submit its overall goal to the Department for approval. If that overall goal is at least ten percent, the recipient will simply follow the submission procedure of the existing regulation. If the recipient requests a goal of less than ten percent, however, it will, in addition, have to submit a justification for its request and the other information set forth in § 23.65 of the final rule. While the information the recipient would have to submit under this system is about the same that it would have to submit in a separate waiver request, the Department is hopeful that the combined goal requests/justification mechanism will work more smoothly administratively.

Public Participation

The Department's notice of proposed rulemaking asked several questions on the subject of public participation with respect to requests for goal of less than ten percent. The questions asked whether there should be participation, from whom participation should be sought, and what form the participation should take.

Public participation was the subject of more comment than any other single issue raised in the rulemaking. A very large number of minority contractors and their supporters urged that the Department adopt a public participation mechanism. The most important reason cited by these commenters was their view that the Department would not have complete information on the availability of minority contractors and the efficacy of the efforts recipients were making to improve minority business participation if the Department received information only from the recipients who were requesting lower goals. The minority community or minority contractor community, these commenters said, have direct information on these matters that is relevant to the Department's decisions on requests for lower goals. The comments requesting a public participation mechanism usually suggested that input be obtained from designated regional, local, or community groups, or minority contractor groups.

Several recipients and a few nonminority contractors were opposed to having a public participation mechanism. The most important reason these commenters advanced was that public participation mechanisms can be burdensome and time-consuming. The Department believes that it is important for both recipients and the Department to have the advantage of the experience of minority community groups, minority contractors' groups, and other interested parties with respect to the availability of minority contractors and the efforts recipients are making to improve disadvantaged business participation. The Department is also conscious,

however, of the need to avoid elaborate participation mechanisms that can be overly time-consuming and burdensome.

In order to strike a balance between these concerns, the Department has decided to require recipients requesting a goal of less than ten percent to consult with relevant parties, such as minority and general contractors associations, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses or the adequacy of recipients efforts to increase disadvantaged business participation. The consultation procedure is described in section 23.69 of the rule and section-by-section analysis. The Department will take the views and information provided by those parties consulted by recipients into consideration in making decisions on whether to grant goals of less than ten percent.

Certification and Eligibility

The NPRM did not propose to make any changes with respect to the means by which recipients certify the eligibility of contractors. Because the definition of a firm eligible for certification has changed somewhat, the substance of some certification decisions may be different. However, the basic requirement the recipients certify the eligibility of each recipient have the means by which the recipient carry outs the certification have not changed.

A substantial number of minority contractors and their Congressional supporters, as well as a few recipients, recommended that there be "reciprocity" among recipients with respect to certifications. That is one recipient would have to accept another recipient's certification of a firm as an eligible disadvantaged business. The rationale for this suggestion is that, in the absence of a reciprocity requirement, disadvantaged firms would have to seek certification separately from each recipient for which they want to work. Doing so takes time and imposes administrative burdens on the firm seeking certification.

The Department believes that a countervailing interest is more important, however. If each recipient must accept a certification granted by any other recipient on "full faith and credit," as the reciprocity suggestion indicates, it is likely that fronts and other firms of marginal eligibility would seek to be certified by those recipients with the least effective programs for screening out ineligible businesses. These firms could then take their certifications to other recipients, who would not have the authority to deny them eligibility for their own DOT-assisted programs. This kind of "forum-shopping" is not consistent with the strong emphasis of the Department of Transportation on limiting participation in the program established by this regulation to businesses which are genuinely eligible. However, the Department urges recipients to use their existing authority under 49 CFR Part 23 to accept the certification of firms by other recipients in whose certification decisions they have confidence. In addition, it would be useful for recipients in a given jurisdiction or geographic area to explore setting up a certification consortium that would process eligibility determinations for all its members.

Compliance and Enforcement

There appeared to be a misunderstanding on the part of some commenters concerning the kinds of recipient behavior that could lead to a finding of noncompliance under the proposed rule. A number of commenters appeared to be concerned that failure to meet an overall goal, in and of itself, constituted noncompliance with the regulation and made the recipient subject to funding sanctions. Most commenters who believed that this was the case objected.

The proposed regulation, however, did not provide that the mere failure to meet an overall goal would be regarded as noncompliance or grounds for imposing sanctions. The NPRM proposed only three situations in which a recipient would be regarded as out of compliance with Subpart D. Two of the situations do not differ significantly from the grounds on which recipients could fail to comply with existing regulation. Under the proposed Subpart D, a recipient could be in noncompliance if it failed to have an approved disadvantaged program or if it failed to have an approved overall goal for disadvantaged businesses. The third ground for noncompliance was new. Under the NPRM, if a recipient failed to meet its overall goal, could not satisfactorily explain the failure as being beyond its control, and then failed or refused to take additional steps ordered by the FHWA or UMTA Administrator to improve its disadvantaged business participation, the recipient would be in noncompliance. These same grounds for noncompliance are used in the final rule.

Some commenters appeared to object to making any provision for sanctions, believing that the sanctions were overly harsh. From the Department's point of view, the obligation to comply with the requirements of Subpart D is no different from the obligation to comply with any of the other conditions imposed by statute and regulation for the provision of Federal financial assistance. Indeed, the particular sanction authorities cited in Subpart D, such as 23 CFR 1.36, are precisely the same authorities that are used with respect to most other failures to comply with conditions on Federal financial assistance.

The NPRM proposed that, if a recipient was failing to meet its approved overall goal, it could avoid the necessity for taking additional remedial action if it explained, to the Administrator's satisfaction, that its failure to meet the goal was for reasons beyond the recipient's control. As examples of situations beyond the recipient's control, the NPRM cited such circumstances as floods or environmental lawsuits that delayed work on projects on which the recipients had expected to obtain substantial disadvantaged business participation. A few state transportation agencies suggested that circumstances beyond the control of the recipient should be understood somewhat more broadly. They pointed out, correctly, that under the Department's regulation, recipients may award contracts to contractors who do not meet contract goals if those contractors can demonstrate they have made good faith efforts to do so. Cumulatively, the effect of awarding contracts such contractor is likely to be that the recipient would fall short of its overall goal.

The Department believes that, consistent with the logic of the existing regulation, the award of contracts to contractors who demonstrate good faith efforts to meet contract goals, but do not meet the goals, should be taken into account in determining whether the recipient's failure to meet its overall goal was beyond the recipient's control. In taking this factor into account, FHWA and UMTA will consider not only the fact that the contracts have been awarded under these circumstances but also the adequacy of the recipient's scrutiny of contractors' good faith efforts and the adequacy of recipients' efforts to increase the availability of disadvantaged businesses to contractors through outreach, technical assistance, removal of barriers to participation, etc.

The NPRM mentioned the use of set-asides as an example of one remedial step that the FHWA or UMTA Administrator might direct a recipient to take. This suggestion drew objections from a substantial number of recipients, who argued that the use of set-asides was contrary to state or local law. In

prescribing remedial actions for recipients to take, the Administrators of FHWA and UMTA may recommend set-asides in any appropriate situation. However, the Administrators will not require a recipient to use set-asides if set-asides are contrary to state or local law.

Transit Vehicle Manufacturers

There has been a long-standing problem under the Department's existing regulation concerning the handling of purchases of buses and other transit vehicles. The existing regulation does not explicitly provide how minority business requirements are to be applied to these purchases. Unlike most contracting activities, which occur in recipients' own jurisdictions and which recipients can directly control, purchases of transit vehicles are made from a few manufacturers who are located far from most of the recipients' local areas. Moreover, more than 400 UMTA recipients purchase vehicles from only a handful of manufacturers. If manufacturers have to respond to differing goals and requirements imposed by each of the UMTA recipients who purchase vehicles from them, the administrative burdens on manufacturing could be substantial. Finally, the vehicle manufacturing industry is structured differently from other kinds of business in which disadvantaged business participation typically occurs in DOT-assisted programs.

The notice of proposed rulemaking did not treat transit vehicle manufacturers differently from any other contractor to a DOT recipient. Under the NPRM, vehicle manufacturers, like any other contractor, would have to meet a contract goal established by the recipient or demonstrate that it had made a good faith effort to do. This approach, while consistent with the approach taken by the regulation for all other contractors, did not address the problem referred to above. Several commenters, both transit authorities and vehicle manufacturers, suggested either that transit vehicle purchases be exempted from the requirements of the regulation or that a special provision be included to deal with the situation of transit vehicle manufacturers.

The Department does not believe that it would be appropriate to exempt transit vehicle purchases from the regulation. Section 105(f) requires that ten percent of funds authorized by the STAA be expended with disadvantaged businesses. While the Department has used its discretionary authority to exempt some programs from this requirement, UMTA funds used for the purchase of transit vehicles are too significant to exempt.

Instead, the Department has decided to create a special provision for transit vehicle manufacturers, located in section 23.67 of the final rule. Under this provision, transit vehicle manufacturers wishing to bid on UMTA-assisted vehicle procurements would have to certify to recipients that they have an UMTA-approved overall goal. In order to permit a reasonable phase-in time for manufacturers, this requirement would not go into effect until October 1, 1983. To give manufacturers and other interested parties a chance to provide their views on the specific provisions § 23.67, the Department requests comments on this section for 30 days from the publication date of this final rule. Prior to October 1, 1983, the Department will publish either a notice responding to the comments received or, if appropriate, an amendment to § 23.67.

Technical Amendments to § 23.41

The NPRM proposed technical amendments to § 23.41 (a)(2)(i) and (a)(3)(ii) of the existing rule. There were no comments on these proposals and they are adopted unchanged in the final rule. Inadvertantly, the Department omitted proposing similar changes in § 23.41 (a)(2)(ii) and (a)(3)(iii). The final rule remedies this oversight. Because these changes are minor technical amendments that simply follow the statute, the Department determines that there is good cause to promulgate them as final rules without prior notice and opportunity for comment. Because we do not anticipate the receipt of useful public comment on these amendments, publishing them in final form is also consistent with the Department's Regulatory Policies and Procedures.

Other Comments

Rulemaking Procedures

The original comment closing date for the February 28 NPRM was March 21. A broad spectrum of commenters requested that this comment period be extended in order to permit additional parties to comment and to permit commenters to have more time to analyze the NPRM. The Department granted this request, and the comment period was extended to April 5.

A few commenters, primarily members of Congress, requested that the effective date of the regulation be made retroactive to January 6, the date on which section 105(f) was enacted. The Department does not believe that it would be useful to do so. The basic provisions of the regulation—establishing ten percent goals or justifying a lower goal, explaining failure to meet an approved goal, taking remedial steps ordered by the FHWA or UMTA Administrator—are all actions which can take place only in the future. Since the actual requirements imposed by the regulation are prospective, making the effective date of the regulation retroactive would have little meaning.

The notice of proposed rulemaking noted that the Department was considering making the final rule effective immediately on publication, rather than observing the usual 30-day waiting period between the day of publication and effective date. Commenters did not address this suggestion. However, the Department has decided, in order to avoid any concern about the procedural propriety of the rulemaking, that this rule should go into effect 30 days from its date of publication. Recipients should be on notice as a result of this publication, however, that the Department desires the submission of FY 1984 goals to FHWA or UMTA for approval by August 1.

Cost and Delays

A large number of nonminority contractors and recipients said that adopting the Department's proposed rule would result in increased costs and would also cause delays in the implementation of projects under the STAA. It was difficult for the Department to evaluate the merit of these comments because, for the most part, the assertions about costs or delays were made without any supporting evidence or argumentation. Since contracting procedures of recipients are not changed at all by this regulation, it is difficult to see any reason to believe that Subpart D would have any effect on the speed with which contracts are let and projects completed. The comments did not provide any further illumination on this point.

Some comments did suggest two possible grounds on which costs could increase. First, some commenters suggested that the regulation would increase demand for disadvantaged businesses beyond the supply of such businesses, thus "bidding up" the prices that disadvantaged businesses could charge. However, the goal establishment mechanism of the final regulation (including the provision for setting overall goals of less than ten percent where the recipient justifies them) should prevent any substantial disparity between the demand for disadvantaged businesses and their actual availability. In any event, nothing in either the

existing regulation or the new Subpart D requires a contractor, as part of its good faith efforts obligation, to pay an unreasonable price for the services of a disadvantaged business.

Some recipients expressed concern that there would be greater administrative costs to them for implementing the new Subpart D. Recipients who commented on this subject did not provide any quantification of what these extra costs may be. It is possible that recipients who do not now have active programs for outreach, technical assistance, and other forms of assistance for disadvantaged business may have to create or improve such programs, thereby devoting resources to disadvantaged business matters that they do not now devote. The Department believes that, in order to carry out requirements of section 105(f), increased efforts by some recipients may be necessary. However, we believe that the costs of these increased efforts are clearly justified in order to implement the intent of Congress for this Federally-assisted program.

Rulemaking Process Requirements

This rule is not a major rule as defined by Executive Order 12291. It is a significant rule under the terms of the Department of Transportation's regulatory policies and procedures. A regulatory evaluation has been prepared and is on file in the rulemaking docket. This regulation may have a signifcant economic impact on substantial numbers and small entities. For this reason, the Department has, in conjunction with its regulatory evaluation, prepared a regulatory flexibility analysis.

List of Subjects in 49 CFR Part 23

Minority businesses, Highways, Mass transportation.

PART 23—[AMENDED]

For the reasons set forth in the preamble, the Department proposes to amend Title 49 of the Code of Federal Regulations, Part 23, as follows:

1. By adding a new Subpart D, to read as follows:

Subpart D—Implementation of Section 105(f) of the Surface Transportation Assistance Act of 1982

Sec.

23.61 Purpose.
23.62 Definitions.
23.63 Applicability.
23.64 Submission of overall goals.
23.65 Content of justification.
23.66 Approval of overall goals.
23.67 Special provision for transit vehicle manufacturers.
23.68 Compliance.
23.69 Challenge procedure.
Appendix A Section-by-Section Analysis.
Appendix B Determinations of Business Size.
Appendix C Guidance for Making Determinations of Social and Economic Disadvantage.
Appendix D Justifications for Requests for Approval of Overall Goals of Less than Ten Percent.

Authority: Sec. 105(f) of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424).

§ 23.61 Purpose.

(a) The purpose of this subpart is to implement section 105(f) of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424) so that, except to the extent the Secretary determines otherwise, not less than ten percent of the funds authorized by the Act for the programs listed in § 23.63 of this Subpart is expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) The ten percent level of participation for disadvantaged businesses established by section 105(f) will be achieved if recipients under the programs covered by this Subpart set and meet overall disadvantaged business goals of at least ten percent.

§ 23.62 Definitions.

The following definitions apply to this subpart. Where these definitions are inconsistent with the definitions of § 23.5 of this part, these definitions control for all other purposes under this part.

"Act" means the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424).

"Disadvantaged business" means a small business concern: (a) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

"Small business concern" means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. Recipients shall make a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged. Recipients also may determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged.

(a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

(c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and

(e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.

§ 23.63 Applicability.

This subpart applies to all DOT financial assistance in the following categories that recipients expend in DOT-assisted contracts:

(a) Federal-aid highway funds authorized by Title I and section 202 of Title II of the Act; and

(b) Urban mass transportation funds authorized by Title I or III of the Act or the Urban Mass Transportation Act of 1964, as amended.

§ 23.64 Submission of overall goals.

(a) Each recipient of funds to which this subpart applies that is required to have an MBE program under § 23.41 of this part shall establish an overall goal for the use of disadvantaged businesses.

(b) Each recipient required to establish an overall goal shall calculate it in terms of a percentage of one of the following bases, as applicable:

(1) For recipients of Federal-aid highway funds, all such funds that the recipient will expend in DOT-assisted contracts in the forthcoming fiscal year; or

(2) For recipients of urban mass transportation funds, all such funds (exclusive of funds to be expended for

purchases of transit vehicles) that the recipient will expend in DOT-assisted contracts in the forthcoming fiscal year. In appropriate cases, the UMTA Administrator may permit recipients to express overall goals as a percentage of funds for a particular grant, project, or group of grants and/or projects.

(c) Each recipient of Federal-aid highway funds or urban mass transportation funds shall submit its overall goal to FHWA or UMTA, as appropriate, for approval 60 days before the beginning of the Federal fiscal year to which the goal applies. An UMTA recipient calculating its overall goal as a percentage of funds for a particular grant, project, or group of grants or projects shall submit its overall goal to UMTA at a time determined by the UMTA Administrator.

(d) Recipients submitting a goal of ten percent or more shall submit the goal under the procedures set forth in § 23.45(g) of this part.

(e) If an FHWA or UMTA recipient requests approval of an overall goal of less than ten percent, the recipient shall take the following steps in addition to those set forth in § 23.45(g) of this Part:

(1) Submit with its request a justification including the elements set forth in § 23.65;

(2) Ensure that the request is signed, or concurred in, by the Governor of the state (in the case of a state transportation agency) or the Mayor or other elected official(s) responsible for the operation of a mass transit agency; and

(3) Consult with minority and general contractors' associations, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses and the adequacy of the recipient's efforts to increase the participation of such businesses. If it appears to the Administrator that the recipient has failed to consult with a relevant person or organization, the Administrator may direct the recipient to consult with that person or organization.

§ 23.65 Content of justification.

An FHWA or UMTA recipient requesting approval of an overall goal of less than ten percent shall include information on the following points in its justification. Guidance concerning this information is found in Appendix D.

(a) The recipient's efforts to locate disadvantaged businesses;

(b) The recipient's efforts to make disadvantaged businesses aware of contracting opportunities;

(c) The recipient's initiatives to encourage and develop disadvantaged businesses;

(d) Legal or other barriers impeding the participation of disadvantaged businesses at at least a ten percent level in the recipient's DOT-assisted contracts, and the recipient's efforts to overcome or mitigate the effects of these barriers;

(e) The availability of disadvantaged businesses to work on the recipient's DOT-assisted contracts;

(f) The size and other characteristics of the minority population of the recipient's jurisdiction, and the relevance of these factors to the availability or potential availability of disadvantaged businesses to work on the recipient's DOT-assisted contracts; and

(g) A summary of the views and information concerning the availability of disadvantaged businesses and the adequacy of the recipient's efforts to increase the participation of such businesses provided by the persons and organizations consulted by the recipient under § 23.64(f)(3).

§ 23.66 Approval and disapproval of overall goals.

(a) The Administrator reviews and approves any overall goal of ten percent or more submitted by a recipient as provided in § 23.45(g) of this Part.

(b) The Administrator of the concerned Departmental element approves a requested goal of less than ten percent if he or she determines, on the basis of the recipient's justification and any other information available to the Administrator, that

(1) The recipient is making all appropriate efforts to increase disadvantaged business participation in its DOT-assisted contracts to a ten percent level; and

(2) Despite the recipient's efforts, the recipient's requested goal represents a reasonable expectation for the participation of disadvantaged businesses in its DOT-assisted contracts, given the availability of disadvantaged businesses to work on these contracts.

(c) Before approving or disapproving a requested goal of less than ten percent, the Administrator provides the Director of the DOT Office of Small and Disadvantaged Business Utilization with an opportunity to review and comment on the request.

(d) If the Administrator does not approve the goal the recipient has requested, the Administrator, after consulting with the recipient, establishes an adjusted overall goal. The adjusted overall goal represents the Administrator's determination of a reasonable expectation for the participation of disadvantaged businesses in the recipients DOT-assisted contracts, and is based on the information provided by the recipient and/or other information available to the Administrator.

(e) The Administrator may condition the approval or establishment of any overall goal on any reasonable future action by the recipient.

§ 23.67 Special provision for transit vehicle manufacturers.

(a) Each UMTA recipient shall require that each transit vehicle manufacturer, as a condition of being authorized to bid on transit vehicle procurements in which UMTA funds participate, certify that it has complied with the requirements of this section. This requirement shall go into effect on October 1, 1983.

(b) Each manufacturer shall establish and submit for the UMTA Administrator's approval an annual percentage overall goal. The base from which the goal is calculated shall be the amount of UMTA financial assistance participating in transit vehicle contracts to be performed by the manufacturer during the fiscal year in question. Funds attributable to work performed outside the United States and its territories, possessions, and commonwealths shall be excluded from this base. The requirements and procedures of § 23.64 (d) and (e)(1) and sections 23.65–23.66 of this subpart shall apply to transit vehicle manufacturers as they apply to recipients.

(c) The manufacturer may make the certification called for in paragraph (a) if it has submitted the goal required by paragraph (b) and the UMTA Administrator has either approved it or not disapproved it.

§ 23.68 Compliance.

(a) Compliance with the requirements of this subpart is enforced through the provisions of this section, not through the provisions of Subpart E of this part.

(b) Failure of a recipient to have an approved MBE program, including an approved overall goal, as required by § 23.64 of this subpart, is noncompliance with this subpart.

(c) If a recipient fails to meet an approved overall goal, it shall have the opportunity to explain to the Administrator of the concerned Department element why the goal could not be achieved and why meeting the goal was beyond the recipient's control.

(d)(1) If the recipient does not make such an explanation, or if the Administrator determines that the

recipient's explanation does not justify the failure to meet the approved overall goal, the Administrator may direct the recipient to take appropriate remedial action. Failure to take remedial action directed by the Administrator is noncompliance with this subpart.

(2) Before the Administrator determines whether a recipient's explanation of justifies its failure to meet the approved overall goal, the Administrator gives the Director, Office of Small and Disadvantaged Business Utilization, an opportunity to review and comment on the recipient's explanation.

(1) In the event of noncompliance with this subpart by a recipient of Federal-aid highway funds, the FHWA Administrator may take any action provided for in 23 CFR 1.36.

(e)(2) In the event of noncompliance with this subpart by a recipient of funds administered by UMTA, the UMTA Administrator may take appropriate enforcement action. Such action may include the suspension or termination of Federal funds or the refusal to approve projects, grants, or contracts until deficiencies are remedied.

§ 23.69 Challenge procedure.

(a) Each recipient required to establish an overall goal under § 23.64 shall establish a challenge procedure consistent with this section to determine whether an individual presumed to be socially and economically disadvantaged as provided in § 23.62 is in fact socially and economically disadvantaged.

(b) The recipient's challenge procedure shall provide as follows:

(1) Any third party may challenge the socially and economically disadvantaged status of any individual (except an individual who has a current 8(a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the recipient as a disadvantaged business. The challenge shall be made in writing to the recipient.

(2) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.

(3) The recipient shall determine, on the basis of the information provided by the challenging party, whether there is reason to believe that the challenged party is in fact not socially and disadvantaged.

(i) If the recipient determines that there is not reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall so inform the challenging party in writing. This terminates the proceeding.

(ii) If the recipient determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall begin a proceeding as provided in paragraphs (b) (4), (5), and (6) of this paragraph.

(4) The recipient shall notify the challenged party in writing that his or her status as a socially and economically disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the recipient, within a reasonable time, information sufficient to permit the recipient to evaluate his or her status as a socially and economically disadvantaged individual.

(5) The recipient shall evaluate the information available to it and make a proposed determination of the social and economic disadvantage of the challenged party. The recipient shall notify both parties of this proposed determination in writing, setting forth the reasons for its proposal. The recipient shall provide an opportunity to the parties for an informal hearing, at which they can respond to this proposed determination in writing and in person.

(6) Following the informal hearing, the recipient shall make a final determination. The recipient shall inform the parties in writing of the final determination, setting forth the reasons for its decision.

(7) In making the determinations called for in paragraphs (b) (3), (5), and (6) of this paragraph, the recipient shall use the standards set forth in Appendix C to this Subpart.

(8) During the pendancy of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.

(c) The final determination of the recipient under subparagraphs (b)(3)(i) and (b)(6) may be appealed to the Department by the adversely affected party to the proceeding under the procedures of § 23.55 of this Part.

§ 23.41 [Amended]

2. By amending § 23.41(a)(2)(i) of Title 49 of the Code of Federal Regulations to read as follows:

(a) * * *

(2) * * *

(i) Applicants for funds in excess of $250,000, exclusive of transit vehicle purchases, under sections, 3, 5, 9, 9A, 17 and 18 of the Urban Mass Transportation Act of 1964, as amended, and Federal-aid urban systems.

* * * * *

3. By amending § 23.41(a)(2)(ii) of Title 49 of the Code of Federal Regulations to read as follows:

(a) * * *

(2) * * *

(ii) Applicants for planning funds in excess of $100,000 under section 6, 8, 9 or 9A of the Urban Mass Transportation Act of 1964, as amended.

* * * * *

4. By amending § 23.41(a)(3)(ii) of Title 49 of the Code of Federal Regulations to read as follows:

(a) * * *

(3) * * *

(ii) Applicants for funds in excess of $500,000, exclusive of transit vehicle purchases, under sections 3, 5, 9, 9A, 17 and 18 of the Urban Mass Transportation Act of 1964, as amended, and Federal-aid urban systems.

* * * * *

5. By amending § 23.41(a)(3)(iii) of Title 49 of the Code of Federal Regulations to read as follows:

(a) * * *

(3) * * *

(iii) Applicants for planning funds in excess of $200,000 under section 6, 8, 9 and 9A of the Urban Mass Transportation Act of 1964, as amended.

* * * * *

Issued in Washington D.C. this 18th day of July, 1983.

Elizabeth Hanford Dole,

Secretary of Transportation.

Appendix A—Section-by-Section Analysis

This section-by-section analysis describes the provisions of the final rule. This material is normally published in the preamble to the final rule. However, the Department believes that it may be useful to recipients, contractors, and the public to publish this information in an appendix to the final regulation. As a result, this information will be available to users of the Code of Federal Regulations as well as to persons who have access to the **Federal Register** print of the regulation.

Section 23.61 Purpose.

This section states that the purpose of Subpart D is to implement section 105 (f) of the Surface Transportation Assistance Act of 1982. The rest of the section restates the text of the statute and states that the ten percent level of disadvantaged business participation established by the statute will be

chieved if recipients set and meet goals f at least ten percent. The Department f Transportation is committed to carrying out section 105(f) and achieving ts objectives, and intends to enforce the obligations of the recipients and contractors under section 105(f) and 49 CFR Part 23.

Section 23.62 Definitions.

As used in subpart D, the word "Act" means the Surface Transportation Assistance Act of 1982. The definition of the term "disadvantaged business" in Subpart D is very similar to the definition of the term "minority business enterprise" used for other purposes in 49 CFR Part 23. A different term is employed in recognition of the fact that a slightly different set of individuals is eligible to own and control a disadvantaged business than is eligible to own and control a minority business enterprise. In either case, at least 51 percent of the business must be owned by one or more of the eligible individuals, and the firm's management and daily business operations must be controlled by one or more of the eligible individuals who own it. It is important to note that the business owners themselves must control the operations of the business. Absentee ownership, or titular ownership by an individual who does not take an active role in controlling the business, is not consistent with eligibility as a disadvantaged business under this regulation. In order to be an eligible disadvantaged business, a firm must meet the criteria of § 23.53 of this regulation and must be certified as 49 CFR Part 23 provides.

"Small business concern" is defined as a small business meeting the standards of section 3 of the Small Business Act and relevant regulations that implement it. These regulations are summarized in Appendix B to the Subpart. It should be emphasized that any business which fails to qualify under the standards as a small concern, including a firm certified by SBA under the 8(a) program, cannot be certified as a disadvantaged business, even though it is owned and controlled by socially and economically disadvantaged individuals. Since the small business status of a firm can change over the years, we recommend that recipients make a point of reviewing periodically the small business status of firms with existing certifications periodically to make sure that they still qualify.

"Socially and economically disadvantaged individuals" is the term that defines the persons eligible to own and control a disadvantaged business. The term includes the following people: First, anyone found to be socially and economically disadvantaged by SBA under the 8(a) program is regarded as socially and economically disadvantaged for the purpose of DOT-assisted programs. Second, any individual who is a member of one of the designated groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian Indian-Americans) is rebuttably presumed to be socially and economically disadvantaged. By "rebuttably presumed," we mean that the socially and economically disadvantaged status of any individual who is a member of one of the groups is normally assumed by the recipient. With the exception of persons whose origins are from Burma, Thailand, and Portugal, the members of these presumed groups are exactly the same persons who are considered to be minorities for purposes of the § 23.5 definition of "minority."

Individuals whose origins are from Burma, Thailand, and Portugal are not presumed to be socially and economically disadvantaged individuals for purposes of Subpart D. This means that firms owned and controlled by such individuals are eligible to be considered as MBEs for purposes of FRA, FAA, NHTSA and other DOT financial assistance programs but not as disadvantaged businesses for purposes of FHWA and UMTA programs (unless their owners are determined to be socially and economically disadvantaged on an individual basis). If SBA determines any additional groups to be presumptively socially and economically disadvantaged, these groups will become eligible for consideration as owners of disadvantaged businesses on the same basis as Black Americans, Hispanic Americans, and members of the other presumptive groups.

A recipient may, through its certification program, determine that individuals who are not members of any of the presumptive groups are socially and economically disadvantaged. On this basis, for example, nonminority women, disabled Vietnam veterans, Appalachian white males, Hasidic Jews, or any other individuals who are able to demonstrate to the recipient that they are socially and economically disadvantaged may be treated as eligible to own and control a disadvantaged business, on the same basis as a member of one of the presumptive groups. It must be emphasized that these individuals are not determined to be socially and economically disadvantaged on the basis of their group membership. Rather, the social and economic disadvantage of each must be determined on an individual, case-by-case basis. Guidance for making these determinations is found in Appendix C.

Section 23.63 Applicability.

This section provides that Subpart D applies to all DOT financial assistance in two categories that recipients expend "in DOT-assisted contracts." This last phrase is very important. The base from which goals are calculated is not the total amount of money which each recipient receives from FHWA or UMTA. It is the amount of money that the recipient expends in DOT-assisted contracts. Funds that the recipient does not expend in contracts (i.e., funds spent by an FHWA recipient to acquire right-of-way or pay its own employees to supervise construction; funds used by an UMTA recipient to pay salaries of bus drivers) not part of the base from which the overall goal is calculated. Only those funds to be expended by the recipient in contracts are available to create contracting opportunities for disadvantaged businesses, so only these funds comprise the base from which goals for the use of disadvantaged businesses are calculated.

The first category of program funds to which Subpart D applies is Federal-aid highway funds authorized by Title I of the Act and highway safety program funds authorized by section 202 of Title II of the Act. The second category is Urban Mass Transportation funds authorized by Title I or Title III of the Act or the Urban Mass Transportation Act of 1964, as amended. Non-STAA funds authorized by the Urban Mass Transportation Act of 1964, as amended, should be counted as part of the base for calculating UMTA goals on the same basis as funds authorized by the STAA. The Urban Mass Transportation Administration is including these funds in the base in order to minimize administrative inconvenience resulting from the joint use of funds authorized by different statutes. Otherwise, two different procedures would have to be used, often with respect to the same grant or project. UMTA takes this action under the authority of section 19 of the Urban Mass Transportation Act 1964, as amended.

Section 23.64 Submission of Overall Goals.

This section concerns the procedures for submission of overall goals to be used by recipients of funds covered by this Subpart. Paragraph (a) is intended to avoid the imposition of new administrative burdens on recipients of

relatively low amounts of DOT financial assistance. This paragraph provides that only those recipients who are required to have MBE programs under 49 CFR Part 23 must comply with the goal setting requirements of Subpart D. This includes all state transportation agencies who receive FHWA funds and UMTA recipients who receive at least $250,000 in UMTA capital and operating funds, exclusive of funds for transit vehicle purchases, or $100,000 in UMTA planning funds. UMTA recipients who are not required to have an MBE program by § 23.41 need not comply with the goal setting provisions of Subpart D.

Paragraph (b) describes how recipients calculate their overall goals. Recipients of FHWA funds use as the base for calculating their percentage goal all Federal-aid funds that the recipient will expend in DOT-assisted contracts in the forthcoming fiscal year. Funds authorized by section 202 of the STAA are considered to be Federal-aid highway funds for this purpose. For UMTA funds, the base is all Federal funds (exclusive of funds to be expended for transit vehicle purchases) that the recipient will expend in DOT-assisted contracts in the forthcoming fiscal year. The UMTA Administrator may, however, allow recipients to base their goals on Federal funds received for a particular grant, project, or group of grants or projects.

The Department is aware that recipients may not be aware of the exact amount of Federal funds to be received or to be used in Federally-assisted contracts in the forthcoming fiscal year. However, it is reasonable to expect that recipients will have a close enough projection so that they can determine a reasonable expectation for disadvantaged business participation expressed in percentage terms.

Paragraph (c) provides that, with the exception of UMTA recipients calculating their goals on a grant or project basis, each UMTA and FHWA recipient which must submit an overall goal is required to do so by the August 1 preceding the beginning of the fiscal year to which the goals apply. For example, goal submissions pertaining to fiscal year 1985 are due August 1, 1984. In the case of Fiscal Year 1984, DOT expects recipients to submit their overall goals for approval as close to August 1 as possible.

Paragraph (d) provides that, if the recipient is submitting a goal of ten percent or more, the recipient simply submits the goal under the procedures of § 23.45(g) of this part, exactly in the manner that goals have been required to be submitted under the existing regulation.

Paragraph (e) concerns the situation in which a recipient is requesting approval of an overall goal of less than ten percent. Such a recipient is required to comply with the steps set forth in § 23.45(g). However, it is required to take three additional steps. First, it must submit a justification for its request containing the information listed in § 23.65.

Second, it must ensure that the request is signed or concurred in by the Governor of the state (in the case of a state transportation agency) or the Mayor or other elected official responsible for the operation of a mass transit agency. If the official responsible for the operation of a mass transit agency is not a Mayor, another appropriate elected official or officials should provide the signature or concurrence (e.g., a County Executive, the Chairman of a Board of Directors for a transit authority consisting of elected officials, etc.). The reason for this requirement is to ensure that a request for a goal of less than ten percent has the backing of the responsible elected official. This should help to prevent frivolous requests or requests based solely on the views of the non-elected staff of a state or local agency. It is also intended to protect the Department from becoming involved in a disagreement between, for example, a state transportation agency and a governor over disadvantaged business policy. It will also signal to the Department that a request for a lower goal has the backing of the highest responsible elected official involved with the jurisdiction.

The third requirement is that, before making a request for a goal of less than ten percent, the recipient must consult with minority and general contracting associations, community organizations (particularly minority community organizations) and other officials or organizations which can be expected to have information concerning the availability of disadvantaged businesses and the adequacy of recipients' efforts to increase the participation of such businesses. This consultation need not involve a formal public comment period. However, it should involve contact between responsible official(s) of the recipient and representatives of the organizations consulted, which should also have the opportunity to provide written information.

The provision is based on the belief that the organizations consulted are likely to be in a position to give the recipient useful information concerning the availability of disadvantaged businesses and the effectiveness of and problems with the recipient's efforts to increase disadvantaged business participation. The information sought in the consultation is intended to include the views of the consulted parties on the points listed in paragraph (a)—(f) of § 23.65. Such information is important to the recipient in formulating a request for a goal of less than ten percent, the Department in evaluating such a request, and to both the recipient and the Department in attempting to determine what additional steps would be appropriate to increase disadvantaged business participation in the future.

There may be some circumstances in which a recipient will have failed to consult with a party whose information could be very useful to the formulation and evaluation of a request for a goal less than ten percent. If the Administrator becomes aware of such a case, the Administrator has the discretion to tell the recipient to go back and consult with that party. Pending this further consultation, the Administrator would not approve the request for a goal of less than ten percent.

Section 23.65 Content of Justification.

Section 23.65 lists the types of information that a recipient seeking a goal of less than ten percent must provide to the Administrator. The purpose of this information is to enable the Department to make an informed determination of what the reasonable expection for the recipient's disadvantaged business participation level is for the forthcoming fiscal year. These items of information are discussed in greater detail in Appendix D. In the absence of a justification, the FHWA and UMTA Administrators will not be able to consider a request for a goal of less than ten percent.

Section 23.66 Approval and Disapproval of Overall Goals.

Paragraph (a) of this section concerns the situation in which a recipient submits for approval an overall goal of ten percent or more. In response to such a request, the Administrator follows the review and approval procedure provided in § 23.45(g) of the existing rule. The FHWA and UMTA Administrators will review and approve goals submitted under this paragraph in the same manner and in accordance with the same policies as they have reviewed and approved overall goals under the existing 49 CFR Part 23.

Paragraph (b) concerns a situation in which a recipient has requested approval of a goal of less than ten

percent. In order to approve the goal the recipient has requested, the Administrator must make two determinations. First, the Administrator must determine that the recipient is making all appropriate efforts to increase disadvantaged participation on its DOT-assisted contracts to at least a ten percent level. Second, the Administrator must determine that, despite the recipient's efforts, the goal requested by the recipient is the reasonable expectation, short of ten percent, for the participation of disadvantaged businesses in its DOT-assisted contracts, given the availability of disadvantaged businesses to work on these contracts.

Both of these determinations are very important. The concept of a goal as the reasonable expectation for the recipient's performance recognizes the possibility that there may be limits, related to the availability of disadvantaged businesses, that prevent the attainment of a ten percent goal. Before granting a request for a goal below ten percent, the Administrator must determine that such a limit does in fact exist. However, the idea of a reasonable expectation also assumes that the recipient is doing everything it can to increase disadvantaged business participation, both by seeking to increase the availability of disadvantaged businesses and seeking to increase the ability of available disadvantages businesses to work on its contracts. If the recipient is not taking all appropriate steps to increase disadvantaged business participation, then the goal it has requested is not its reasonable expectation for disadvantaged business participation.

If the Administrator does not approve the goal the recipient has requested, the Administrator, after consulting with the recipient, establishes an adjusted overall goal, which represents his or her determination of the reasonable expectation for recipient's disadvantaged business participation. This adjusted overall goal is on information provided by the recipient or any other information available to the Administrator from other sources, including input from interested groups and the past performance of the recipient or other recipients whose situation is analogous to that of the recipient in question. In approving either the goal requested by the recipient or in establishing an adjusted overall goal, the Administrator may always condition the approval or establishment of an overall goal on any reasonable future action by the recipient.

Section 23.67 Special Provision for Transit Vehicle Manufacturers.

This section addresses the special situation of the purchase of transit vehicles by UMTA recipients. The intent of this section is to provide a simplified method by which transit vehicle manufacturers and UMTA recipients can meet disadvantaged business obligations. The Department does not directly regulate transit vehicle manufacturers, since they are not the recipients of Federal financial assistance from UMTA. Rather, they are contractors to UMTA recipients. Consequently, paragraph (a) imposes the basic obligation of this section on UMTA recipients themselves.

Paragraph (a) is a requirement that UMTA recipients condition the authority of manufacturers to bid on UMTA-assisted transit vehicle procurements on a certification by the manufacturer that it has complied with the other provisions of this section. In order to permit manufacturers reasonable start-up time, and to avoid disruption of the whole procurement process, this requirement does not go into effect until October 1, 1983.

Paragraph (b) requires that, in order to make this certification, manufacturers have UMTA-approved overall goal. The base for calculating these goals is the amount of UMTA financial assistance participating in transit vehicle contracts to be performed by the manufacturer during the fiscal year in question. The Department is aware that UMTA recipients order some vehicles from foreign manufacturers and that the vehicles produced by domestic manufacturers use foreign components in some cases. The Department's regulation does not, of course, have extraterritorial application. Consequently, the manufacturer may exclude from the base from which the goal is calculated the value of the work performed abroad. For example, suppose an UMTA recipient buys a bus from a Canadian manufacturer for $100,000. Fifty percent of the work on the bus is performed in Canada. In this case, the amount of funds contributing toward the base from which the manufacturer's goal is calculated is $40,000 (i.e., eighty percent of the $50,000 of the value of the bus attributable to work performed in the United States).

In submitting an overall goal for the UMTA Administrator's approval, the manufacturer is required to follow the same procedures as recipients with respect to timing, justification of goals, etc. The Administrator follows the same criteria and has the same authority with respect to approval and conditioning of recipient's overall goals as he or she does with respect to recipient's goals. The UMTA Administrator may issue additional guidance with respect to procedures for the submission of overall goals and the content or justification of overall goals that take into account special circumstances of transit vehicle manufacturers, if this appears appropriate.

Paragraph (c) provides that the manufacturer may make the certification to recipients required by paragraph (a) if it has submitted the goals provided for by this section and the UMTA Administrator has either approved them or not disapproved them. This provision is intended to prevent delays in transit vehicle procurements.

Section 23.68 Compliance.

Paragraph (a) points out that compliance with Subpart D, as distinguished from compliance with other portions of the regulation, is enforced through § 23.68 rather than through Subpart E of the regulation. For example, a recipient's failure to have an approved overall goal as required by Subpart D would be treated under § 23.68. A complaint of discrimination against a recipient by a particular disadvantaged business would be handled under the procedures of Subpart E. Paragraphs (b) and (d)(1) list the three circumstances in which a recipient may find itself in noncompliance with Subpart D. These are the only three circumstances in which a recipient may be found in noncompliance with Subpart D. While a recipient may be in noncompliance with 49 CFR Part 23 for other reasons, these other types of noncompliance are handled through the procedures of Subpart E.

Paragraph (b) names the first two situations in which a recipient may be found in noncompliance with Subpart D. First, the recipient can be in noncompliance by failing to have an approved overall goal as required by § 23.64. This includes not only the situation in which the recipient does not submit a goal to the Department for approval, but also situations in which a recipient does not accept an adjusted overall goal established by the Administrator or fails or refuses to carry out conditions established by the Administrator under § 23.66(e).

Second, a recipient may be in noncompliance if it does not have an approved disadvantaged business program. Subpart D does not, in itself, require the creation of such a program. However, such a program, as prescribed by other provisions of 49 CFR Part 23, is

essential if a recipient is to comply with the disadvantaged business participation requirements of Subpart D. Consequently, the failure to have a program, or failure to have a program which fully meets the requirements of 49 CFR Part 23, is noncompliance with Subpart D.

For example, 49 CFR Part 23 requires that, before a recipient awards a contract, it ensure that the apparent successful bidder has met the contract goal or has demonstrated good faith efforts to do so. If a recipiet's program does not provide for making this determination before the award of contract, but instead provides for checking the disadvantaged business participation efforts of the contractor only after the award of the contract, the recipient has a program that does not conform to 49 CFR Part 23. The recipient may therefore be found in noncompliance with Subpart D.

Paragraphs (c) and (d)(1) concern the procedure that recipients and the Department must follow when a recipient is falling or has fallen short of its approved overall goal. The goal-setting process is intended to determine, in advance, the reasonable expectation for the recipient's disadvantaged business participation. These paragraphs are intended to provide for the situation in which the recipient's performance does not meet this expectation. At any time the Administrator requests it, or at the recipient's own initiative, the recipient would make an explanation to the Administrator concerning why the goal could not be achieved. This explanation, if it is to be satisfactory to the Administrator, must demonstrate that recipient's failure to meet the goal is for reasons beyond the recipient's control.

For example, if the recipient expected substantial disadvantaged business participation in a major project, and the project was postponed by litigation or a natural disaster, the recipient could make a case that its failure to meet the goal was attributable to factors beyond its control. A situation that might arise more frequently concerns the failure of contractors to meet contract goals. Under the Department's regulation, recipients may award contracts to contractors who do not meet contract goals if these contractors demonstrate to the recipient that they have made good faith efforts to do so. It is conceivable that a recipient would have set contract goals commensurate with its overall goal, would have given appropriate scrutiny to the claims of contractors that they made unsuccessful but good faith efforts to meet these contract goals, and awarded contracts to contractors who did not meet contract goals in a number of instances. Collectively, these contract awards would cause the recipient to fall below its overall goal.

The Administrator may take circumstances of this kind into account in determining whether a recipient's failure to meet its overall goal was because of factors beyond the recipient's control. In doing so, however, the Administrator also would consider the degree of scrutiny by the recipients of contractors' claims of unsuccessful good faith efforts and the efforts the recipient made in order to make up for shortfalls in particular contracts and prevent such shortfalls in other contracts.

If the recipient's explanation that factors beyond its control prevented achievement of the overall goal is determined by the Administrator to justify the failure to reach the goal, the matter is closed. If the recipient does not provide an explanation or if the Administrator determines that the recipient's explanation is not adequate, the Administrator may take the additional step of directing the recipient to take appropriate remedial action. Remedial action includes prospective steps to improve disadvantaged business participation, such as additional outreach, assistance to disadvantaged businesses or, where not inconsistent with state or local law, the use of set-asides. In order to take the remedial steps which the Administrator prescribes, the recipient may have to devote additional resources to the task.

Failure or refusal by the recipient to take these remedial steps is the third form of noncompliance with Subpart D. The Department wants to make it very clear that failure to meet an overall goal, as such, does not constitute noncompliance with Subpart D. However, if the recipient fails to meet the goal, does not satisfactorily explain its failure to meet the goal as being beyond its control, and then fails or refuses to take remedial steps prescribed by the Administrator, it would be in noncompliance.

Paragraph (e) sets forth the sources of sanctions for recipient noncompliance under Subpart D. These sanctions are the same measures that are available to the UMTA or FHWA Administrator with respect to the failure of a recipient to carry out any condition of receiving Federal financial assistance.

Section 23.69 Challenge Procedure.

The proposal in the NPRM to make the presumption of social and economic disadvantage rebuttable caused some confusion among recipients who commented. They asked whether this meant that they had to investigate the social and economic status of each business owner that sought certification for programs covered by Subpart D. They also asked by what criteria, and through what procedure, the rebuttable presumption would be applied.

This section is intended to answer these questions. First, the basic meaning of a presumption of social and economic disadvantage is that the recipient *assumes* that a member of the designated groups is socially and economically disadvantaged. In making certification decisions, the recipient relies on this presumption, and does not investigate the social and economic status of individuals who fall into one of the presumptive groups.

However, saying that the presumption is rebuttable means that a third party may challenge the actual social and/or economic disadvantage of a business owner who has received or is seeking certification for his firm from the recipient. The procedures for making such a challenge are spelled out in this section. They are set forth in detail in § 23.69 and are basically self-explanatory. Two points deserve emphasis. First, the procedures are intended to be informal. Recipients are not required to establish elaborate court-like tribunals, use strict rules of evidence, etc. Second, while a challenge is in progress, the presumption of social and economic disadvantage remains in effect. Therefore, if a firm has been certified, and the social and economic disadvantage of its owner is under challenge, the firm continues to be certified and eligible to be considered a disadvantaged business for purposes of the recipient's DOT-assisted contracting activities.

Amendments to § 23.41(a)

The NPRM proposed to make technical amendments to § 23.41(a)(2)(i) and § 23.41(a)(3)(ii). These amendments added additional UMTA funding sources (e.g. Section 9A) to the list of sources from which funds would contribute toward the threshold amounts for determining whether UMTA recipients had to have MBE programs. There were no comments on these proposed changes. These amendments are adopted unchanged from the NPRM. The final rule makes similar amendments to § 23.41 (a)(2)(ii) and (a)(3)(iii).

Relationship Between Subpart D and the Remainder of 49 CFR Part 23

In order to prevent uncertainty, the Department wishes to restate the

relationship between Subpart D and the remainder of 49 CFR Part 23. Under 49 CFR Part 23, certain recipients are required to have MBE programs. It is only these recipients who are required to follow the provisions of Subpart D. Recipients who must implement Subpart D do so only with respect to their FHWA and UMTA programs cited in Subpart D. For example, a state department of transportation receiving funds from FHWA, UMTA, NHTSA, FRA, and FAA would be required to follow the Subpart D goal procedures with respect only to its FHWA and UMTA funds. It would not be required to do so for its FAA, NHTSA, and FRA funds. The recipient would continue to follow all applicable procedures of 49 CFR Part 23 with respect to the FAA, FRA, and the NHTSA funds.

With respect to its FHWA and UMTA-assisted programs, the recipient continues to set two separate goals, both at the overall goal and contract goal level: one is for disadvantaged businesses (this *replaces* the existing rule's goal for MBEs) and the other is for women-owned businesses. In the event that a business owned and controlled by a nonminority woman is found to be disadvantaged on an individual basis, the amount of contracts to that firm could not be double-counted, any more than a contract to a firm owned by a minority woman could be double-counted under the other provisions of 49 CFR Part 23.

The contract award procedures of 49 CFR Part 23 apply to contracts under Subpart D just as they do to contracts under other provisions of 49 CFR Part 23. Recipients may award contracts to those successful bidders who meet contract goals or demonstrate that they made good faith efforts to do so.

Recipients must certify the eligibility of firms to participate under Subpart D programs just as they do with respect to programs covered by other provisions of 49 CFR Part 23. For businesses owned and controlled by members of the presumptive groups listed in the definition of socially and economically disadvantaged individuals in Subpart D, the certification process is, with one exception, exactly the same as the certification process that has existed all along under 49 CFR Part 23. The exception is that individuals with origins in Burma, Thailand, and Portugal are presumed to be socially and economically disadvantaged. They can be eligible under Subpart D only if they successfully demonstrate to the recipient that they are socially and economically disadvantaged as individuals.

However, businesses owned and controlled by individuals with origins in these countries continue to be eligible minority businesses under other provisions of 49 CFR Part 23. The result is that these firms may be certified for participation in FAA, FRA, NHTSA, or other DOT-assisted programs as before, but must make an individual showing of social and economic disadvantage in order to be regarded as eligible to participate in FHWA and UMTA programs as disadvantaged businesses. The same requirement for an individual determination of social and economic disadvantage applies to any individual who is not a member of one of the presumptive groups, such as a nonminority woman, a handicapped person, etc.

Decertification Procedures

Substantial concern has been expressed about the infiltration of DOT-assisted programs by "fronts"—businesses that claim to be owned and controlled by minorities, women, or other disadvantaged individuals, but which, in fact are ineligible for participation is DOT-assisted programs as MBEs, WBEs or disadvantaged businesses.

The Department wants to take this opportunity to reemphasize the importance of scrutiny of all firms seeking to participate in DOT-assisted programs. We believe strongly that recipients should take prompt action to ensure that only firms meeting the eligibility criteria of 49 CFR Part 23 participate as MBEs, WBEs, or disadvantaged businesses in DOT-assisted programs. This means not only that recipients should carefully check the eligibility of firms applying for certification for the first time, but also that they should review the eligibility of firms with existing certifications in order to ensure that they are still eligible. A firm's circumstances, organization, ownership or control can change over time, resulting in a once-eligible firm becoming ineligible. A second look at a firm previously found to be eligible may reveal factors leading, on renewed consideration, to a determination that it is ineligible.

49 CFR Part 23 does not, as presently drafted, prescribe any particular procedures for actions by recipients to remove the eligiblity of firms that they have previously treated as eligible. When a recipient comes to believe that a firm with a current certification is not eligible, the Department recommends that the recipients take certain steps before removing the firm's eligibility. The recipient should inform the firm in writing of its concerns about the firm's eligibility, give the firm an opportunity to respond to these concerns in person and in writing, and provide the firm a written explanation of the reasons for the recipient's final decision. This process may be brief and informal. For example, the firm's opportunity to respond to the recipient's concerns need not involve a formal court-type hearing. However, in the interest of ensuring that eligibility removal decisions are made fairly, these steps should take place before a firm's eligibility is removed. The Department believes that such a procedure in so-called "decertification" cases will make the procedure fairer and better administratively, as well as help prevent unnecessary procedural litigation. Procedures of this kind are not a regulatory requirement, but the Department believes that, as a matter of policy, that they are advisable for recipients to use.

Once a recipient has made a final decision on certification, that determination goes into effect immediately with respect to the recipient's DOT-assisted contracts (see § 23.53(g)). If a firm that has been denied certification or has been decertified appeals the recipient's action to the Department under § 23.55, or if a third party challenges the recipient's decision to certify the firm under § 23.55, the recipient's action remains in effect until and unless the Department makes a determination under § 23.55 reversing the recipient's action. The recipient's action is not stayed during the pendancy of a § 23.55 appeal.

For example, if a recipient has decertified a firm and the firm appeals the decertification to DOT, the firm remains ineligible for consideration as a disadvantaged business with respect to the recipient's DOT-assisted programs until and unless the Department finds that the firm is eligible. Likewise, if the recipient has certified the firm as eligible, the firm remains eligible while the Department's consideration of a third party's challenge to its eligiblity is pending. The Department has followed this policy and interpretation of its regulations consistently under the existing rule, and we will continue to do so with respect to Subpart D.

There is only one exception to this rule. Section 23.55(c) provides that, in appropriate cases, the Secretary may deny the firm in question eligiblity to participate as an MBE (or disadvantaged business) on DOT-assisted contracts let during the pendacy of the investigation, after providing the firm an opportunity to show cause by written statement to the Secretay why this should not occur. This

paragraph is intended, and has been consistently interpreted and applied by the Department, to cover only a situation in which the recipient has decided that a firm is eligible and a third party has challenged the correctness of the recipient's determination. As a matter of policy, the Department believes that the award of contracts to ineligible firms is a very serious blow to the integrity of the Department's program. Consequently, if it appears to the Department that a challenged firm's eligibility is in serious doubt, the Department, under § 23.55(c), can administratively "enjoin" the firm's participation pending a final determination on the merits of the challenge to its certification. This provision does not, however, authorize the Department to maintain a firm's certification in effect pending the outcome of the § 23.55 Appeal, when the recipient has refused to certify or has decertified the firm.

Appendix B—Determinations of Business Size

In determining the eligibility of businesses for purposes of 49 CFR Part 23, recipients must determine whether or not a business is a small business concern as defined by Section 3 of the Small Business Act. If a business is not a small business concern according to these standards, then it is not eligible to participate as an MBE, WBE, or disadvantaged business under 49 CFR Part 23. This is true even though the business may be owned and controlled by minorities, women, or socially and economically disadvantaged individuals and is eligible in all other respects. Even a firm certified by the SBA under the 8(a) program is not eligible under this regulation if it is not a small business.

In determining whether a business is a small business concern, recipients should apply the standards established by the Small Business Administration in 13 CFR Part 121. In particular, recipients should refer to § 121.3–8 (Definition of Small Business for Government Procurement) and § 121.3–12 (Definition of Small Business for Government Subcontractors). This Appendix lists the most frequent applications of these sections to the kinds of contracting done by FHWA and UMTA recipients. For information on types of businesses not listed in this Appendix (e.g., manufacturers), recipients should consult § 121.3–8 and the Appendices to 13 CFR Part 121.

Recipients should apply the following size standards:

1. *Subcontracts of $10,000 or less:* A business is small if, including its affiliates, it does not have more than 500 employees.

2. *Subcontracts over $10,000 and prime contracts:*

A business is regarded as small if it meets the following criteria:

(a) *Construction.*

(1) General Construction (in which less than 75 percent of the work falls into one of the categories in paragraph (2)): The firm's average annual receipts for the three preceding fiscal years do not exceed $12 million.

(2) Special trade contractors:

Type of firm	Maximum average annual receipts in preceding 3 fiscal years
Plumbing, heating (except electric) and air-conditioning	$5 million for all types of contractors on this list.
Painting, paperhanging, and decorating	
Masonry, stone setting, and other stonework	
Plastering, drywall, acoustical and insulating work	
Terazzo, tile, marble, and mosaic work	
Carpentering and flooring	
Floor laying and other floorwork	
Roofing and sheet metal work	
Concrete work	
Water well drilling	
Structural steel erection	
Glass and glazing work	
Excavating and foundation work	
Wrecking and demolition work	
Installation or erection of buildings equipment	
Special trade contractors, not elsewhere classified	

(b) *Suppliers of manufactured goods:* The firm, including its affiliates, must not have more than 500 employees.

(c) *Service contractors:*

Type of firm	Maximum average annual receipts in preceding 3 fiscal years (in millions of dollars)
Engineering	$7.5
Janitorial and custodial	4.5
Computer programming or data processing	4
Computer Maintenance	7
Protective Services	4.5
Others not mentioned in 13 CFR 121.3–8(e)	2

Appendix C—Guidance for Making Determinations of Social and Economic Disadvantage

Before making any determination of social and economic disadvantage, the recipient should always determine whether a firm is a small business concern. If it is not, then the firm is not eligible to be considered a disadvantaged business, and no further determinations need be made.

Under the definition of "socially and economically disadvantaged individual" used in Subpart D of this Part, members of the named groups (Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and Asian-Indian Americans) and persons certified as socially and economically disadvantaged by the Small Business Administration (SBA) under the SBA's section 8(a) program are presumed to be both socially and economically disadvantaged. This presumption is rebuttable. This means that, as part of a challenge to the eligibility of a firm a recipient has certified under § 23.69 of this regulation, a third party may present evidence that the firm's owners are not truly socially and/or ecomonically disadvantaged, even though they are members of one of the presumptive groups. Recipients must follow the challenge procedure in § 23.69 when a challenge is made, using this Appendix for guidance in making determinations under that procedure.

Under the regulation, anyone who has been certified by SBA under its 8(a) program as socially and economically disadvantaged is automatically considered to be a socially and economically disadvantaged individual for purposes of this regulation. However, the absence of an 8(a) certification does not mean that an individual or firm is ineligible under this regulation.

Recipients should continue the existing practice of making their own judgments about whether an individual is in fact a member of one of the presumptive groups. If an individual has not maintained identification with the group to the extent that he or she is commonly recognized as a group member, it is unlikely that he or she will in fact have suffered the social disadvantage which members of the group are presumed to have experiences. If an individual has not held himself or herself out to be a member of one of the groups, has not acted as a member of a community of disadvantaged persons, and would not be identified by persons in the population at large as belonging to the disadvantaged group, the individual should be required to demonstrate social disadvantage on an individual basis.

For example, an individual could demonstrate that he had a Chinese ancestor. However, this hypothetical person has never lived in a Chinese-American community, has held himself

out to be white for driver's license or other official records purposes, has not previously claimed to be a Chinese-American, and would not be perceived by others in either the Chinese-American community or non-minority community to be a Chinese-American (or any other sort of Asian-Pacific American) by virtue of his appearance, culture, language or associations. The recipient should not regard this individual as an Asian-Pacific American.

Individuals who are not presumed to be socially and economically disadvantaged by virtue of membership in one of these groups may, nevertheless, be found to be socially and economically disadvantaged on a case-by-case basis. If an individual requests that his or her business be certified as an eligible disadvantaged business under Subpart D, the recipient, as part of its certification process, is responsible for making a determination of social and economic disadvantage.

In making determinations of social and economic disadvantage, recipients should be guided by the following standards, which have been adopted from materials prepared by the SBA.

A. Social Disadvantage

(1) *Elements of Social Disadvantage.* In order to determine that an individual is socially disadvantaged, the recipient must conclude that the individual meets the following standards:

(i) The individual's social disadvantage must stem from his or her color; national origin; gender; physical handicap; long-term residence in an environment isolated from the mainstream of American society; or other similar cause beyond the individual's control. The individual cannot establish social disadvantage on the basis of factors which are common to small business persons who are not socially disadvantaged. For example, because of their marginal financial status, many small businesses have difficulty obtaining credit through normal banking channels. An individual predicating a social disadvantage claim on denial of bank credit to his or her firm would have to establish that the denial was besed on one or more of the listed causes, or similar causes—not simply on the individual's or the firm's marginal financial status.

(ii) The individual must demonstrate that he or she has personally suffered social disadvantage, not merely claim membership in a non-designated group which could be considered socially disadvantaged. This can be achieved, for example, by describing specific instances of discrimination which the individual has experienced, or by recounting in some detail how his or her development in the business world has been thwarted by one or more of the listed causes or similar causes. As a general rule, the more specific an explanation of how one has personally suffered social disadvantage, the more persuasive it will be. In assessing such facts, the recipient should place substantial weight on prior administrative or judicial findings of discrimination experienced by the individual. Such findings, however, are not necessarily conclusive evidence of an individual's social disadvantage; nor are they a prerequisite for establishing social disadvantage.

(iii) The individual's social disadvantage must be rooted in treatment which he or she has experienced in American society, not in other countries.

(iv) The individual's social disadvantage must be chronic, longstanding, and substantial, not fleeting or insignificant. Typically, a number of incidents illustrating a person's social disadvantage, occurring over a substantial period of time, would be necessary to make a successful claim. Usually, only by demonstrating a series of obstacles which have impeded one's progress in the business world can an individual demonstrate chronic, longstanding, and substantial social disadvantage.

(v) The individual's social disadvantage must have negatively affected his or her entry into, and/or advancement in, the business world.

The closer the individual can link social disadvantage to impairment of business opportunities, the stronger the case. For example, the recipient should place little weight on annoying incidents experienced by an individual which have had little or no impact on the person's career or business development. On the other hand, the recipient should place greater weight on concrete occurrences which have tangibly disadvantaged an individual in the business world.

(2) *Evidence of Social Disadvantage.* The recipient should entertain any relevant evidence in support of an individual's claim of social disadvantage. In addition to a personal statement from the individual claiming to be socially disadvantaged, such evidence may include, but is not limited to: third party statements; copies of administrative or judicial findings of discrimination; and other documentation in support of matters discussed in the personal statement. The recipient should particularly consider and place emphasis on the following experiences of the individual, where relevant: education, employment, and business history. However, the individual may present evidence relating to other matters as well. Moreover, the attainment of a quality education or job should not absolutely disqualify the individual from being found socially disadvantaged if sufficient other evidence of social disadvantage is presented the recipient.

(i) *Education.* The recipient should consider, as evidence of an individual's social disadvantage, denial of equal access to business or professional schools; denial of equal access to curricula; exclusion from social and professional association with students and teachers; denial of educational honors; social patterns or pressures which have discouraged the individual from pursuing a professional or business education; and other similar factors.

(ii) *Employment.* The recipient should consider, as evidence of an individual's social disadvantage: discrimination in hiring; discrimination in promotions and other aspects of professional advancement; discrimination in pay and fringe benefits; discrimination in other terms and conditions of employment; retaliatory behavior by an employer; social patterns or pressures which have channelled the individual into non-professional or non-business fields; and other similar factors.

(iii) *Business History.* The recipient should consider, as evidence of an individual's social disadvantage, unequal access to credit or capital; acquisition of credit under unfavorable circumstances; discrimination in receipt (award and/or bid) of government contracts; discrimination by potential clients; exclusion from business or professional organizations; and other similar factors which have retarded the individual's business development.

B. Economic Disadvantage

Recipients should always make a determination of social disadvantage before proceeding to make a determination of economic disadvantage. If the recipient determines that the individual is not socially disadvantaged, it is not necessary to make the economic disadvantage determination.

As a general rule, economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same or similar line of business and competitive market area who are not socially

disadvantaged. In determining the degree of diminished credit and capital opportunites of a socially disadvantaged individual, consideration will be given to both the disadvantaged individual and the applicant concern with which he or she is affiliated.

In considering the economic disadvantage of firms and owners, it is important for recipients to understand that they are making a comparative judgment about relative disadvantage. Obviously, someone who is destitute is not likely to be in any position to own a business. The test is not absolute deprivation, but rather disadvantage compared to business owners who are not socially disadvantaged individuals and firms owned by such individuals.

It is the responsibility of applicant firms and their owners to provide information to the recipient about their economic situation when they seek eligibility as disadvantaged businesses. Recipients are encouraged to become as knowledgeable as they can about the types of businesses with which they deal, so that they can make a reasonably informed comparison between an applicant firm and other firms in the same line of business. Recipients are not required to make a detailed, point-by-point, accountant-like comparison of the businesses involved. Recipients are expected to make a basic judgment about whether the applicant firm and its socially disadvantaged owner(s) are in a more difficult economic situation than most firms (including established firms) and owners who are not socially disadvantaged.

Other Eligibility Considerations

It is very important for recipients to realize that making a determination of social and economic disadvantage, standing alone, does not mean that a firm is eligible. The recipient must also determine that the firm is 51 percent owned by socially and economically disadvantaged individuals and that these individuals control the firm. In making these latter determinations, recipients should continue to follow §§ 23.51–23.53 of Subpart C of 49 CFR Part 23.

If a firm or other party believes that any recipient's social and economic disadvantage determination is in error, the firm or party may make an administrative certification appeal to the Department as provided in 49 CFR 23.55.

Appendix D—Justification for Requests for Approval of Overall Goals of Less Than Ten Percent

The purpose of a justification for a request for approval of an overall goal of less than ten percent is to explain why the goal requested by the recipient is the reasonable expectation for the participation of disadvantaged businesses in the recipient's DOT-assisted contracts. The justification has two basic elements. First, the recipient should show that it is doing as much as it can to increase disadvantaged business participation to at least a ten percent level. Second, the recipient should show that, given the availability of disadvantaged businesses, the requested goal is the reasonable expectation for the level of disadvantaged business participation that these efforts are likely to obtain.

With respect to the specific elements of the justification listed in § 23.65, the Department offers the following guidance, usually in the form of questions the answers to which will help the Department make an informed decision. It should be emphasized that this material is guidance, and is not intended to create a regulatory requirement or a mandatory list of the contents for recipient's submissions. However, it will help the Department to make expeditious and well-informed decisions if recipients provide reasonably complete and detailed information. Doing so will also facilitate suggestions by the Department on additional ways recipients can increase disadvantaged business participation.

(a) *Efforts to locate disadvantaged businesses.* What contacts has the recipient made with sources of information about disadvantaged businesses (such as minority contractors, associations, the Commerce Department's Minority Business Development Administration, DOT Office of Small and Disadvantaged Utilization (and its Program Management Centers), and other recipients' directories of disadvantaged businesses)? In what geographic areas has it sought to locate additional disadvantaged businesses? Have these or other information sources produced additional names of disadvantaged businesses potentially available to work on the recipient's DOT-assisted contract? What follow-up was done with respect to these firms?

(b) *Efforts to make disadvantaged businesses aware of contracting opportunities.* What steps does the recipient take through publications, advertising, pre-bid conferences, direct contact, putting disadvantaged businesses in touch with firms that may bid on prime contracts, and other means to let disadvantaged businesses know about specific contracting and subcontracting opportunities as they arise? (Activity of this kind by the recipient is important because, in many cases, disadvantaged businesses may not be in a position to learn of contracting opportunities through informal communications networks available to non-disadvantaged firms.)

(c) *Initiatives to encourage and develop disadvantaged businesses.* What is the recipient doing to assist the formation and growth of disadvantaged firms, by means such as training, technical assistance, financial assistance and involvement of other sources of support (such as the FHWA Supportive Services Program and other Federal, state, or local agencies and associations)? What has the recipient done to facilitate the ability of disadvantaged businesses to perform contracts (e.g., splitting a large contract or project into smaller segments that disadvantaged businesses can more readily perform)?

(d) *Legal or other barriers to disadvantaged business participation.* What specific barriers to disadvantaged business participation has the recipient identified? (Common barriers include bonding, prequalification and licensing requirements; difficulty in obtaining financing; any state or local residency requirement or preference, or any other formal or informal limitations on the area from which disadvantaged businesses are sought; and the reluctance of some members of the non-disadvantaged contracting community to use firms owned and controlled by socially and economically disadvantaged persons.) What is the recipient doing about the barriers it has identified? (Examples of efforts to overcome or mitigate the effect of these barriers include changes to or exceptions from state or local requirements as they affect disadvantaged businesses, technical or financial assistance to disadvantaged businesses to help them meet existing requirements, or cooperative efforts with financial institutions and non-minority contractors' associations.)

(e) *The availability of disadvantaged businesses.* How many disadvantaged businesses are available to perform work for the recipient on DOT-assisted contracts? The starting point for the recipient's information should be its directory or list of certified disadvantaged businesses. The number of firms in this directory may not give a complete picture, however. Disadvantaged firms in other jurisdictions, not currently certified by the recipient, may be willing and able to work on the recipient's contracts. On the other hand, firms in the directory may have limited availability (e.g., lack of

interest in the recipient's work, other commitments, limitations of the amount of work they can handle). In some cases (e.g., where a state spends a large portion of its funds on a single large project requiring very specialized contractors), the availability of work that disadvantaged firms can perform could be a limitation. The recipient, as appropriate, should discuss these factors as they affect a determination of the reasonable expectation for disadvantaged business participation in its DOT-assisted contracts.

The recipient should not only advise the Department how many disadvantaged firms exist, but also analyze the dollar volume of the recipient's work the available firms are likely to be able to perform in the fiscal year (or other period) in question.

(f) *Size and other characteristics of the recipient's jurisdiction's minority population.* What is the size of the minority population of the recipient's jurisdiction? (In some cases, not only the size but also the composition or residence pattern of the minority population may be relevant). Where relevant, what is the size of the minority population of nearby jurisdictions?

Minority population is usually not an exact index of the availability of disadvantaged businesses. In some cases, disadvantaged business participation levels for various recipients have ranged well above or below the minority population of the jurisdictions involved. In any event, recipients should tie any assertions they make on the basis of minority population to the effect they believe it has on disadvantaged business availability.

(g) *Views and information from the consultation process.* With whom has the recipient consulted and what did the consulted parties say with respect to anything in paragraph (a)–(f)? In particular, what were the views of and information provided by the disadvantaged business community concerning the availability of such firms, barriers to their participation and what is needed to overcome them, the efficacy of the recipient's efforts to increase disadvantaged business participation and what could be done to improve these efforts?

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Part III

Environmental Protection Agency

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Averaging of Particulate Emissions From 1985 and Later Model Year Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85 and 86

[AMS-FRL-2341-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Averaging of Particulate Emissions From 1985 and Later Model Year Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action establishes as a final rule a program which would permit manufacturers of light-duty diesel vehicles and light-duty diesel trucks to average the particulate emissions of these vehicles beginning with the 1985 model year. These regulations come as part of the Agency's effort to ease the regulatory burden on the automotive industry without sacrificing environmental objectives. Implementation of this program should allow makers of light-duty diesel vehicles and light-duty diesel trucks greater flexibility in meeting the 1985 particulate standards. Averaging allows manufacturers to control some vehicles more and others less, so long as average emissions comply with standards. EPA estimates that implementation of this rule will save between $50 million and $111 million per year. At the same time, the Agency does not expect this averaging program to have any appreciable effect on air quality.

This rulemaking does not deal with the issues of the feasibility or year of implementation of the final particulate standards, which are still before the Agency. Therefore, these regulations do not make any changes in the standards themselves. Rather, EPA intends here simply to adopt an averaging program, which will be applicable for the final light-duty diesel particulate standards, even if those standards are delayed. The Agency has proposed a 2-year delay of the final standards in a separate Notice of Proposed Rulemaking (47 FR 54250, December 1, 1962). If a delay is promulgated, this averaging program will be delayed also.

EFFECTIVE DATE: September 19, 1983.

ADDRESSES: Copies of material relevant to this rulemaking action are contained in Public Docket No. A-81-31 at the U.S. Environmental Protection Agency, Central Docket Section, [A-130], West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Kohnken, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4303.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0390.

I. Background

EPA's intent to establish an averaging program for demonstrating compliance with diesel particulate standards was first announced as part of President Reagan's program to aid the U.S. automobile industry and was subsequently included in a Notice of Intent published by EPA on April 13, 1981 (46 FR 21628). That Notice described a number of actions EPA intended to implement in an effort to reduce the regulatory burden on the motor vehicle industry, wherever that could be accomplished without sacrificing needed environmental objectives.

A specific proposal whereby manufacturers could average the particulate emissions of their light-duty diesel vehicles (LDDVs) and light-duty diesel trucks (LDDTs) in order to attain the 1985 particulate standard(s) was published on December 24, 1981 (46 FR 62608). A public hearing was held in Ann Arbor, Michigan on February 2, 1982. This final rulemaking results from that proposal after consideration of written and oral comments made at the hearing plus other written submissions made by interested parties during the public comment period.

This averaging program is intended to allow manufacturers greater flexibility in meeting the 1985 particulate emission standards. At the present time, the Agency is elsewhere contemplating a delay in the implementation date of the particulate emission standards. That proposed rulemaking (47 FR 54250, December 1, 1982) would postpone the effective date of the final particulate standards from 1985 to 1987. The delay has been proposed to provide adequate leadtime for LDD manufacturer to complete development and testing of trap-oxidizer or other control technology, which will be required for a portion of the LDD fleet to meet the standards. If a delay in the implementation of these standards is promulgated, EPA will at that time also delay the implementation of the averaging program until the same model year. Meanwhile, EPA wishes to complete the rulemaking process dealing with the subject of averaging. That goal is accomplished by today's action.

II. Description of the Averaging Program

The particulate emissions averaging program as presented in this final rule is almost identical to that proposed in the Notice of Proposed Rulemaking (NPRM). The only differences involve: (1) The concept of an emissions ceiling has been dropped, and (2) the averaging together of vehicles produced for sale in California or at high altitude with those produced for sale under non-California low-altitude standards will be prohibited. Discussion of the reasons for these changes appears below under Public Participation.

The averaging program established in these rules provides a means for manufacturers to meet the 1985 and later LDDV and LDDT particulate standards of 0.20 grams per mile (g/mi) and 0.26 g/mi, respectively, by averaging the emissions of their diesel engine families. This rule will allow averaging of LDDV and LDDT engine families separately or together. Participation in the averaging program is voluntary; a manufacturer may, if it chooses, produce each diesel vehicle to meet applicable standards.

Under this program, a participating manufacturer will establish individual particulate emission limits for each engine family included in the particulate averaging program. These limits would be set such that when they were weighted by their respective family production and averaged together, the manufacturer's resulting diesel average particulate level would have to be equal to or below the applicable particulate standard.

The program involves two independent levels of compliance. On one level, a manufacturer will establish for each of its LDDV and LDDT families an emission "limit" (as distinguished from an emission standard) against which the emissions of each member of the engine family would be compared. Secondly, the production-weighted average of these limits will have to be equal to or less than the applicable diesel particulate standard (0.20 g/mi for LDDVs, 0.26 g/mi for LDDTs, or some composite level if both LDDVs and LDDTs are averaged together). The following paragraphs discuss these two aspects of compliance.

A. Compliance With the Family Particulate Emission Limits

Under the averaging program, each participating manufacturer would set a particulate emission limit for each of its diesel engine families, accurate to the nearest one hundredth gram per mile of

particulate emissions. The limits will have exactly the same relationship to their respective families as an emission standard currently has to all families. Certification, Selective Enforcement Audit (SEA), and in-use testing programs, which today generally work on an engine family basis, will not need to change in any major way. The criteria which now distinguish one family from another would also stay the same. In this way, the regulation avoids the need to design a new compliance scheme to assure that cars and light trucks meet their assigned limits. At the same time, the rule is compatible with the streamlined certification program which EPA implemented beginning with the 1980 model year. (See 45 FR 26045, April 17, 1980.)

It is important to note that just as in the case of current emission standards it will be the family emission limit, as determined by the manufacturer, that EPA will enforce, not the actual levels which a certification, SEA, or in-use test vehicle attains. Therefore, it is the family limits and not test data (from certification, assembly-line audit, or in-use testing) that will be used in the calculation of compliance with the applicable particulate standard.

The averaging program would require the manufacturer to place a label on the engine (or make an addition to the existing label) recording what the applicable emission limit was for that family at the time the car or truck was produced. In this way EPA can assure that every individual engine can be easily associated with its proper emission limit throughout its life, even if the manufacturer changes the emission limit for that family part way through the production year (as is discussed below).

In summary, compliance with the engine family limits will be measured and enforced in a manner very similar to the way compliance with any emission standard is judged today. Essentially the same compliance structure now in place will apply.

B. Compliance with the 1985 Particulate Standards

There is a second, broader aspect to compliance under this program. This is the means by which the manufacturer can demonstrate compliance, on the average, with applicable particulate standards. Unlike compliance with the engine family limits, which can operate with today's compliance apparatus, compliance with the applicable particulate standard requires a new mechanism. The key parameters become engine family production and engine family emission limits.

Under the averaging system, manufacturers will set their engine family emission limits such that when weighted by the respective production figures to compute a production-weighted average, the limits average to a level which is less than or equal to the applicable particulate standard. If a manufacturer includes both LDDV and LDDT families, their emission limits and production figures are averaged together in computing compliance with a composite standard.

The calculation of a manufacturer's production-weighted average emission level is fairly straightforward. If the averaging is to be done only among vehicles of the same class (i.e., only among LDDVs or LDDTs), then each family's production would be multiplied by that family's emission limit. When the sum of these values for this class is divided by the total light-duty diesels produced in that class, the company's diesel average particulate level would result. This number would be directly compared to the applicable standard (LDDV or LDDT).

If the averaging is to be done among both LDDVs and LDDTs, the separate standards for the two classes must be synthesized into a single, composite standard. The following expression illustrates how a production-weighted standard would be computed for each manufacturer.

$$\frac{x(0.20) + y(0.26)}{(x + y)} = \text{Mfr. Composite Particulate Std.}$$

Where x represents total LDDV production and y represents total LDDT production. This production-weighted composite standard would become the measure of compliance when both classes were to be averaged together. The calculation of the company's average particulate level would remain the same as is described above, except that it would take into account the emission limits and production figures for both classes.

Under the averaging program, each manufacturer will have complete flexibility in deciding how to apply averaging to its light-duty diesel fleet, or whether to average at all. EPA will grant a certificate of conformity to each family that demonstrates compliance with its emission limit. It will be a condition of the certificate that the manufacturer meets the applicable particulate standard at the end of the model year. During production, a manufacturer will have full responsibility for taking whatever action may be necessary to ensure that its diesel production meets the applicable standard at the end of the production year. As discussed below, this might involve recertifying some families to new emission limits or adjusting production targets in response to new production patterns. In any event, it will only be after production is complete that EPA will enter the process in order to verify that the family limits, weighted by the year's production, show compliance with the applicable particulate standard(s).

There are a number of ways in which a manufacturer could manipulate its diesel fleet during the production year to assure compliance with the applicable particulate standard. The possibility will exist, as it does today, for a manufacturer to change the engine operating characteristics or hardware in such a way as to create a new engine family (and, under averaging, to establish a new emission limit). Beyond that, EPA is introducing the additional flexibility of allowing the creation of a new limit without making any changes to the engine. This option may become useful to a manufacturer which finds that the production emission levels of a family were sufficiently below the family's emission limit that it could lower the limit without physically changing the vehicle. In changing a family limit, however, the manufacturer may not establish a new limit lower than demonstrated by certification data. If a family limit is changed, EPA will issue a new certificate covering subsequent production of the vehicle, and each vehicle produced thereafter will need a revised label recording its new family emission limit.

As far as this regulation is concerned, there will be no limit on the number of times that a manufacturer may seek new certificates for its families. The only limit to such changes will be EPA's ability to process the requests, which the Agency does not anticipate to be a major obstacle.

III. Authority

EPA's basic authority for this regulation lies in Sections 202, 203, 205, 206, and 301 of the Clean Air Act, 42 U.S.C. 7521, 7522, 7524, 7525, and 7601. This rule represents the Agency's first

averaging program for mobile sources. EPA believes that its broad authority to promulgate regulations covering manufacturers' compliance with Section 202 of the Clean Air Act provides authority for these regulations.

Although it appears that Congress did not specifically contemplate an averaging program when it enacted the Clean Air Act, it gave the Agency wide discretion, within the certification framework, to design a compliance program. The regulation is consistent with the certification scheme, and does not conflict with other mobile source statutory provisions. Finally, the program is consistent with Congress' goal to reduce total suspended particulate levels, since averaging does not change the promulgated standards nor substantially alter the total fleet emissions under those standards.

IV. Public Participation

This section of the Preamble highlights the main areas of comment which resulted in significant alterations to the proposed rulemaking package as well as those which did not. During the time that was available for public participation in this rulemaking, a total of 29 organizations and individuals presented oral and/or written comments on the proposal. Nineteen were manufacturers and their trade associations, four were state government agencies, two were environmental groups, two were private citizens, one was a state university, and one was a U.S. Congressman. All of these comments are assembled in the public docket.

No new major issues were brought up during this comment period. However, as a result of the comments submitted and further study by the Agency, the concept of an emissions ceiling has been dropped from the final rule. Additionally, the averaging together of vehicles produced for sale in California or at high altitude with those produced for sale in other areas will be prohibited.

The comments received addressed five distinct areas: (1) Scope of the averaging program, (2) design elements of the program, (3) air quality impact, (4) competitive impact, and (5) technological feasibility.

A. Program Scope

Two manufacturers submitted comments indicating their support for averaging of particulate emissions from both gasoline-fueled and diesel-fueled vehicles. This is a method whereby a manufacturer could balance diesel particulate emissions with gasoline-fueled vehicle particulate emissions. EPA indicated in the NPRM that the Agency had considered and decided not to propose this form of averaging. Neither manufacturer offered a rationale disputing the Agency's reasons for not adopting that approach, and for the reasons expressed in the NPRM, EPA has decided to promulgate a diesel-only averaging program.

The creation of emission credits was another area which several manufacturers felt would expand the concept of the program. This procedure would enable a manufacturer to receive emission credits if the level of production fleet compliance were below the applicable standards. These credits would be banked until they could be applied to satisfy or lighten the effects a recall might impose in future model years.

This suggestion, while it deserves consideration, is outside the scope of the present rulemaking action. Were EPA to decide to adopt this concept, additional notice and public comment would be appropriate to examine its programmatic and legal ramifications. EPA will continue to examine emission credits and similar concepts as the Agency's effort to increase manufacturers' flexibility continues; however, EPA has decided not to incorporate this change at this time.

B. Design Elements

1. *Emission Limit Basis: Engine Family vs. Vehicle Configuration.*—EPA published the proposed rulemaking using engine families as the basic unit to which manufacturers would assign emission limits. However, several manufacturers submitted comments recommending that vehicle configurations be used as the averaging units. A vehicle configuration is defined as a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio. Under present certification rules, one engine family may be comprised of many configurations.

Although allowing individual emission limits for engine configurations could provide some additional flexibility for manufacturers, EPA believes that this approach would be unduly burdensome for the Agency for the following reasons. First, in-use compliance testing presently samples a manufacturer's vehicles on an engine family basis. In order to maintain an equivalent level of confidence, vehicles from each configuration would have to be tested to assure a manufacturer's compliance. This would result in a testing burden far beyond the Agency's current capabilities. Second, certification procedures would have to be modified since each vehicle configuration would have to be tested and certified. This represents a major increase in test load for both manufacturers and the Agency, and would require further rulemaking. In view of these problems, EPA is maintaining the requirement that emission limits be determined on an engine family basis.

2. *Emissions Ceilings.*—In the NPRM, EPA believed it reasonable to propose a ceiling of 0.4 g/mi on the family particulate emission limits, but expressly solicited comments on the concept. A ceiling was intended to prevent any possibilities of a localized air quality problem occurring, such as the concentration of diesel-powered taxi fleets in the centers of large cities. At that time, a resolution of two issues was necessary to determine whether or not to include upper limits in the final rule. First, at what point would the ceiling level begin to restrict the economic gains from averaging? Second, what localized air quality problems were likely to arise in the absence of a ceiling? Comments were solicited to aid EPA in these decisions.

The majority of manufacturers who commented objected to a 0.4 g/mi ceiling (and in some cases to any ceiling at all). They felt that it would limit the flexibility of averaging while adverse local air quality effects would probably not occur in any case. One state agency and a private organization supported this feature of the program.

A few manufacturers submitted emission data with their final comments on the NPRM. These data indicated that there will be engines for the 1985 timeframe emitting in the range of 0.4 g/mi. Therefore, if the proposed limit were to remain in the final rule, a significant amount of flexibility could be lost.

In proposing ceilings, the Agency was concerned about the localized effect that might occur if a manufacturer were to market a number of heavier, uncontrolled engine families at a level substantially above the 0.4 g/mi range. These vehicles could then be balanced by lighter, more stringently controlled vehicles, thus maintaining a combined average at or below the applicable standard. Based upon comments submitted, EPA judges that such a practice would be infeasible. For example, to produce 1,000 vehicles at an engine family limit of 0.6 g/mi (the current particulate standard), a manufacturer would also have to produce 8,000 vehicles controlled to 0.15 g/mi or 4,000 vehicles controlled to 0.10 g/mi. This example shows that, because of the numerical level of the final standards and the consequently large number of offsetting vehicles required,

very few high-emitting vehicles could be produced even in the absence of a ceiling. The averaging system possesses a self-limiting effect in this respect. Hence, for the current standards, EPA has determined that no ceiling limits are needed. Moreover, none of the commentors submitted data to substantiate the localized effects.

EPA's present determination is explicitly based upon LDD particulate emission standards of 0.2 g/mi (LDDV) and 0.26 g/mi (LDDT). Should averaging ever be applied to less stringent standards, production of a larger number of high-emission vehicles may become practicable. In such a case, EPA would have to reevaluate the need for emission ceilings.

3. *Conditional Certification.*—The NPRM proposed to condition the certificate of conformity on meeting the average standard at the end of the model year. The certificate would be considered void "ab initio" for those vehicles causing any exceedance of the particulate standards.

Ford Motor Company (Ford) claimed that the Agency did not have authority to void certificates in this manner. EPA disagrees. Under Section 206 of the Clean Air Act, the Administrator "shall issue a certificate of conformity *upon such terms * * * as he may perscribe*" (emphasis added). Ford's comments offered no persuasive reason why this broad grant of authority, coupled with the Agency's general rulemaking authority, would not empower the Administrator to condition a certificate in this fashion. Furthermore, Ford has itself sought and been given conditioned certificates in past years in an effort to avoid delays in product introduction dates where durability testing would not be completed on schedule. The Agency sees no legal differences between those former conditioned certificates and those which will be issued under these new regulations.

Moreover, Ford's suggested alternative of using the Agency's recall authority to enforce end-of-year compliance with the particulate standard would be difficult to apply in those instances where there is no identifiable defect in any vehicles (i.e., where the nonconformity is caused simply by producing too many of a manufacturers' higher emitting vehicles). Finally, of course, conditioned certificates will only be used for those manufacturers which choose to participate in the averaging program, since participation is voluntary. For all these reasons, the use of conditioned certificates will remain as proposed.

This approach should ensure that a company which chooses to average its diesel particulate emission levels will maintain family production volumes such that the production-weighted average of the manufacturer's family limits indeed meets the standard at year's end. Section 203 of the Clean Air Act prohibits sales of vehicles not covered by a certificate of conformity, and Section 205 provides for penalties of up to $10,000 per vehicle for violations of the prohibition. Since failing to comply with the promulgated standard because of an incorrect production volume mix will mean that the diesel fleet (or some portion of it) failed to satisfy conditions in its certificate(s), this would place the manufacturer in violation of Section 203 and subject to appropriate penalties under Section 205.

Of course, the Agency would have discretion in choosing which remedies and/or penalties to pursue where violations occurred. EPA's intention would be to choose those remedies most effective in correcting the excess emissions condition, including recalls under Section 207 where appropriate. Prior to initiating judicial action for civil penalties, EPA and the manufacturer could agree to actions the manufacturer could take to mitigate or obviate the need for penalties (such as voluntary recalls where means were available to lower particulate emissions on in-use vehicles). To the extent necessary, these agreements could be embodied in judicial consent decrees. Finally, where the Agency does seek judicial penalties, in recommending the amount of any such penalty the Agency could consider such factors as: (1) the degree of contravention of the standard, (2) the number of vehicles which cause the failure to achieve the particulate standard, (3) the degree to which a recall would be successful, considering vehicle owner response rate, in lowering the particulate levels of the engine families involved to such a degree that the manufacturer's production-weighted average (adjusted for the results of the recall) would comply with the particulate standard, and (4) other actions the manufacturer could take to mitigate the problem.

4. *Compliance Issues.*—a. *Labeling.* The MPRM proposed adding particulate emission limit labeling requirements to § 86.085–35. Two manufacturers objected to these labeling requirements on grounds of administrative burden.

The Agency continues to believe that accurate labeling is very important for the in-use aspects of EPA enforcement programs. In order for a manufacturer to determine the state of its diesel fleet compliance throughout the model year, certain records identifying the number of vehicles produced in each engine family would have to be kept regardless of the labeling requirement. Given the efficiency of current methods of electronic data processing, EPA believes that coordinating a vehicle's particulate family limit with the present engine label should not prove to be a burdensome or expensive requirement.

b. *Retroactivity.* This rulemaking permits a manufacturer to recertify an engine family to a lower limit without any hardware change or recalibration. However, a manufacturer is not permitted to apply the credit derived from such change retroactively to the start of production. One manufacturer supported the concept of retroactivity in its final comments.

The Agency, as a noted above, desires to utilize labeling as a method of tracking individual vehicles. Allowing retroactivity would mean that labels already affixed to vehicles in-use would be incorrect. In addition, retroactivity could create a "loophole" for abuse of the averaging program. Knowing that it could retroactively adjust the family emission limit for a family found out of compliance during the production year could lead a manufacturer to set a family emission limit which was artificially low. Since only a portion of a manufacturer's fleet would normally be audited by EPA, such a maneuver could well go undetected. If it were discovered, there would be no accountability for the manufacturer other than the need to adjust the family limit upwards.

Further, the need for retroactivity is diminished considerably if a manufacturer, early in the model year, opts to exercise its ability to adjust family limits. By doing so, very little flexibility would be sacrificed. In light of the foregoing, applying the credits of an emission limit change to vehicles already produced is not included in the final rule.

V. Air Quality Impact

A. Overall Effect

Five manufacturers, the State of California, and one private organization commented on the issue of air quality. The manufacturers unanimously agreed, in general terms, that no adverse air quality impact would result from the implementation of an averaging scheme compared to that of a traditional compliance program. One manufacturer's comments, however, amplified EPA's rationale on air quality effects as it appeared in the NPRM. This manufacturer stated that even though each engine family would have its individual emission limit, a "cushion"

would still have to be designed in order to assure compliance of production vehicles. This practice will tend to depress emissions of in-use vehicles to a level at or beneath the standard. The State of California, on the other hand, argued that the averaging concept would relax the stringency of the particulate standard and could conceivably result in no actual reduction of particulate emissions after 1985. A private organization, the Coalition for An Improved Human Environment, aired similar objections.

It might appear that with the reduced use of control hardware under averaging, air quality could be harmed. However, EPA does not expect this to be the case. Rather, under either a non-averaging or an averaging program, the fleet average emissions are expected to remain slightly under the standard. Under a non-averaging program, most vehicles would require aftertreatment devices such as trap-oxidizers to meet the standards. For current engines, the required trapping efficiency is considerably less than the maximum attainable by the best, most expensive traps. Consequently, manufacturers would be expected to choose less expensive, less efficient equipment to meet the standards and thereby minimize cost. This process would result in both individual vehicle and fleet average emissions being near the standard (with allowance for some "cushion" for safety). Upon the introduction of averaging, however, manufacturers will be able to realize significant cost savings by removing traps or other control devices from some vehicles and offsetting the increased emissions by upgrading the equipment on other vehicles. While the improved hardware will be more expensive, that increased cost will be greatly outweighed by the savings on the total number of systems required. The emissions from some vehicles will then be higher than under a non-averaging program while the emissions from others will be lower. On average, however, they will still be required to meet the same standard and the same type of safety cushion will still be needed. Thus, fleet average emissions will be essentially the same under an averaging or non-averaging approach.

B. Regional Effects

EPA raised a concern in the NPRM about potential "localized" air quality effects which could arise from allowing manufacturers to average particulate emission levels of vehicles designed for marketing only in areas covered by Federal, low-altitude emission standards with those designed for marketing only in areas covered by California emission standards or in areas covered by Federal, high-altitude standards. The Agency was concerned that manufacturers, in an attempt to satisfy gaseous standards in California or high-altitude regions, might set higher particulate limits for vehicles marketed in those areas. These higher emitters could then be balanced out by utilizing stricter controls on vehicles sold in the remaining states.

In the NPRM, EPA requested specific comments on whether averaging between vehicles designed for marketing under standards associated with different geographical regions would be appropriate. Four manufacturers, the State of California and one private organization submitted comments addressing this issue. The manufacturers argued that regional air quality would not be impaired. Their responses were of a general, speculative nature. Specific data or rationales were not submitted to substantiate the validity of their comments on air quality. The State of California raised a concern similar to EPA's, arguing that vehicle particulate emissions might be sacrificed in an attempt to satisfy California's lower NOx standard(s). The private organization felt that future, lower regional particulate standards (i.e., for California) might be balanced out by higher engine family particulate limits in the remaining 49 states, if averaging were permitted. Therefore, air quality would be negatively affected in areas outside California.

In reviewing the comments received on this issue, EPA has concluded that the concerns raised in the NPRM are valid, and that vehicles produced for sale in California or high-altitude areas should not be averaged together with vehicles produced for sale under Federal low-altitude standards. The basis for averaging as an acceptable approach to compliance comes from the fact that the ambient air quality impact in a given area is essentially the product of the average emissions of the vehicles in that area. California and high-altitude areas have different vehicle emission control requirements from the rest of the country, and certain emission "trade-offs" might occur under a broad national averaging program which would result in higher particulate emissions in these areas. Therefore, their inclusion in nationwide averages cannot be justified. In order to allow the maximum amount of flexibility, however, EPA will allow manufacturers to apply separate regional averages to vehicles produced for sale in California (to the extent not precluded by California's own regulations) or to vehicles produced for sale in high-altitude areas.

Several manufacturers felt that EPA would create a significant administrative and engineering burden if nationwide averaging were prohibited. They argued that a manufacturer would constantly be required to monitor emission levels and sales of vehicles sold in specific areas and to determine the impact on the total vehicle population. Further, they stated that additional engineering resources would be required to develop, test and certify separate regional calibrations. EPA recognizes that regional restrictions on averaging will reduce manufacturers' flexibility somewhat compared to the non-restricted case where all vehicles can be averaged. On the other hand, regional restrictions will not impose new burdens compared to the present non-averaging program. The mechanisms to determine the emission characteristics and location of final delivery of any given vehicle are already in place due to labeling and recall provisions, and separate resources are already devoted to the development and certification of vehicles to satisfy California and high-altitude standards. Therefore, EPA concludes that regional restrictions on averaging will not significantly affect the overall utility of the averaging program.

VI. Competitive Impact

The effect of particulate averaging on competition among manufacturers has been a prime concern of the Agency. The NPRM requested comments on this issue in order that EPA might assess potential competitive impacts.

Most manufacturers responding to this issue were those contemplating a limited, light-duty diesel product line. The majority supported the averaging technique while recognizing that some limited competitive inequities may result. The Agency recognizes that manufacturers with broader product lines will have a somewhat greater opportunity to employ the averaging concept. However, EPA believes that the lower overall cost of compliance under this averaging concept will outweigh the possible small competitive disadvantage. EPA's goal in originally proposing averaging was to increase manufacturers' flexibility and thereby reduce costs. Such increased flexibility will, by its very nature, accrue most directly to those manufacturers that are most constrained by a non-averaging approach.

Two manufacturers felt that a substantial competitive impact would result from this regulation. They argued

that a larger manufacturer with a broader product line would be able tc compete more effectively against a limited-line manufacturer by "decontrolling" its vehicles in classes where competition exists. Additional control could then be applied to other engine families having limited competition in order to maintain the company's particulate emission average below the standard(s). EPA believes that, without regard to any averaging program, the potential for class competition of this nature has always existed between large and small manufacturers in one form or another. A larger corporation naturally possesses an inherent competitive flexibility due to its broader product line, and is able to manipulate prices for the various classes of vehicles it produces (e.g., by changing profit margins in different classes). It is EPA's belief that the averaging program in its current form should not substantially increase the ability of large manufacturers to engage in such pricing practices. The overall increase in manufacturing efficiency discussed above is not sufficient to alter substantially the competitive balance in any particular market class.

A. Technological Feasibility

Many manufacturers submitted comments on the feasibility of attaining the particulate standards given the present level of control technology. Such comments were outside the scope of the averaging proposal. The Agency, in a separate rulemaking, is addressing particulate standard implementation dates which reflect the current state of development of particulate control technology (47 FR 54250 December 1, 1982).

As stated earlier in this preamble, it is EPA's intention to adopt this averaging program for the more stringent LDD particulate standards currently scheduled to be implemented in 1985. Therefore, although EPA is promulgating the final averaging program at this time, if the result of the rulemaking described above is to delay implementation of the more stringent standards, implementation of this averaging program will be delayed accordingly.

VII. Resultant Savings[1]

The savings resulting from the averaging program depend on a complex combination of variables. These include the level of future particulate and related emission standards, future trends in automotive sales and diesel sales and the extent to which manufacturers participate in the program. The stringency of particulate and related NOx standards will determine the necessary control strategies. In the following calculations, two possible NOx standards are evaluated, 1.0 g/mi and 1.5 g/mi, in conjunction with a 0.2 g/mi particulate level. The NOx levels evaluated are the present statutory standard (1.0 g/mi) and a level representing a possible future standard being considered by Congress as part of the reauthorization of the Clean Air Act. As will be shown, the number of particulate control devices saved is relatively insensitive to the level of the NOx standard.

Automotive sales are currently somewhat difficult to predict. These are dependent on changing consumer attitudes, interest rates, and general economic conditions, among other things. The degree of diesel sales was originally assumed to be as much as 25 percent of total sales by 1990. There are now indications that the rate of increase in diesel sales fractions may be slowing due to such factors as stabilization of oil prices, higher costs for diesel—powered vehicles, cold weather starting problems, etc. This analysis assumes that LDD sales will comprise 10.6 percent of the total by 1987 (LDDVs and LDDTs comprising respective penetrations of 8 percent and 20 percent). The average LDD sales between 1985 and 1987 will be on the order of 1.3 million units per year.

A fairly extensive analysis of 1982 model year LDD certification data has been undertaken and projections based on this analysis indicate that in order to meet the 0.2 g/mi particulate standard at 1.0 g/mi NOx approximately 1,200,000 particulate control devices would be required. With a 1.5 g/mi NOx standard, 820,000 would be required. These devices would include both trap oxidizers and other less expensive control hardware, depending on the efficiency required. For example, a light-duty catalyst-derived system has recently been brought to the agency's attention as a possible means for particulate control. If averaging were to be used, 500,000 to 550,000 such devices could be eliminated depending on which NOx standard was ultimately adopted.

The cost analysis that was originally included in the NPRM used an average trap-oxidizer cost of $160 in 1979 dollars. Adjusting for inflation, the cost in 1982 dollars becomes $202. Although this figure is considerably less than some manufacturers have estimated, the EPA estimate has been supported by comments supplied by an emission control equipment manufacturers' trade association, which estimates that the traps themselves will be available at a cost of roughly $100. Assuming an equal amount would be required for a regeneration system, the total cost is comparable to the adjusted EPA estimate. EPA will assume an average cost of about 50 percent of the trap oxidizer cost for other particulate control technology. Using these cost figures and our estimated 500,000–550,000 reduction in the number of control devices needed, the annual dollar savings would amount to between $50 million and $111 million, depending on the control system and the NOx standard. Of course, any changes in the key variables and assumptions involved could alter these totals. Therefore, they should be viewed only as an approximation. Nevertheless, they illustrate that there is a potential for considerable savings under the averaging program.

[1] An analysis of cost savings from which this presentation is extracted has been compiled and is available in the public docket.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts and has no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket cited at the beginning of this preamble.

Effect on Small Entities

Section 605 of the Regulatory Flexibility Act requires that the Administrator certify that regulations do not have a significant impact on a substantial number of small entities. I certify that this regulation indeed does not have any significant impact on small entities. Few, if any, small entities market diesel engines or are involved in trap-oxidizer development, which constitute the subject of these regulations. Therefore, no substantial number of small entities should see any significant impact.

Information Collection Requirements

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 U.S.C. 3501 et seq., and have been

assigned OMB control number 2000–0390.

List of Subjects

40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: July 11, 1983.

William D. Ruckelshaus,

Administrator.

Note.—This is a final action of national applicability. Accordingly, under Section 207(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's Notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

For the reasons set forth in the preamble, EPA amends 40 CFR Part 85 and Part 86 as follows:

PART 85—[AMENDED]

1. The authority citation for Part 85 is revised to read as follows:

Authority: Sections 202, 203, 205, 206, 207, 208, 212, and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7546, and 7601(a).

2. Sections 85.1503, 85.1504, 85.1505, 85.1602, 85.1608, 85.1803, 85.1505, 86.609, 86.610 and 86.212, are amended by adding the words "or family particulate emission limits, as defined in Part 86" after the word "standard" or "standards" in the following places:

a. 40 CFR 85.1503, introductory paragraph;
b. 40 CFR 85.1504, introductory paragraph;
c. 40 CFR 85.1504(a);
d. 40 CFR 85.1504(a)(1);
e. 40 CFR 85.1504(b);
f. 40 CFR 85.1505(a);
g. 40 CFR 85.1602(a)(1);
h. 40 CFR 85.1602(b);
i. 40 CFR 85.1608(b);
j. 40 CFR 85.1803(a);
k. 40 CFR 85.1805(a)(1);
l. 40 CFR 86.602(a)(15);
m. 40 CFR 86.609(a);
n. 40 CFR 86.610(a);
o. 40 CFR 86.610(b);
p. 40 CFR 86.612(f)(1)(ii);
q. 40 CFR 86.612(g)(2).

PART 86—[AMENDED]

3. The authority citation for Part 86 reads as follows:

Authority: Sections 202, 206, and 301(a)(1) of the Clean Air Act as amended, 42 U.S.C. 7521, 7525, and 7601(a)(1).

4. Section 86.085–2 is revised to read as follows:

$$\frac{(PROD_{LDV})(STD_{LDV}) + (PROD_{LDT})(STD_{LDT})}{(PROD_{LDV}) + PROD_{LDT})} = \text{Manufacturer composite particulate standard}$$

Where:
$PROD_{LDV}$ represents the manufacturer's total diesel light-duty vehicle production for those engine families being included in the average for a given model year.
STD_{LDV} represents the light-duty vehicle particulate standard.
$PROD_{LDT}$ represents the manufacturer's total diesel light-duty truck production for those engine families being included in the average for a given model year.
STD_{LDT} represents the light-duty truck particulate standard.

"Family particulate emission limit" means the diesel particulate emission level to which an engine family is certified in the particulate averaging program, expressed to an accuracy of one hundredth gram-per-mile.

"Incomplete gasoline-fueled heavy-duty vehicle" means any gasoline-fueled heavy-duty vehicle which does not have the primary load-carrying device, or passenger compartment, or engine compartment or fuel system attached.

"Production-weighted average" means the manufacturer's production-weighted average particulate emission level, for certification purposes, of all of its diesel engine families included in the particulate averaging program. It is calculated at the end of the model year by multiplying each family particulate emission limit by its respective production, summing these terms, and dividing the sum by the total production of the effected families. Those vehicles produced for sale in California or at high altitude shall each be averaged separately from those produced for sale in any other area.

5. Section 86.085–8 is amended by revising paragraph (a)(1)(iv) to read as follows:

§ 86.085–8 [Amended]

(a)(1) * * *

(iv) *Particulate emissions* (diesels only). 0.20 gram per vehicle mile (0.124 gram per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty vehicle engine families in the particulate averaging program, provided that vehicles produced for sale in California or in designated high-altitude areas may be averaged only within each of these areas. If the manufacturer elects to average diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicle and diesel light-duty truck vehicles included in the average and is calculated as defined in § 86.085–2.

* * * * *

§ 86.085–2 Definitions.

(a) The definitions of § 86.084–2 remain effective. The definitions listed in this section apply beginning with the 1985 model year.

"Composite particulate standard", for a manufacturer which elects to average diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, means that standard calculated according to the following equation and rounded to the nearest hundredth gram-per-mile:

6. Section 86.085–9 is amended by revising paragraph (a)(1)(iv) and removing paragraphs (d) and (e) to read as follows:

§ 86.085–9 [Amended]

(a)(1) * * *

(iv) *Particulate emissions* (diesels only). 0.26 gram per vehicle mile (0.162 gram per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty truck engine families in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average both diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicle and diesel light-duty truck vehicles included in the average and is calculated as defined in § 86.085–2.

* * * * *

7. Section 86.085–21 is amended by revising paragraph (a) and adding (b)(5) to read as follows:

§ 86.085-21 [Amended]

(a) A separate application for a certificate of conformity shall be made for each set of standards (or family particulate emission limit, as appropriate) and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) * * *

(5) If the manufacturer elects to participate in the particulate averaging program for diesel light-duty vehicles and/or diesel light-duty trucks, the application must list the family particulate emission limit and the projected U.S. production volume of the family for the model year.

(i) The manufacturer shall choose the level of the family particulate emission limits, accurate to one hundredth of a gram-per-mile.

(ii) The manufacturer may at any time during production elect to change the level of any family diesel particulate emission limit(s) by submitting the new limit(s) to the Administrator and by demonstrating compliance with the limit(s) as described in §§ 86.085-2(a)(5) and 86.085-28(b)(5).

* * * * *

8. Section 86.085-23 is amended by revising paragraphs (b)(1)(ii) and (e)(1) and adding paragraph (f) to read as follows:

§ 86.085-23 Required data.

* * * * *

(b)(1) * * *

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines and all test data that are derived from the testing described under § 86.085-21(b)(4)(iii)(A) as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.085-30 will meet the emission standards (or family particulate emission limits, as appropriate) in §§ 86.085-09, 86.084-10, or 86.085-11 as appropriate, in actual use for the useful life of the engine.

* * * * *

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with the applicable standards (or family particulate emission limits, as appropriate) of this subpart are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards (or the family particulate emission limit, as appropriate). The provisions of § 86.085-30(b) shall then be followed.

* * * * *

(f) Additionally, manufacturers participating in the diesel particulate averaging program shall submit:

(1) In the application for certification, a statement that the vehicles for which certification is requested will not, to the best of the manufacturer's belief, when included in the manufacturer's production-weighted average emission level, cause the applicable particulate standard(s) to be exceeded.

(2) No longer than 90 days after the end of a given model year of production of engine families included in the diesel particulate averaging program, the number of vehicles produced in each engine family at each certified family diesel particulate emission limit, along with the resulting production-weighted average particulate emission level.

* * * * *

9. Section 86.085-28 is amended by revising paragraphs (a)(2), (a)(3), (a)(4) introductory text, (a)(4) (iii) and (iv), (b)(2), (b)(3), (b)(4) (i) and (iv), and (b)(7) and by adding paragraphs (a)(5), (a)(6), and (b)(5) to read as follows:

§ 86.085-28 [Amended]

(a) * * *

(2) The applicable exhaust and fuel evaporative emission standards (and family particulate emission limits, as appropriate) of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards (or the family particulate emission limit, as appropriate).

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards (or the family particulate emission limit, as appropriate) is as follows:

* * * * *

(iii) The emissions to compare with the standard (or the family particulate emission limit, as appropriate) shall be the adjusted emissions of paragraphs (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard (or the family particulate emission limit, as appropriate), it shall be rounded, in accordance with ASTM E 29-67, to two significant figures. The rounded emission values may not exceed the standard (or the family particulate emission limit, as appropriate).

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards (or the family particulate emission limit, as appropriate), as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

* * * * *

(5) If a manufacturer chooses to change the level of any family particulate emission limit(s) in the particulate averaging program, compliance with the new limit(s) must be based upon existing certification data.

(6) If a manufacturer chooses to participate in the diesel particulate averaging program, the production-weighted average of the family particulate emission limits of all affected engine families must comply with the particulate standards in §§ 86.085-8(a)(1)(iv) and 86.085-9(a)(1)(iv), as appropriate, at the end of the production year.

(b) * * *

(2) The exhaust and fuel evaporative emission standards (and the family particulate emission limits, as appropriate) of § 86.085-9 apply to the emissions of vehicles for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle, deterioration factors will be used in combination with emission-data vehicle test results as the basis for determining compliance with the standards (or the

family particulate emission limit, as appropriate).

(4) (i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards (or the family particulate emission limit, as appropriate), based on deterioration factors supplied by the manufacturer.

* * * * * *

(iv) The emission values to compare with the standards (or family particulate emission limits, as appropriate) shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data engine.

(5) (i) Paragraph (b)(5) of this section applies only to manufacturers which elect to participate in the particulate averaging program.

(ii) If a manufacturer chooses to change the level of any family particulate emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(iii) The production-weighted average of the family particulate emission limits of all applicable engine families, rounded to two significant figures in accordance with ASTM E 29–67 must comply with the particulate standards in §§ 86.085–8(a) (1)(iv) and 86.085–9(a)(1)(iv), as appropriate, at the end of the production year.

* * * * * *

(7) Every test vehicle of an engine family must comply with all applicable standards (and family particulate emission limits, as appropriate), as determined in paragraph (b)(4)(iv) and paragraph (b)(6) of this section, before any vehicle in that family will be certified.

* * * * *

10. Section 86.085–29 is amended by revising paragraph (a)(3)(i) to read as follows:

§ 86.085–29 [Amended]

(a)* * *

(3) (i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards (or the family particulate emission limit, as appropriate).

11. Section 86.085–30 is amended by revising paragraph (a)(3)(i) (A) and (B), (a)(3)(iii), (b)(1), (b)(2), (b)(3), and (b)(4) introductory text, (b)(4)(ii)(A), (b)(4) (iii) and (iv), and adding paragraph (a)(11) to read as follows:

§ 86.085–30 [Amended]

(a) * * *

(3) * * *

(i) * * *

(A) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate).

(B) *Light-Duty Trucks.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate) except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

* * * * *

(iii) For diesel light-duty vehicles and light-duty trucks included in the particulate averaging program, the manufacturer may at any time during production elect to change the level of any family particulate emission limit by demonstrating compliance with the new limit as described in §§ 86.085–28(a)(5) and 86.085–28(b)(5). New certificates issued under this paragraph will be applicable only for vehicles produced subsequent to the date of issuance.

* * * * *

(11) For diesel light-duty vehicles and diesel light-duty truck families which participate in a particulate averaging program, the manufacturer's production-weighted average of the particulate emission limits of all participating engine families shall not exceed the applicable diesel particulate standard(s) at the end of the model year, as determined in accordance with 40 CFR Part 86. The certificate shall be void *ab initio* for those vehicles causing any exceedance of the particulate standard(s).

* * * * *

(b) * * *

(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards (or family particulate emission limit, as appropriate) by observing the following relationships.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards (or the family particulate emission limit, as appropriate).

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 83.085–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards (or family particulate emission limits, as appropriate), he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturers may, at its option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards (or the family particulate emission limit, as appropriate) for which it was tested:

(i) * * *

(ii) * * *

(A) If the failed vehicle was tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

* * * * *

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as

applicable) and demonstrate by testing that it meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.084–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards (or the family particulate emission limits, as appropriate); or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. The Administrator may require as new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards (or the family particulate emission limit, as appropriate) for which the failed vehicle was originally tested.

* * * * *

12. Section 86.085–35 is amended by revising paragraph (a), (a)(1)(iii) (D) and (F), (a)(2)(iii)(D), and (c)(1) and adding paragraph (a)(2)(iii)(K) to read as follows:

§ 86.085–35 [Amended]

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards (and family particulate emission limits, as appropriate) of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided , to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.085–30(a).

(1) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate emission limit, as appropriate), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with either the emission standards at low altitude (or family particulate emission limit, as appropriate) or the optional emission standards at high altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to elevation below or above 4,000 feet.

* * * * *

(F) For vehicles which are part of the diesel particulate averaging program, the family particulate emission limit to which the vehicle is certified.

* * * * *

(2) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustment, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate emission limit, as appropriate), including but not limited to idle speed(s), ignition timing, the idle air/fuel mixture setting procedure and value (e.g., idle CO, idle air/fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any should be in operation. If adjustments or modification are necessary to insure compliance with emission standards (or family particulate emission limits, as appropriate) at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to high altitude, low altitude or both.

* * * * *

(K) For vehicles which are part of the diesel particulate averaging program, the family particulate emission limit to which the vehicle is certified.

* * * * *

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards (or family particulate emission limits, as appropriate) of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label and affixed as described in 40 CFR 567.4 (B), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

* * * * *

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: **The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing July 20, 1983

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