10-20-83
Vol. 48 No. 204
Pages 48643-48792

federal register

Thursday
October 20, 1983

Selected Subjects

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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.

Selected Subjects

Contents

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

Separate Parts In This Issue

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
908 48643
Proposed Rules:
411 48675

9 CFR
166 48643
Proposed Rules:
101 48679
113 48679

10 CFR
95 48644

11 CFR
114 48650

14 CFR
Proposed Rules:
Ch. I 48681

16 CFR
13 48651
Proposed Rules:
300 48682
301 48682
303 48683

19 CFR
4 48653
18 48655
134 48657

20 CFR
626 48744
632 48744
633 48744
634 48744
636 48744
684 48744
Proposed Rules:
416 48684

21 CFR
522 48659
558 48659

22 CFR
41 48660

27 CFR
Proposed Rules:
9 48685

30 CFR
223 48661

31 CFR
Proposed Rules:
390 48688

33 CFR
117 (2 documents) 48662
165 (3 documents) 48663, 48664
Proposed Rules:
117 48690

40 CFR
52 (2 documents) 48664, 48665
60 48669
Proposed Rules:
271 48690

49 CFR
192 48669
195 48669

Rules and Regulations

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 322]

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 October 21–October 27, 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: October 21, 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 October 18, 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 slow.

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. § 908.622 is added as follows:

§ 908.622 Valencia Orange Regulation 322.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period October 21, 1983 through October 27, 1983, are established as follows:

(a) District 1: 440,000 cartons;
(b) District 2: 560,000 cartons;
(c) District 3: Unlimited cartons.

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

Dated: October 19, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-28807 Filed 10-19-83; 12:11 pm]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 83-057]

9 CFR Part 166

State Status Regarding Enforcement of the Swine Health Protection Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms amendments to the Swine Health Protection regulations which listed States that have primary enforcement responsibility under the Swine Health Protection Act and States that issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service (APHIS) but which do not have primary enforcement responsibility under that Act.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. R. D. Good, Special Diseases Staff, VS, APHIS, USDA, 6505 Belcrest Road, Federal Building, Room 825, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Swine Health Protection Act (referred to below as the Act) are set forth in 9 CFR Part 166. Section 166.14 categorizes the various States according to whether they: (a) Prohibit the feeding of garbage to swine; (b) permit the feeding of treated garbage to swine; (c) have primary enforcement responsibility under the Act; or (d) issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act.

On December 30, 1982, and February 10, 1983, documents were published in the **Federal Register** (47 FR 58217–58218, 48 FR 6089–6090) amending § 166.14(c) of the regulations by listing States that

have primary enforcement responsibility under the Act and amending § 166.14(d) by listing States which issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but which do not have primary enforcement responsibility under the Act.

No comments were received in response to the documents of December 30, 1982, and February 10, 1983. The factual situation set forth in the documents of December 30, 1982, and February 10, 1983, still provides a basis for the amendments.

Accordingly, it has been determined that the amendments, published in the **Federal Register** on December 30, 1982, and February 10, 1983, should remain effective as published.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined not to be a "major rule." The Department has determined that this action will have an annual effect on the economy of less than $100 million; 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 have any significant adverse effects on competition, employment, investment, productivity, innovation, or 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 their review process required by Executive Order 12291.

This action merely affirms amendments which list States that have primary enforcement responsibility under the Act and States that issue licenses under a cooperative agreement with the Animal and Plant Health Inspection Service but which do not have primary enforcement responsibility under the Act. Therefore, 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 entities.

List of Subjects in 9 CFR Part 166

Animal diseases, Hogs, Garbage, African swine fever, Foot-and-mouth disease, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

(Sec. 511, Pub. L. 96-592, 94 Stat. 3451 (7 U.S.C. 3802); Secs. 4, 5, 9, 10, 12, Pub. L. 96-468, 94 Stat. 2229, 2230, 2232, 2233 (7 U.S.C. 3803, 3804, 3808, 3809, 3811); 45 FR 85696, 46 FR 7266)

Done at Washington, D.C., this 14th day of October, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

FR Doc. 83-28839 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 95

Access to and Protection of National Security Information and Restricted Data; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on June 1, 1983 (48 FR 24318) concerning access to and protection of National Security Information and Restricted Data, that, among other amendments, updated Appendix A to Part 95 in order to comply with Executive Order 12356. This correction is necessary to restore information that was inadvertently omitted as a result of the amendments to the Classification Guidance table appearing in Appendix A.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Policy and Operational Support Branch, Division of Security , Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 427-4415.

SUPPLEMENTARY INFORMATION: On June 1, 1983, the Nuclear Regulatory Commission published a final rule amending its regulations pertaining to the access to and protection of National Security Information and Restricted Data (48 FR 24318). In this document, the Classification Guidance portion of Appendix A to Part 95 was amended to require a determination by the originating agency before information may be declassified in place of the previously required review at the end of seven or 20 years.

However, the amendatory instruction necessary to accomplish this change was not complete. As a result, the acronyms necessary to complete the classification level and description of material in the Classification Guidance table were inadvertantly omitted. This correction restores the omitted information. In order to avoid unnecessary confusion, the correction is accomplished by reprinting the entire Classification Guidance table.

In Appendix A to Part 95, the Classification Guidance table immediately following paragraph G is revised to read as follows (This correction supersedes amendatory instructions 22 and 23 in the June 1, 1983 final rule.):

Appendix A—Classification Guide for Safeguards Information

* * * * * *

CLASSIFICATION GUIDANCE

100 *Material Control and Accountability*	
110 SSNM quantities.	
111 Total quantities of SSNM at any given time by total plant.	U.
112 Total quantities at any given time of SSNM by designated vault and vault-type storage areas.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
NOTE: Inventories of SSNM for classified DOE programs (e.g., production, naval reactors) will be classified in accordance with DOE guidance applicable to those programs.	
120 SSNM Measurement Data.	
121 Measurement accuracy required by unclassified regulations (e.g., 10 CFR Part 70).	U.
122 Measurement uncertainties associated with bulk and analytical measurements that are typical for the nuclear industry provided information classified by other topics in this guide is not revealed.	U.
123 The Limit of Error on Inventory Difference (LEID) for individual material balance period or on a cumulative period basis.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
130 Material Control and Accounting Plans.	
131 Plans submitted in accordance with 10 CFR Part 70 which contains details of the licensee plan for the material control and accounting programs.	U.

CLASSIFICATION GUIDANCE—Continued

These include frequency and schedule of SSNM inventories, and measurement control, including equipment, methodology, quality assurance, destructive and nondestructive analyses, audit and organization.

140 Quantitative SSNM Balance Data.

The classification guidance in these topics applies to SSNM balance information not classified by other guides, e.g., production of naval reactors; classified topics in such guides take precedence where applicable.

141 Receipts — U.
142 Shipments — U.
But see Topic 312.
143 Other removals: measured discards, decay losses, and losses due to fission and transmutation and ID.
143.1 Total "other removals". — U.
143.2 Itemized "other removals" for a reporting period. — U–CNSI—See declassification note for Topic 144.

U when ID is unclassified. See Topic 144

144 Inventory Difference in any amount. — CNSI.[1]

150 Other Items Pertaining to Material Control and Accounting.

151 Any computer output displays or printouts which provide itemized "other removals" or inventory difference data. — CNSI—See 143.2 or Topic 144 for applicable declassification marking.

200 *Physical Protection at Fixed Sites*

201 The physical security plan for a nuclear facility or site. Plans may be SNSI in accordance with other applicable classification guidance. — C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).

Secret if significant vulnerability is revealed, e.g., degree of seriousness, or explicit means of penetrating existing security defenses are disclosed. See, for example, Section 400 of this guide.

CLASSIFICATION GUIDANCE—Continued

210 Site and Facility Description.

211 Only the general layout that can be seen from uncontrolled areas and which does not identify a vulnerability. This general layout may include: buildings parking areas, access roads, fences, outside storage areas, natural terrain, landscaped areas, tunnels, storm and waste sewers, water intake and discharge conduits, culverts, creeks, canals, and any other physical characteristics such as features of buildings, barriers, fences, guard stations, etc. — U.
212 Site specific "as built" drawings, diagrams, sketches, maps, etc., showing identity together with location and/or description of facility features of special interest because of their relationship to the physical security system that if revealed could facilitate theft or diversion of SSNM, or sabotage of a facility. — CNSI—Declassify on: Originating Agency's Determination Required (OADR).
But see Topics 211, 213 and 221.
213 Scope, conceptual design, and construction drawings showing construction characteristics of buildings and associated fencing, electrical and other utility system layouts. — U.
But see Topic 212.
214 Government sponsored or required evaluations of site-specific construction features or physical security barriers revealing vulnerabilities or limitations which could facilitate penetrating or by-passing physical security barriers. — C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

Secret if significant vulnerability, e.g., degree of seriousness, or explicit means of defeating these systems is revealed.

220 Intrusion and Detection Alarm Systems.

Includes Manually Activated Duress Alarms
221 Scope, conceptual design, and construction plann. — CNSI—Declassify on: Originating Agency's Determination Required (OADR).

See Topic 222.
222 As installed details of alarms system layout location, and electrical design that if disclosed could facilitate gaining unauthorized access to SSNM, nuclear facilities, or classified information. — CNSI—Declassify on: Originating Agency's Determination Required (OADR).
223 Vendor hardware performance specifications. Specifications for vendor custom design equipment may be classified. — U.
224 Information, including the effect of specific modifications, revealing in-place operating capability that if disclosed facilitates bypassing such systems. — CNSI—Declassify on: Originating Agency's Determination Required (OADR)
225 Security-related vulnerability or weakness. — C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).

Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of defeating these systems.

225.1 Vulnerability information directly available from vendor specifications. — U.
226 Sensitivity levels or limits to which installed systems have been set. — CNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

230 Plant Radio and Telephone Communication Systems.	
231 Government sponsored or required evaluations of site-specific existing plant radio and telephone communications systems revealing vulnerabilities or limitations in operating capability or procedures.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of defeating these systems.	
240 Tamper Indicating Seals.	
241 Information revealing ways of successfully circumventing seals which are used to protect SSNM.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret if explicit means of successfully bypassing seals are disclosed.	
242 Methodology of manufacture.	U.
243 Methodology of application.	U.
250 Keys, Locks, and Combinations.	
251 Generic types and models of keys and locks used.	U.
252 Mechanical key design, e.g., key cut depths coding systems which are used to protect areas of a security interest.	C-SNSI.
Classify consistent with the level and duration of classification of information being protected, may be RD.	
253 Combinations and codes.	C-SNSI.
Classify consistent with the level and duration of classification of information being protected, may be RD.	
254 Site-specific evaluation of lock or door locking systems that reveals vulnerability.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

Secret if explicit means of surreptitiously gaining access are disclosed.	
260 Threat Response Capability and Procedures.	
See also Section 400, Safeguards Analyses and Plans.	
261 Number of security personnel.	
261.1 Information available by visual access from uncontrolled areas to routine guard patrol activities.	U.
261.2 Total security personnel available onsite at a particular time for a site or particular activity including number and type of weapons, other than standard sidearm.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
261.3 Guard force deployment plan or scheme.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
261.4 Size and armament of inhouse reserve forces.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
262 Contingency Plans.	
262.1 Response to a specific threat, e.g., disposition, amament or planned response of security forces including number of personnel responding to specific incidents.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret when revealing increased degree of vulnerability of a site as a result of a specific action.	
262.2 Arrangements with local, state, and federal law enforcement units.	U.
See Topic 262.1.	
262.3 Numerical threat level for contingency planning.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

263 Response Time of Guards and Back-Up Force.	
263.1 Response time required.	U-CNSI—Declassify on: Originating Agency's Determination Required (OADR).
Unclassified if stated in unclassified NRC manual chapters or regulations.	
263.2 Actual response time capabilities.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret when revealing increased degree of vulnerability of a site as a result of a specific action.	
264 Security Patrols.	
264.1 Procedures, schedules and frequency for routine security tours.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
264.2 Actual prearranged schedule including the specific times and locations.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
270 Personal Verification (Emergency or Duress) Codes and/or How They Are Used.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
280 Audit and Assessment Information.	
281 General methods for auditing of physical security measures or assessing of these measures.	U.
282 General procedures for routine inspection and testing of equipment (e.g., barriers, alarms, communications).	U.
283 Government sponsored or required evaluations of security systems revealing vulnerabilities or limitations in physical security measures, operating procedures or personnel capabilities.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

Secret if significant vulnerabilities are revealed, e.g., degree of seriousness or explicit means of penetrating security defenses.

290 Miscellaneous.

291 Detailed reports of attempted or successful penetration of nuclear facilities and attempted or successful diversion or theft of special nuclear material within or from a nuclear facility.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).

Reports of facts of attempted or successful penetration or diversions, without further elaboration, are unclassified.

Information covered by this topic is declassified when operationally necessary to repel attacks or recover stolen SSNM.

292 Reports of other unusual or abnormal occurrences or incidents, the release of which would not reveal security-related vulnerabilities.	U.
293 Administrative control procedures.	U.
294 Complete emergency plans such as fire, safety and radiological emergency plans provided they do not reveal information classified by other topics of this guide.	

300 In-Transit Protection of SSNM.

Topics in this section apply only to shipments of formula or greater quantities of SSNM.

Certain classification guidance in the area of In-Transit protection is classified.

301 Fact that SSNM shipments are protected by various unspecified means.	U.
302 Information regarding operations, shipments, routing and protection available as a result of uncontrolled visual access to the shipment when it is in progress.	U.
303 Fact of use of any shipment mode, e.g., air, rail, truck, ship, etc.	U.

CLASSIFICATION GUIDANCE—Continued

310 Shipment Contents.

The classification guidance in this section applies to shipment composition information not classified by other guides, e.g., those relating to production, weapons, or naval reactors; classified topics in such guides take precedence where applicable.

Shipment contents information for a specific shipment is declassified when it is determined to be necessary to release such information in the event of an operational exigency, e.g., vehicle accident.

311 Fact that a specific shipment contains radioactive material.	U.
311.1 Any further elaboration as to identity or composition of the material, e.g., fact that it is SSNM, fact that it is PU or U.	CNSI—May be declassified after arrival of shipment at final destination provided neither classified shipping patterns nor other information classified by this guide is revealed.
312 Quantity of SSNM in a particular shipment.	CNSI—May be declassified after arrival of shipment at final destination provided neither classified shipping patterns nor other information classified by this guide is revealed.
312.1 Number and size of packages provided that the information classified by other topics of this or other applicable guides is not revealed.	U.

CLASSIFICATION GUIDANCE—Continued

320 Schedules and itinerary for Specific Shipment

A. Total itinerary is declassified when it is determined to be necessary to release such information.	CNSI—May be declassified after arrival of shipment at final destination provided neither classified shipping patterns nor other information classified by this guide is revealed
1. To uncleared commercial carrier(s) selected to move a shipment(s)	
2. In the process of filing flight plans with FAA	
B. Individual items of schedule information, less than the total itinerary are declassified when it is determined to be necessary to release such information.	
1. In the event of an operational exigency, e.g., vehicle accident or communications failure, when cleared communications facilities are unavailable	
2. In those cases when it is determined to be necessary to advise state or local law enforcement agencies regarding the movement of the shipment through areas under their jurisdiction	

330 SECOM (Secure Communications) Operations

331 The fact of existence of SECOM System and a general description of the operation.	U.
332 A general description of the SECOM equipment and SECOM Control Center.	U.

CLASSIFICATION GUIDANCE—Continued

But See Topics 334 and 337	
333 Operating procedures	
333.1 Base Station Operating Procedures.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
333.2 General Mobile Operating Procedures.	U.
But See Topics 333.3 and 334	
333.3 Appendices to General Operating Procedures that concern the security/safeguards of shipments.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
334 Detailed description of.	
334.1 Operation and equipment.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
334.2 Checkpoint System.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
334.3 Authentication System.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
335 Emergency Response Procedures.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
336 Authenticator Lists ...	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
336.1 Before use.	
336.2 After use, if information relevant to subsequent use is not revealed.	U.

CLASSIFICATION GUIDANCE—Continued

337 Maps showing in-transit locations of shipments.	CNSI—Maps become declassified after removal of in-transit locations
338 Records	
338.1 Voice Recordings..	U.
338.2 SECOM station logs.	U-SNSI.
Classification of the station log depends upon the level and duration of classification of the information entered in the log.	
339 Software and Software Documentation (guidance for specific program to be identified as developed)	
Classification level and duration depends upon what information, covered by other topics in this guide, is revealed.	
340 Inter-Vehicle Communications	
341 Fact of radio communications and the radio frequencies used between SSNM vehicle and escort vehicles.	U.
Elaboration may be classified	
342 Communications procedures and system information not revealing information classified by other topics of this guide.	
350 Communications Equipment Per Se.	U.
360 Information Concerning Communications Systems Procedures and Equipment which *Must* be exchanged with Local Law Enforcement Agencies Providing it Does not Reveal Information Contained in the Physical Security Plan.	U.
370 Guard Organization And Capabilities	
371 The fact that armed guards accompany special nuclear material shipment.	U.

CLASSIFICATION GUIDANCE—Continued

372 The total number of guards that accompany a particular shipment.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
373 Contingency plans for safeguarding enroute shipments, e.g., disposition, armament or planned response of security forces.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
374 Arrangements with local law enforcement agencies.	U
380 Secure Transport Vehicles.	
381 Fact of existence of such vehicles, e.g., Safe Secure ATMX Car, and Special Nuclear Material Vehicles (SNMVs) and commercial vehicles designed to carry and safeguard SSNM.	U.
382 General description of purpose and function, e.g., to reduce the vulnerability of shipment to diversion and to deter unauthorized access to transported cargo.	U.
383 Visual access to vehicle exterior.	U.
384 Visual access to vehicle cargo compartment, provided information classified by other topics of this guide is not revealed.	U.
385 Fact of use of specific passive or active protection features.	U-CNSI—Declassify on: Originating Agency's Determination Required (OADR)
Fact of use of armor plate, bullet resistant glass, foam, and brake locking is unclassified.	
386 Design details of passive or active protection.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)

CLASSIFICATION GUIDANCE—Continued

400 Safeguards Analyses and Plans

410 Diversion or Sabotage Vulnerability Studies.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR)
411 Site-specific route specific scenarios for theft, diversion or sabotage.	C-SNSI [2]—Declassify on: Originating Agency's Determination Required (OADR)

Secret if signficiant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses are disclosed.

412 Evaluations scenarios for theft, diversion or sabotage.	C-SNSI [2]—Declassify on: Originating Agency's Determination Required (OADR)

Secret if signficiant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses are disclosed.

413 Site-specific or route specific diversion path or vulnerability anaylsis.	C-SNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)

Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses is disclosed.

414 Diversion path or vulnerability analysis methodology, e.g., general techniques (fault tree, event tree, systems analysis, etc.).	U.

Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses is disclosed.

420 Plans for response to threats.	C-SNSI [2]—Declassify on: Originating Agency's Determination Required (OADR)
421 Fact that current NRC regulations are intended to cover a threat of several people	U.

CLASSIFICATION GUIDANCE—Continued

422 Vulnerabilities of specific facilities.	C-SNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)

Secret if significant vulnerability is revealed, e.g., degree of seriousness or explict means of penetrating security defenses.

423 Threat Levels.	
423.1 Specific threat levels against which the NRC licensees can or cannot protect.	C-SNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
423.2 Threat levels against which NRC licensees intend to protect in the future.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR)
423.3 External and internal threat levels which are used as part of a sensitivity analysis of a security system to threats in that system.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR)
500 *Safeguards Research, Development, Test, and Evaluation (RDT&E).*	
510 Generic Functions, General Performance Characteristics, and General Applications Materials, Equipment, Processes, and Conceptual Studies in RDT&E for New or Improved Safeguards, Provided Information Classified by Other Topics in This Guide is Not Revealed.	U.
520 Conceptual Studies for a Generic Facility or Site. The Objectives, Capabilities, and Applications for an Entire Site Security System.	U.
530 Evaluations of Commercial or Commercially Developed Equipment Which has Undergone or is Undergoing Laboratory Testing.	U.

CLASSIFICATION GUIDANCE—Continued

But see Topics 214, 222, 224, 231, 241, 410.

540 Specifc Performance Capabilities or Vulnerabilities of Systems, Subsystems, Materials, Equipment, or Processes in RDT&E for New or Improved Safeguards.	
541 Information revealing a vulnerability which would significantly assist the bypass or defeat of the integrated safeguards system actually installed (or planned to be installed) at a specific facility or in the transportation system.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
542 Information about a characteristic or feature that meets all of the following criteria (1) it would significantly delay the bypass or defeat of an operational application, and (2) its presence in an operation configuration and application would not be reasonably expected or predicted.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
550 Hardware is Classified in Accordance With Information it Reveals.	

[1] May be declassified after a period of six months from date of inventory assessment, provided (a) any resulting investigation is completed, and (b) the initial classification determination was not due to extenuating circumstances. ID data remains classified for the duration of an investigation.

[2] Individual Items of information not revealing (1) significant information concerning the (a) security protection, (b) the disposition, armament, or planned response of security forces or (2) information classified under other topics of this guide or other applicable guides should be submitted through channels to the NRC Division of Security, for possible declassification.

Dated at Bethesda, Maryland this 30th day of September 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-28197 Filed 10-19-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL ELECTION COMMISSION

[Notice 1983-26]

11 CFR Part 114

Trade Association Solicitation Authorization

AGENCY: Federal Election Commission.

ACTION: Transmittal of regulations to Congress.

SUMMARY: The Commission's regulations at 11 CFR 114.8(c)(2), (d)(2) and (d)(4) have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). These regulations govern the request and receipt of solicitation authorizations that a trade association must obtain prior to soliciting its corporate members' stockholders and executive or administrative personnel. The revisions would permit trade associations to request and receive the authorizations prior to the calendar year in which the solicitation is to occur. Further information on the revised regulations is provided in the supplementary information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 438(d).

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 Commission published a Notice of Proposed Rulemaking on these regulations on November 26, 1982. (47 FR 53396) The revised regulations are based in part upon the comments received in response to that Notice.

2 U.S C.S. 438(d) requires that any rule or regulation prescribed by the Commission to implement Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate. The Commission may prescribe the regulations in question after they have been before both Houses of Congress for 30 legislative days. The following regulations were transmitted to Congress on October 17, 1983.

Explanation and Justification

The Commission's Notice of Proposed Rulemaking on these regulations posed the following question: does 2 U.S.C. 441b(b)(4)(D) require trade associations to obtain the requisite solicitation authorization from their corporate members in the same year for which it is to be applicable, or may it be obtained prior to that calendar year?

Of the 80 comments received, all but one favored the Commission's proposal to permit trade associations to request and receive authorizations prior to the year for which they are designated.

Many of these favorable comments spoke of the difficulties trade associations encountered when trying to comply with the requirements of the current regulations. They complained of the months lost each year trying to get corporate members to return the solicitation approval before solicitation could begin. Since it is most economic for a trade association to solicit its members' employees at one time, some associations cited a loss of up to four months a year waiting for the approvals to come in. They also stated that corporate members were annoyed by the repeated requests for approvals and that these members would have preferred to submit more than one year's approval at a time.

The revisions to 11 CFR 114.8(c)(2) and (d)(4) should resolve many of the problems raised by the comments. The revised regulations permit trade associations to obtain solicitation approval from their members for several years at a time if they so choose. The approvals must still be obtained in accordance with 2 U.S.C. 441b(b)(4)(D), which requires that the solicitation be "separately and specifically approved" by the member corporation and that the member approve solicitations by no more than one trade association in any calendar year. This means that, for each year that a member corporation gives its approval to solicit, a separate authorization must be prepared even if several authorizations are prepared and transmitted to the trade association at one time. It should also be noted that the member corporation continues to have the right to withdraw its authorization at any time. If, however, any solicitation has been made for the trade association's separate segregated fund during that calendar year, the corporation may not approve solicitation by another trade association for that calendar year but it may give approval for future years.

Since these regulations allow corporate members to approve solicitation for several years at a time, the retention requirements of 11 CFR 114.8(d)(2) needed to be altered accordingly. Therefore, the Commission has also revised that section to require that each authorization be kept for three years from the year to which it applies rather than three years from the time it was approved. Otherwise, authorizations might be discarded before they even went into effect.

The negative comment was submitted by the National Association of Casualty and Surety Agents, which was concerned that the proposed changes would result in increased competition among trade associations in the same industry to obtain corporate approval earlier. While this may be an unfortunate result in some cases, the benefits to be gained by relaxing the requirement to obtain approval in the same year that the solicitation occurs, as noted by the majority of the comments, would seem to outweigh any such adverse effects.

List of Subjects in 11 CFR Part 114

Business and industry, Elections.

PART 114—[AMENDED]

11 CFR 114.8 is amended by revising paragraphs (c)(2), (d)(2) and (d)(4) as follows:

§ 114.8 Trade Associations

* * * * *

(c) * * *

(2) The member corporation has not approved a solicitation by any other trade association for the same calendar year.

* * * * *

(d) * * *

(2) A copy of each approved request received by a trade association or its separate segregated fund shall be maintained by the trade association or its fund for three years from the year for which the approval is given.

* * * * *

(4) A separate authorization specifically allowing a trade association to solicit its corporate member's stockholders, and executive or administrative personnel applies through the calendar year for which it is designated. A separate authorization by the corporate member must be designated for each year during which the solicitation is to occur. This authorization may be requested and may also be received prior to the calendar year in which the solicitation is to occur.

* * * * *

(2 U.S.C. 441b, 437d(a)(8))

Dated: October 17, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-28551 Filed 10-19-83; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9143]

Dairymen, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: The Commission has issued a Final Order returning this matter to adjudication and dismissing the complaint issued against one of the nation's largest raw milk processors, holding that the record did not support a finding that Dairymen's 1978 acquisition of Farmbest Foods, Inc., violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

DATES: Complaint issued July 31, 1980.* Final Order issued Sept. 20, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CS–6, Steven A. Rothman, Washington, D.C. 20580. (202) 724–1239.

SUPPLEMENTARY INFORMATION: In the Matter of Dairymen, Inc., a corporation.

List of Subjects in 16 CFR Part 13

Milk processors, 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)

[Docket No. 9143]

Final Order Returning Matter to Adjudication and Dismissing Complaint

In the Matter of Dairymen, Inc., a corporation.

On July 31, 1980, the Commission issued an administrative complaint alleging that Dairymen, Inc. ("Dairymen") and Munford, Inc. ("Munford") violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission when Dairymen acquired Farmbest Foods, Inc. ("Farmbest") from Munford in 1978. On November 4, 1982, this matter was withdrawn from adjudication so that the Commission could consider a proposed consent. On March 25, 1983, the staff of the Bureau of Competition and the Bureau of Economics forwarded their analyses and recommendations to the Commission regarding the proposed consent.

At the time this action was filed, the Commission had been monitoring the Class I milk processing industry for more than twenty-five years. In the first ten years of its corporate existence, Dairymen acquired over thirty-one Class I milk processing plants in the southern United States. None of these individual acquisitions were challenged either by the Commission or by the Department of Justice ("Department") under Section 7 of the Clayton Act; however, in 1973, the Department brought a civil action against Dairymen alleging that it violated Section 2 of the Sherman Act and Section 3 of the Clayton Act by various acts affecting the upstream raw milk industry.[1] This matter was in litigation throughout the development of the Commission's case concerning the Farmbest acquisition.

The Commission's complaint alleged that the Farmbest acquisition substantially lessened competition in the sale of Class I milk products in five standard metropolitan statistical areas ("SMSAs"): Johnson City-Kinsport-Bristol, Tennessee-Virginia; Knoxville, Tennessee; Birmingham, Alabama; Montgomery, Alabama; and Columbus, Georgia-Alabama. The evidence adduced in discovery to date, however, tends to support geographic markets of broader scope. For example, products were shipped 135 miles from the Bristol plant, 200 miles from the Montgomery plant, 140 miles from the Columbus, Georgia, plant and 195 miles from the Knoxville plant. The recent findings by the District Court on remand in *U.S.* v. *Dairymen, supra*, also suggest broader geographic markets at the processing level. In that case the evidence showed that raw milk handlers in the five southeastern states market have purchased milk outside of that territory—sometimes from as far away as Wisconsin and Minnesota.[2] On the other hand, our record does not conclusively rebut the plausibility of more confined markets. Shipments data are incomplete; thus, we are unsure of the frequency of or reason for the longer shipments. The proposed testimony of trial witnesses uniformly perceives the relevant geographic markets to be "local", although the scope of that definition is unclear.

The fact that the contours of the relevent geographic markets in milk processing are unclear raises the concern that the Farmbest acquisition has not had anticompetitive effects. Other factors strengthen that concern. The record indicates that entry barriers into milk processing are not high. A steady and substantial decline in the number of dairy processors for well over a decade has made numerous physical facilities available. Brand loyalty appears to be an insignificant competitive factor: Witnesses do not emphasize it and Flav-O-Rich has not used the Farmbest name since the acquisition. Thus, the apparent lack of entry into the market appears to be due to increasing scale economies, rather than to any market power exercised by Dairymen Inc.[3] These factors, coupled with the lack of other evidence of anticompetitive effects, have dissipated our initial concern about this acquisition. Therefore, because the record does not support a finding that the acquisition is likely to injure competition, the Commission no longer has reason to believe that respondent violated Section 7 of the Clayton Act or Section 5 of the Federal Trade Commission Act. Therefore,

It is ordered that this matter be returned to adjudication and

It is further ordered that the complaint issued in the matter be, and it hereby is, dismissed.

By the Commission. Chairman Miller did not participate in the decision of the

---

* Copies of the Complaint filed with the original document.

[1] As part of the complaint, the Government alleged that eighteen of these acquisitions evidenced Dairymen's intent to monopolize the market in Grade A milk in the southeastern United States by foreclosing raw milk competitors from access to processing facilities and thereby forcing non-member producers either to join Dairymen's cooperative or to exit the raw milk market. The Government, however, did not seek to ban Dairymen from making future acquisitions in the relevant market. The District Court entered a supplemental judgment dismissing the attempted monopolization portion of the Government's complaint. The Sixth Circuit Court of Appeals in a *per curiam* opinion reversed the District Court's attempted monopolization holding, instructing the District Court in the correct legal standard and directing it to determine relevant geographic submarkets for evaluating the attempted monopolization allegation on the basis of "commercially significant areas in which [Dairymen's] customers could turn to other suppliers." *United States* v. *Dairymen, Inc.*, 660 F.2d 92 (6th Cir. 1981).

On remand, the District Court found that the Government had met its burden of showing that Dairymen had the requisite specific intent to monopolize a relevant submarket of five southeastern states (Kentucky, Tennessee, Georgia, Louisiana and Mississippi), but that the Government had failed to show a dangerous probability of success. The District Court held the evidence was insufficient to show that Dairymen had the power to control prices or exclude competitors in the relevant five-state market. *United States* v. *Dairymen, Inc.*, Civil Action No. C 7634A (W.D. Ky. June 9, 1983, slip op. at 14–15).

[2] *United States* v. *Dairymen, Inc., supra*, slip op. at 5.

[3] The District Court decision on remand in *Dairymen* also supports this view. The Court there held that Dairymen did not have the power to raise or fix prices or exclude competitors in the five Southeastern states market. *Dairymen, supra*, slip op. at 14–15.

Commission. Commissioner Pertschuk voted in the negative.

Emily H. Rock,

Secretary.

Dissenting Statement of Commissioner Michael Pertschuk Concerning Dairymen, Inc., Docket No. 9143

September 16, 1983.

I dissent from the Commission's decision to reject a proposed settlement and dismiss the complaint in this matter. The settlement that the Bureau of Competition has recommended was reached between complaint counsel and respondents shortly before trial was to begin, and consequently, we are not presented with a complete trial record. However, we have ample evidence showing there is reasonable support for the allegations in the 1980 complaint. Moreover, the relief in the proposed consent agreement provides for a reasonable resolution of this litigation by requiring Dairymen, which has been a prolific acquirer of smaller dairy processors, to obtain prior approval for future acquisitions for a limited period.[4] Therefore, the proper course is to accept the agreement for public comment.

The principal objection of the majority to accepting this agreement is the argument that the geographic markets may be substantially larger than the SMSA markets alleged in the complaint. The majority does not know what the appropriate market is but suggests indirectly that it may be a five-state area, in order to include points to which processed milk was shipped from the five SMSA's—points that are in some instances 200 miles away.[5]

The problem with the majority's theorizing that the market must be at least large enough to accommodate any shipping is that this reasoning leads to a market for milk processing that is likely to be the North American continent. If we examined the processed milk shipping patterns from the hypothetical five-state market (which we have not), I have little doubt we would find that milk is shipped outside the area. If we expanded the circle to include those shipments, we would find more shipments outside that area, and so on. In short, the majority has created an impossible-to-meet standard for geographic markets. Furthermore, it has ignored evidence more than adequate to support the result of this proposed settlement.

The point is not to draw a market that captures all shipping, but one that captures enough of it to reflect the basic dynamics of price competition. Thus, Professors Elzinga and Hogarty have argued in influential articles that the relevant questions are: (1) Whether the great majority of products sold in the area were produced there, and (2) whether most production in the area was sold there.[6] At the time of trial preparation, the staff did not have complete evidence on shipments, but they did have information showing that in four of the five markets more than 80% of milk sold in the SMSA was processed there in the year before the acquisition. In addition, several industry officials were prepared to testify that, notwithstanding the distances across which processed milk is shipped, prices in each SMSA varied independently from prices in the others and that from a business perspective they felt the individual SMSA's were separate markets. One processor told the staff that a Dairymen executive had tried to get him to fix prices in Knoxville and, further, had told him that the Nashville processors had been able to raise the prices of wholesale milk in that SMSA by an agreement. If these cities were both in one large, multi-state market, such differences in pricing dynamics could not occur.

Commissioner Douglas argues that Farmbest and Flav-O-Rich cannot be part of an SMSA market if their plants are not located within the SMSA. This proposition is equivalent to stating that no geographic area can be a relevant market if there are shipments in from the outside or, alternatively, that sales of companies with shipments into a relevant geographic market from an outside plant cannot be considered as in the market. Neither of these conclusions is correct (otherwise, for example, no foreign manufacturer's imports into the U.S. would be considered as part of a U.S. market).

Commissioner Douglas further argues that more than 50% of the production of Flav-O-Rich and Farmbest in any SMSA is shipped outside the SMSA (except in the case of Birmingham). Assuming this observation to be true (since, again, we have no trial record), the percentage shipped outside the SMSA's by these two companies does not tell us about shipments outside the SMSA's by all companies producing there. In addition, the "little out from inside" half of the Elzinga-Hogarty test is less dispositive than the "little in from the outside" half, because it turns on factual assumptions that may not hold true. The significance of shipments outside the area is that they might be diverted inside the area if prices are increased as a result of interdependent or collusive pricing. However, this theoretical market self-correction requires disrupting existing supply contracts and customer relationships, and therefore may not occur or occur only after substantial delay. Moreover, the possibility of diverting production into the area gives even less comfort when the major "exporter" is the (now merged) dominant firm, which stands to benefit from higher prices and reduced output.

If the SMSA's (or SMSA's plus the immediate surrounding areas) are relevant markets, the acquisition substantially increased market concentration levels. The table below shows how market shares increased after the acquisition:

HERFINDAHL INDEX

City	Pre-acquisition	Post acquisition	Change
Columbus	3763	3986	223
Montgomery	2815	2918	112
Birmingham	2615	2824	210
Knoxville	1843	2296	454
Tri-Cities	3322	4107	785

All these market share figures meet the Justice Department's "likely to challenge" standards.

The majority also argues that entry barriers are not high because there are unused plants available. Yet the majority also says that lack of entry is due to economies of scale, suggesting that the unused facilities are inefficient and that the requirement of sufficient scale is itself a barrier. Moreover, I do not believe that we should insist on proof of substantial barriers to entry here, because such large increases in market share resulted from the acquisition.[7]

[4] Dairymen, one of the largest Class I milk processors in the southeast U.S., acquired thirty-one Class I milk plants in the southeast between its formation in 1968 and the acquisition of Farmbest in 1978. Since then, it has acquired eight more processing facilities.

[5] The majority makes an extensive reference to separate litigation involving the raw milk market, but the court's analysis of different allegations and a different product market is of limited use in deciding upon market definition here.

[6] *See* Elzinga and Hogarty, "The Problem of Geographic Market Delineation in Antimerger Suits," 18 *The Antitrust Bulletin* 45–81 (1973) and "The Problem of Geographic Market Delineation Revisited: The Case of Coal," 23 *The Antitrust Bulletin* 1–18 (1978). The first article suggests a 75% standard for both factors; the second suggests 90% might be more appropriate.

[7] The majority's conclusion that entry barriers are low is based, in part, upon the belief that "[b]rand loyalty appears to be an insignificant competitive factor," as shown by Dairymen's abandonment of the Farmbest trade name. The majority has demonstrated the danger of deciding issues such as this without the benefit of an adjudicative record. Dairymen is presently using the Farmbest trade name on its aseptically packaged, shelf-stable milk, a new product in which Dairymen has invested millions of dollars in research, development, new production facilities and advertising.

Whenever issues are complex and the results of litigation are difficult to predict, the parties often have heightened incentives to compromise and settle their differences. Complaint counsel and Dairymen followed that course here. Yet it is precisely because of the complexity of the issues and inability to predict a certain outcome that the majority now reasons that the settlement must be rejected. Their principal mistake is to introduce a proof standard that will often be impossible to meet and is likely to doom many settlements that are in the public interest. This consent agreement should be accepted as a reasonable end to this litigation.

Concurring Statement of Commissioner George W. Douglas in the Matter of Dairymen, Inc., Docket No. 9143

I fully endorse the analysis in the Commission Order in this matter. However, I would like to provide some additional analysis of the geographic market issues that Commissioner Pertschuk raises in his dissenting statement.

Commissioner Pertschuk supports treating five separate SMSAs—Columbus, Georgia; Montgomery, Alabama; Birmingham, Alabama; Knoxville, Tennessee; and Bristol, Tennessee (Tri-City)—as separate geographic markets in this case. However, this approach would not be consistent with treating Farmbest and Flav-O-Rich, the Dairymen processor subsidiary, as actual horizontal competitors, and would therefore logically require dismissing the complaint altogether.[8] Phillip Areeda and Donald Turner, among others, have noted that different areas can be treated as separate markets when the price of the relevant product differs from one area to another and price movements among those areas are relatively uncorrelated.[9] In its Merger Guidelines, the Justice Department has applied that approach to merger analysis, pointing out that—

> The purpose of geographic market definition is to establish a geographic boundary that roughly separates firms that are important factors in the competitive analysis of a merger from those that are not.[10]

This implies that if each SMSA is treated as a separate market, then two firms that produce and sell the relevant product only in different SMSAs do not compete to a significant degree with one another, because the price that each firm charges does not significantly affect the price that the other firm charges. A merger between two such firms would be unlikely to substantially lessen actual horizontal competition.

At the time of the acquisition, Farmbest operated processing plants in Bristol and Montgomery, while Flav-O-Rich operated processing plants in Columbus, Knoxville, and Birmingham. None of the five SMSAs included both a Farmbest and a Flav-O-Rich plant. These facts mean that Commissioner Pertschuk's approach requires accepting two conflicting hypotheses about each SMSA; the Knoxville SMSA, where Farmbest does not have a processing plant, provides an example. On the one hand, Commissioner Pertschuk suggests that the Knoxville SMSA should be treated as a separate geographic market. This means by definition that shipments by firms such as Farmbest into the Knoxville SMSA are so inconsequential that they will not significantly affect prices and price movements within the SMSA. On the other hand, Commissioner Pertschuk suggests that shipments by Farmbest into the Knoxville area are so substantial that Flav-O-Rich's acquisition of Farmbest may substantially lessen competition within the Knoxville SMSA. These conflicting hypotheses cannot be reconciled, and accepting the first therefore logically requires rejecting the second and dismissing the complaint.[11]

Commissioner Pertschuk also suggests that the test developed by Professors Elzinga and Hogarty supports treating each SMSA as a separate geographic market. However, that test requires considering both (1) the percentage of the relevant product *sold* in a postulated market that is also produced there *and* (2) the percentage of product *produced* in a postulated market that is also sold there. Commissioner Pertschuk notes that substantial percentages of the processed milk that is sold in the five SMSAs are also produced there.

However, the record evidence also shows that both Farmbest and Flav-O-Rich sold large percentages of the milk they processed in each SMSA—well over fifty percent in four of the five SMSAs in 1977—in areas outside the SMSAs in which the milk was processed.[12] These data strongly suggest that the relevant geographic markets are substantially larger than the SMSAs upon which Commissioner Pertschuk relies.

Finally, the Commissioner's experience in *Southland Corp.* supports relying upon larger geographic markets. After the Commission sued to enjoin the acquisition at issue in that case, the District Court rejected its effort to define the relevant geographic market as the San Antonio SMSA. The Court noted that processing plants in areas as much as 345 miles away sold milk in San Antonio, and that plants located in San Antonio sold milk in areas as far away as Austin (77 miles), Laredo (153 miles), Waco (178 miles), and Houston (197 miles).[13]

In conjunction with the other evidence that the Commission Order discusses, these factors support the Commission determination that the complaint in this matter should be dismissed.

[FR Doc. 83-28578 Filed 10-19-83; 8:45 am]
BILLING CODE 6750-01-M

---

[8] The complaint alleges only that the acquisition might eliminate actual competition between Farmbest and Flav-O-Rich in the five cited SMSAs. *Dairymen, Inc.*, Docket No. 9143 (Complaint), at 8-9.

[9] P. Areeda & D. Turner, II *Antitrust Law* 335 (1978).

[10] *Justice Department Merger Guidelines* (June 14, 1982), *reprinted in* 42 ATRR Special Supplement (June 17, 1982), at S-5.

[11] Commissioner Pertschuk suggests that this argument implies that no geographic area could be treated as a separate market if shipments from outside its boundaries were made into the area. That implication should not be drawn from the argument. The key question is not whether *any* shipments are made into a given area, but rather whether the shipments from outside are or could be substantial enough to significantly influence prices and price movements within the SMSA. If they are—and they certainly seem to be in this case—then larger areas should be treated as the relevant geographic markets.

[12] Commissioner Pertschuk suggests that the "little out from inside" half of the Elzinga-Hogarty test is "less dispositive" than the "little in from outside" half. However, Professors Elzinga and Hogarty have not taken that position; they consider both halves of their test to be equally important. Moreover, it seems unlikely that "existing supply contracts and customer relationships" would make it any more difficult to change the magnitude of shipments *to* other areas than to change the magnitude of shipments *from* other areas.

[13] *FTC* v. *Southland Corp.*, 471 F. Supp. 1, 2-4 (D.D.C. 1979).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 83-216]

Customs Regulations Amendment Relating to Licensing of Certain Foreign Pleasure Vessels

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to cruising licenses. Cruising licenses exempt pleasure vessels from certain countries from formal entry and clearance procedures at all but the first port of

entry in the United States. The document: (1) Extends the duration of cruising licenses for pleasure boats from six months to one year; and (2) adds a warning statement on cruising licenses to apprise license-holders under what conditions their vessels may be dutiable. These changes will save considerable time for vessel owners and Customs personnel and facilitate compliance with the applicable regulation.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Harold M. Singer, Carriers, Drawback and Bonds Division (202-566-5706), U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S. vessels documented as yachts, used exclusively for pleasure, not engaged in any trade, and not violating the Customs or navigation laws of the United States, may proceed from port to port in the United States or to foreign ports without entering and clearing, as long as they have not visited hovering vessels.

Generally, foreign-flag yachts entering the United States are required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States. However, as provided in § 4.94(b), Customs Regulations (19 CFR 4.94(b)), pleasure vessels from certain countries may be issued cruising licenses which exempt them from formal entry and clearance procedures (e.g., filing manifests, obtaining permits to proceed and exemptions from the payment of tonnage tax and clearance fees) at all but the first port of entry. Cruising licenses are available to pleasure vessels of countries which extend reciprocal privileges to U.S. pleasure vessels. A list of these countries also is set forth in § 4.94(b).

Cruising licenses may be issued for six-month periods by any district director of Customs in accordance with requirements set forth in § 4.94(c), Customs Regulations (19 CFR 4.94(c)).

Presently, when a cruising license expires at the end of six months, a successive cruising license for an additional period of time may be granted at the discretion of the district director. However, in a decision abstracted as T.D. 55218(1) (September 6, 1960), Customs discouraged this practice by stating that successive cruising licenses shall not be issued for extended periods of time as they are not intended as a form of permanent license. In some regions the yachting season extends beyond the six-month limitation, making it necessary for masters of vessels to seek successive licenses. Extension of the duration of cruising licenses to one year will result in fewer requests for renewal of licenses, thereby saving considerable time for both vessel owners and Customs personnel.

The "warning" added to cruising licenses is intended to apprise license-holders of the law concerning dutiabilty and the consequences of selling, chartering, or offering to sell or charter a vessel at the time of, or within one year of the vessel's arrival, as appropriate. There have been instances when vessels owner's unfamiliarity with the provisions of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) and Customs long-standing policy on this subject has resulted in the forfeiture of a vessel when it was sold or chartered, or offered for sale or charter, at the time of, or within one year of, arrival without first paying the required duty.

Accordingly, by notice published in the **Federal Register** on October 19, 1982 (47 FR 46534), Customs proposed to amend § 4.94 (c) and (d) to: (1) Extend the duration of cruising licenses from six months to one year, and (2) amend the wording of cruising licenses to apprise license-holders under what conditions their vessels may be dutiable. Comments on the proposal were to have been received on or before December 20, 1982.

Discussion of Comments

Four comments were received in response to the proposal; two comments favored the proposal as published. One comment suggested further changes in the cruising license procedures and an examination of the warning language. The fourth concerned reciprocity between Canada and the United States regarding such licenses.

The changes suggested in the cruising license procedures are that reciprocity between different countries and the United States should not be required, and the renewal of cruising licenses should be permitted at the pleasure boat's next port of entry after the license expires.

A foreign country must allow pleasure vessels belonging to a resident of the United States to arrive at and depart from its waters and cruise in its waters without entering or clearing and without the payment of dues, duty per ton, tonnage taxes or charges for cruising licenses, or the United States will not extend the same privileges to that country's vessels in United States waters, pursuant to 46 U.S.C. 104. This is a statutory requirement. Accordingly, the only method by which Customs could allow all foreign vessels to have these privileges without reciprocity would be by legislative action.

Cruising licenses are not to be routinely renewed. They are not normally extended, but may be renewed in the discretion of a district director for cause. Pursuant to Treasury Decision 55218(1), cruising licenses are not intended as a form of permanent license to permit any vessel to remain indefinitely in U.S. waters. Consequently, they may not be routinely renewed at the next port of entry after the original license expires.

The comment concerning the warning language outlines various situations under which a yacht may or may not be dutiable and takes issue with the statement that a foreign-built yacht becomes dutiable when listed for sale. The warning language set forth in the proposal is meant as a general statement and does not cover every contingency. As the warning statement accurately reflects Customs position, we see no reason to change it.

The comment concerning reciprocity between Canada and the United States suggests that reciprocity does not exist between Canadian and U.S. pleasure vessels, that section 4.94 fails to provide any enforcement mechanism, and that Canadian vessels should not be permitted to remain indefinitely in United States waters as United States vessels are not permitted to remain indefinitely in Canadian waters. As an example of the lack of reciprocity, the commenter states that Canadian Customs rules specify that in the event a U.S. boater fails to remove the vessel from Canadian jurisdiction "within the period in respect to which the permit was issued or renewed, the pleasure craft should be deemed to have been unlawfully imported into Canada and is liable to seizure and forfeiture in the manner set out in the Customs Act."

The reciprocity that Canada extends to the United States applies, pursuant to 46 U.S.C. 104, to allowing U.S. vessels to arrive at and depart from its waters without entry or clearing, dues, duty per ton or tonnage taxes when they are temporarily entered by nonresidents for their personal use. Canada does not issue crusing licenses, but has no requirement necessitating reporting after the initial entry of a pleasure vessel by a non-resident. Further, a nonresident may retain a pleasure vessel in Canada for up to twelve months. While it is

generally true that Canadian Customs duties and taxes will apply if a pleasure vessel brought into Canada by a nonresident is not re-exported from Canada at the earlier of the end of the nonresident's visit or twelve months, and a foreign vessel may remain in the United States once its cruising license expires, the reciprocity discussed in 46 U.S.C. 104 is addressed to the initial treatment a United States yacht receives in a foreign country.

Concerning lack of an enforcement mechanism, it is true that a Canadian vessel, as well as any other foreign pleasure vessel, is permitted to remain in the United States once its license expires. However, at that time the Canadian vessel would become subject to U.S. vessel entry and clearance requirements, and failure to enter and clear when required, would subject the vessel to certain penalties.

Finally, whether a foreign vessel has a cruising license has no effect on whether the vessel is dutiable. Pursuant to Schedule 6, Part 6, Subpart D, Headnote 1(i), TSUS, there are no duty consequences for a yacht or pleasure boat brought into the United States by a nonresident for his own use in pleasure cruising. This would apply regardless of whether the vessel possesses a cruising license.

After consideration of the comments and further review of the matter, it has been determined to adopt the proposal.

Executive Order 12291

This document does not contain a "major rule" requiring preparation of a regulatory impact analysis under Executive Order 12291.

Regulatory Flexibility Act

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service (202-566-8237). However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs inspection and duties, Imports, Vessels, Yachts.

Amendment to the Regulations

Part 4, Customs Regulations (19 CFR Part 4), is amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: October 3, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.94, Customs Regulations (19 CFR 4.94), is amended in the following manner:

1. The third sentence in § 4.94(c) is revised to read as follows:

§ 4.94 Yacht privileges and obligations.

* * * * *

(c) * * * Upon approval of the application, the district director will issue a cruising license in the form prescribed by paragraph (d) of this section permitting the yacht, for a stated period not to exceed one year, to arrive and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entrance and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money. * * *

* * * * *

2. Paragraph (d) of § 4.94 is amended by adding the following "warning" at the end of the form:

* * * * *

(d) * * *

Warning: This vessel is dutiable:

(1) If owned by a resident of the United States (including Puerto Rico), or brought into the United States (including Puerto Rico), for sale or charter to a resident thereof, or

(2) If brought into the United States (including Puerto Rico) by a nonresident free of duty as part of personal effects and sold or chartered within one year from date of entry.

Any offer to sell or charter (for example, a listing with yacht brokers or agents) is considered evidence that the vessel was brought in for sale or charter to a resident or, if made within one year of entry of a vessel brought in free of duty as personal effects, that the vessel no longer is for the personal use of the non-resident.

If the vessel is sold or chartered, or offered for sale or charter, in the circumstances described, without the owner first having filed a consumption entry and having paid duty, the vessel may be subject to seizure or to a monetary claim equal to the value of the vessel. See Schedule 8, Part 2, Subpart A, headnote 1(b), Tariff Schedules of the United States ("TSUS"), items 696.05 and 696.10, TSUS, and 19 U.S.C. 1592.

* * * * *

(R.S. 251, as amended, section 3, 23 Stat. 119, as amended, section 5, 35 Stat. 425, as amended 46 Stat. 759, 80 Stat. 379, (5 U.S.C. 301, 19 U.S.C. 66, 624, 46 U.S.C. 3, 104))

[FR Doc. 83-28594 Filed 10-19-83; 8:45 am]

BILLING CODE 4820-02-M

---

19 CFR Part 18

[T.D. 83-218]

Customs Regulations Amendments Relating To Special Manifest Procedures for Overcarried and Prematurely Discharged Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide detailed special manifest procedures for overcarried and prematurely discharged merchandise (merchandise which is unladen or discharged by the carrier at a Customs port other than the port for which the merchandise was manifested or destined) and other such types of movements whereby the normal transportation-in-bond procedures are not applicable. The special manifest procedures authorize district directors of Customs at ports where such merchandise has been unladen or discharged to permit it to be returned as a bonded shipment under a special manifest to the destination shown on the importing carrier's manifest (manifested port). The use of these manifest procedures, which apply primarily to overland shipments, allows the importer or carrier to include the returned merchandise in the original entry summary previously filed at the manifested port and obtain the rate of duty applicable to that entry.

DATE: Effective November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Overcarried and prematurely discharged merchandise is imported merchandise which is unladen or discharged by the carrier at a Customs port other than the port for which the merchandise was manifested or destined.

For example, in the case of overcarried merchandise, a consumption entry is filed in New York (port of destination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently diverted to

Miami where it is unladen or discharged. Prematurely discharged merchandise is where a consumption entry is filed in Miami (port of destination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently discharged in New York (port of entry). In each case, the importer wishes to return the overcarried or prematurely discharged merchandise to the manifested port and have it included in the original entry summary filed there and obtain the rate of duty applicable to that entry. This is significant because under section 315, Tariff Act of 1930, as amended (19 U.S.C. 1315), except as otherwise specially provided for, the rate of duty imposed on articles entered for consumption or withdrawn from warehouse is the rate in effect when the document comprising the entry for consumption or withdrawal for consumption and any estimated duties then required to be paid have been deposited with Customs at the manifested port.

The regulations now provide two different manifest procedures whereby prematurely discharged or overcarried merchandise may be returned to the manifested port.

(1) Under § 4.34 (a) and (b), Customs Regulations (19 CFR 4.34 (a) and (b)), which relate specifically to vessel shipments, upon receipt of a satisfactory written application from the owner or agent of the vessel establishing either that cargo was prematurely landed and left behind by the importing vessel through error or emergency or was not landed at its destination and was overcarried to another domestic port through error or emergency, the district director may permit the cargo to be returned in the importing vessel, or in another vessel owned or chartered by the owner of the importing vessel, to the destination shown on the Cargo Declaration, Customs Form 1302, of the importing vessel, provided the importing vessel actually entered the port of destination.

(2) Under section 18.10a, Customs Regulations (19 CFR 18.10a), which relates primarily to overland shipments, merchandise for which no other type of bonded movement is appropriate may be shipped in bond from one port to another when such shipment is authorized by the district director having custody of the merchandise. For this purpose, Customs Form 7512 is to be used as a special manifest. The manifest procedures are set forth in detail in Customs Circular TRA-7-EV, dated September 17, 1963.

Section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), requires that a separate entry be filed for each shipment arriving in the United States. When an immediate transportation entry (I.T.) is separately filed for a portion of the original shipment, that portion is considered a separate shipment, and thus a separate consumption entry must be made for the portion of the merchandise even though a consumption entry was filed previously at the manifested port covering the entire shipment.

It has come to Customs attention that some overland freight carriers have been returning overcarried and prematurely discharged merchandise to the manifested port under an I.T. entry instead of using the special manifest procedures referred to in section 18.10a. In some cases, this has resulted in a rate of duty and/or date of importation different from that applied to the merchandise which was timely delivered to the manifested port and covered under the original entry summary. To solve this problem, Customs Headquarters issued Ruling No. 711164, dated October 18, 1976, which held that merchandise, whether overcarried or prematurely discharged, may be included in an entry summary for consumption already filed at the manifested port and subject to the rates of duty applicable to that entry summary, if returned under one of the two special manifest procedures discussed above. The ruling also held that if, instead of the special manifest procedure, overcarried or prematurely discharged merchandise is returned to the manifested port under an I.T. entry, the returned merchandise would be accorded the same status as any other arrival of merchandise under an I.T. entry, unless the district director is satisfied that the filing of the I.T. entry was done because of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)). Under these circumstances, the district director may permit the substitution of a special manifest for the I.T. entry.

Before issuance of Ruling No. 711164, *supra*, Customs Headquarters conducted an informal survey of its field offices to ascertain views on requiring the use of one of the two special manifest procedures for returning overcarried or prematurely discharged merchandise to the manifested port. While the ruling was favorably received, it was revealed that in many cases, an I.T. entry was being filed and accepted for the returned merchandise because some Customs personnel and carriers were simply unfamiliar with the special manifest procedures referred to in § 18.10a, Customs Regulations.

Accordingly, to clarify this situation, on January 25, 1983, Customs published a notice in the **Federal Register** (48 FR 3379) proposing to amend § 18.10a, Customs Regulations, to provide detailed manifest procedures for returning overcarried and prematurely discharged merchandise to the manifested port. These procedures would apply also to other types of movements whereby the normal in-bond procedures are not applicable.

Interested parties had until March 28, 1983, to submit comments on the proposal. After consideration of the four comments received, the amendments to Part 18 are being adopted as proposed with two minor technical clarifications being made.

Discussion of Comments

One commenter observes that there is an ambiguity in § 18.10a(b)(2) in that the first sentence requires the date and entry number of an entry made at the manifested port, whereas the second sentence of that section provides an alternative time frame when no entry is identified. To clarify this matter, the phrase "if known" is being added at the end of the first sentence of § 18.10a(b)(2).

Another commenter notes that the procedure discussed in § 18.10a is not acceptable to an airline because merchandise overcarried by an airline is returned to the intended destination on the same day, if possible, and in any event, within 24 hours.

Customs appreciates the concern of the commenter. However, as noted in the proposal, § 18.10a relates primarily to overland shipments, rather than shipments by aircraft, and is for the benefit of the importer.

The third commenter requests clarification that when this procedure is used, Customs Form 7512 is treated as a special manifest. Customs notes that the second sentence of proposed § 18.10a(a) states * * * "For this purpose, Customs Form 7512 prepared in quadruplicate shall be used as a special manifest."

The fourth commenter observes that there is a misunderstanding relating to the use of the special manifest procedure when the port of discharge has been changed under the diversion procedures in § 4.33, Customs Regulations (19 CFR 4.33). To clarify this point, Customs is adding at the end of § 18.10a(b)(1) the phrase * * * "including to the port of diversion (see § 4.33), when different from the original manifest port."

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-353, 5 U.S.C. 601, *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Charles Ressin, 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 in 19 CFR Part 18

Customs duties and inspection, Imports, Common carriers, Freight forwarders, Motor carriers, and Freight.

Amendments to the Customs Regulations

Section 18.10a, Customs Regulations (19 CFR 18.10a), is amended as set forth below.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: October 3, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 13.10a, Customs Regulations (19 CFR 18.10a), is revised to read as follows:

§ 18.10a Special manifest.

(a) *General.* Merchandise for which no other type of bonded movement is appropriate (e.g., prematurely discharged or overcarried merchandise and other such types of movements whereby the normal transportation-in-bond procedues are not applicable) may be shipped in bond from the port of unlading to the destination shown on the importing carrier's manifest (manifested port) when authoritized by the district director having custody of the merchandise. For this purpose, Custom's Form 7512 prepared in quadruplicate shall be used as a special manifest.

(b) *Manifest procedures.* (1) Written application shall be made to the district director where the merchandise is being held for permission to return it as a bonded shipment under a special manifest to the manifested port, including to the port of diversion (see section 4.33 of this chapter), when different from the original manifested port.

(2) The application and accompanying completed Customs Form 7512 shall identify the prematurely discharged or overcarried merchandise on the inward manifest of the importing carrier; and also identify the date and entry number of any entry made at the manifested port covering the merchandise to be returned, if known. If the district director is satisfied that the merchandise will be delivered to Customs custody at the manifest port before expiration of 90 days from the date of the entry identified, or 90 days from the date of the importing carrier's arrival at the manifested port when arrival at the manifested port when no entry is identified, the district director may approve the shipment under a special manifest.

(R.S. 251, as amended, sections 315, 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1315, 1484, 1498, 1624))

[FR Doc. 83-28596 Filed 10-19-83; 8:45 am]

BILLING CODE 4820-02-M

---

19 CFR Part 134

[T.D. 83-217]

Customs Regulations Amendment Relating to Liquidated Damages and Country of Origin Marking

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by modifying the negligence or bad faith requirement to one of bad faith before the district director may grant relief from the payment of liquidated damages incurred for failure to (a) properly mark imported articles (or their containers) with the country of origin, or (b) redeliver all released articles to Customs custody for marking, exportation, or destruction. This change gives district directors the same discretion in handling petitions relating to relief from liquidated damages incurred for other types of violations.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Kathryn C. Peterson, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5746).

SUPPLEMENTARY INFORMATION:

Background

Under section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the article or container will permit, in such manner as to indicate to an ultimate purchaser, the English name of the country of origin of the article. Section 304(c) provides that any articles not marked as required, shall be subject to a duty of 10 percent ad valorem, in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary Customs duties, unless the article is exported, destroyed, or marked under Customs supervision. These marking duties cannot be remitted, wholly or in part.

In addition to the requirement for marking duties under section 304(c) for a country of origin marking violation, civil penalties may be incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for importing merchandise by means of false documents. Further, criminal sanctions may be assessed under 18 U.S.C. 1001 for presenting false and misrepresented documents to the Government in connection with an entry. If merchandise released from Customs custody under a bond is found not to be legally marked, liquidated damages also may be assessed for breach of the bond conditions.

In some instances, the total amount of liabilities which may be assessed for articles found not legally marked can far exceed the dutiable value of the imported merchandise.

Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements and exceptions from 19 U.S.C. 1304, as well as the consequences of violation and procedures to be followed if imported articles are not legally marked.

Under § 134.51(a), Customs Regulations (19 CFR 134.51(a)), if merchandise is found upon examination not to be legally marked, the district director shall notify the importer to arrange with the district director's office to properly mark the articles or containers, or to return all released articles to Customs custody for marking, exportation, or destruction. If the importer does not properly mark or redeliver all merchandise previously released to him, as provided in § 134.54(a), the district director shall

demand payment of liquidated damages incurred under the importer's bond in an amount equal to the entered value of the articles not properly marked or redelivered, plus any estimated duty determined at the time of entry. Section 134.54(b), Customs Regulations (19 CFR 134.54(b)), states that a petition for relief from the payment of liquidated damages may be filed with the district director in accordance with Part 172, Customs Regulations (19 CFR Part 172). However, § 134.54(c) provides that any relief from the payment of full liquidated damages incurred will be contingent upon the deposit of the marking duties required by 19 U.S.C. 1304(c).

Section 134.54(c) further provides that the district director may grant relief from the payment of full liquidated damages only if he is satisfied that the importer: (1) Was not guilty of negligence or bad faith in permitting the illegally marked articles to be distributed; (2) has been diligent in attempting to secure compliance with the marking requirements; and (3) has attempted by all reasonable means to effect redelivery of the articles to Customs custody.

Under the provisions of § 172.21, Customs Regulations (19 CFR 172.21), the district director may cancel any claim for liquidated damages incurred under such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate when the claim is $50,000 or less. Guidelines for the cancellation of bond charges are set out in Appendix AA, Section 6.11, Customs Fines, Penalties and Forfeitures Handbook (HB 4400, March 1979 Revision).

These guidelines pertain to situations involving negligent, but unintentional failures to redeliver merchandise. The guidelines, which are in line with present Customs policy regarding the remission and mitigation of assessed liabilities, are not rigid rules. If circumstances indicate, the district director may deviate from them.

The provisions of § 134.54(c) generally conflict with Part 172 in that they are contrary to the discretionary provisions in Part 172. They also contradict the guidelines set out in the Customs Fines, Penalties and Forfeitures Handbook. Further, the requirements in § 134.54(c) work a hardship on petitioners where the violation is caused by ordinary negligence or where the violation resulted from an unintentional mistake.

Accordingly, to afford district directors the same discretion in handling petitions for relief from liquidated damages resulting from improperly marked merchandise as they have in handling petitions filed under the provisions of Part 172, by notice published in the **Federal Register** on August 27, 1982 (47 FR 37926), Customs proposed to amend § 134.54(c) to modify the negligence or bad faith requirement to one of bad faith. The requirement that the district director be satisfied that the importer was not guilty of negligence in permitting the illegally marked items to be distributed was deleted.

Discussion of Comments

Seven comments were received in response to the notice of proposed rulemaking (NPRM). Three of the comments received were favorable and four were opposed. Basically, domestic interests opposed the modification and importers favored the change.

Those opposing stressed the importance of the marking requirements, the threat to domestic industry by lax enforcement, and the perception that the proposed change would create. One commenter said it would oppose a "proposal [which would] further weaken the potential penalties an importer faces for distributing illegally marked imported articles."

The proposed change would amend the negligence standard as it is applied in consideration of petitions for relief from liquidated damages demanded for failure to redeliver merchandise recalled because of improper marking. One commenter seemed to believe that the proposed change would mean full relief for importers entering improperly marked goods.

This is not true. The provisions of § 134.54(c) currently prohibit any relief if the importer is simply negligent, not that he acts intentionally but that he acts negligently. The standard therein is simply too harsh. Sanctions will not be completely removed by the modification. Importers will continue to be subject to liability, just not the full amount of the bond (which is written in the amount of the value of the merchandise).

One commenter suggests that Customs should maintain the present standards because of Congress's express intent that goods be clearly marked in order to insure that domestic purchasers may make an informed choice when selecting between domestic and foreign manufactured goods. The modification made by this document will not abandon or undermine this objective. This modification relates simply to liquidated damages for failure to redeliver merchandise in a narrow sense, not failure to mark the merchandise. Section 1304 provides the sanction for not marking which is a 10 percent marking duty. The bond contract provides another sanction for failing to meet the conditions of the bond. It is the bond obligation that we are dealing with in this case. The commenter would have one infer the worst of motives to all offending importers and to treat all importers alike. Customs has through experience found, however, that not all importers are alike, in motive or deed, and that there is a need for flexibility to deal with and sanction different importers differently. This is the purpose to be served by the amendment.

After consideration of the comments, and further review of the matter, it has been decided to adopt the change as proposed. However, rather than set forth the entire section, the amendment is being made by removing the words "negligence or" from § 134.54(c).

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis has not been prepared.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this amendment because the rule will not have a significant impact on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This document is not subject to the Paperwork Reduction Act.

Drafting Information

The principal authors of this document were Jesse V. Vitello and John E. Elkins, 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 in 19 CFR Part 134

Containers, Customs duties and inspection, Importers, Imports, Labeling, Packaging.

Amendment to the Regulations

Part 134, Customs Regulations (19 CFR Part 134), is amended as set forth below.

Dated: August 24, 1983.
William von Raab,
Commissioner of Customs.

Approved: October 3, 1983.
John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 134—COUNTRY OF ORIGIN MARKING

§ 134.54 [Amended]

Section 134.54, Customs Regulations (19 CFR 134.54), is amended by removing the words "negligence or" from paragraph (c).

(R.S. 251, as amended, sections 304, 624, 46 Stat. 687, as amended, 759, 77A Stat. 14; (19 U.S.C. 66, 1202 (General Headnote 11), 1304, 1624))

[FR Doc. 83-28595 Filed 10-19-83; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol Benzoate and Testosterone Propionate, Progesterone and Estradiol Benzoate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Syntex Agribusiness Inc., providing for deletion of the slaughter withdrawal period for use of estradiol benzoate and testosterone propionate in combination and for progesterone and estradiol benzoate in combination in subcutaneous ear implants for cattle for growth promotion and feed efficiency.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed supplemental NADA's 9-576 and 11-427, providing for deletion of the withdrawal period for use of two products as ear implants in cattle. NADA 9-576 is for use of Synovex*S (estradiol benzoate and progesterone) as an ear implant in steers for growth promotion and feed efficiency. NADA 11-427 is for use of Synovex* H (estradiol benzoate and testosterone propionate) as an ear implant in heifers for growth promotion and feed efficiency. The supplements are approved and the regulations are amended to reflect the approvals. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.842 [Amended]

1. In § 522.842 *Estradiol benzoate and testosterone propionate in combination* in paragraph (d)(3) by removing the phrase "not to be used within 60 days of slaughter."

§ 522.1940 [Amended]

2. In § 522.1940 *Progesterone and estradiol benzoate in combination* in paragraph (d)(2)(iii) by removing the phrase "not to be used within 60 days of slaughter."

Effective date. October 20, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 14, 1983.
Robert A. Baldwin,
Associate Director for Scientific Evaluation.

[FR Doc. 83-28531 Filed 10-19-83; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Southern Micro-Blenders, Inc., providing for use of a 48-gram-per-pound pyrantel tartrate premix to make 9.6- and 19.2-gram-per-pound pyrantel tartrate intermediate premixes for making complete swine feeds.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406, is sponsor of NADA 135-243 submitted on its behalf by Pfizer, Inc. The NADA provides for use of a 48-gram-per-pound pyrantel tartrate premix to make 9.6- and 19.2-gram-per-pound pyrantel tartrate intermediate premixes for making complete swine feeds used for aid in prevention of migration and establishment of large roundworm (*Ascaris suum*) infections, for aid in prevention of establishment, removal, and control of nodular worm (*Oesophagostomum*) infections, and for removal and control of large roundworm (*Ascaris suum*) infections.

The basis for approval of this NADA is discussed in the freedom of information summary. The NADA is approved and the regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.485 by adding new paragraph (a)(15) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.485 Pyrantel tartrate.

(a) * * *

(15) To No. 049685: 9.6 and 19.2 grams per pound, paragraph (e)(1) through (3) of this section.

* * * * *

Effective date. October 20, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 13, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-28533 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Dept. Reg. 108.835]

Nonresident Alien Mexican Border Crossing Card

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends § 41.128 to combine the use of border crossing cards and B-1/B-2 visitor visas in the form of a stamp affixed to a valid Mexican Federal passport. The rule also terminates the provisions in § 41.128 relating to the issuance of border crossing cards on Forms I-186 by consular officers stationed at interior consular posts in Mexico and adds the United States consulate at Hermosillo, Mexico, to the list of consular posts where consular officers are authorized to issue border crossing cards, during a trial period, to qualified applicants who are citizens and residents of Mexico. Public Notice 797 of March 12, 1982 and Public Notice 831 of October 29, 1982 are superseded by the incorporation into this rule of designated consular posts listed in those Notices.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief Legislation and Regulations Division, Visa Services, (202) 632-1900.

SUPPLEMENTARY INFORMATION: The new border crossing card and B-1/B-2 visitor visa stamp will be easier to obtain at any United States consular office in Mexico, longer lasting and immediately available to qualified applicants. The stamp will be placed on a page in a valid Mexican Federal passport and is expected to facilitate travel for certain classes of Mexican nationals who are traveling through the United States from points other than contiguous territory. In such cases bearers of combined stamps will not be compelled to carry two documents, i.e. a border crossing card and a valid Mexican Federal passport when entering the United States at non-border ports. The stamp will be used in place of the present indefinite B-1/B-2 visitor visa and in place of the laminated border crossing card. Use of the combination stamp will have considerable time saving impact over the border crossing card lamination procedure currently in use at interior U.S. consular offices in Mexico.

Compliance with the provisions of the Administrative Procedure Act, 5 U.S.C. 553, relative to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because this rule establishes new procedures which confer a benefit upon the affected persons by relieving certain restrictions and considerably reducing time presently required for issuance of duplicate documents.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrant visas, Border Crossing Identification Cards

PART 41—[AMENDED]

Accordingly, § 41.128 is revised as follows:

§ 41.128 Nonresident alien Mexican border crossing identification cards.

(a)(1) *Aliens eligible to apply.* Under the conditions prescribed by this section consular officers assigned to consular offices located in Ciudad Juarez, Hermosillo, Nuevo Laredo, Matamoros, and Tijuana, may issue border crossing identification cards, as that term is defined in section 101(a)(6) of the Act, to nonimmigrant aliens who satisfactorily establish that they are:

(i) Citizens and residents of Mexico; and

(ii) Bona fide temporary visitors who, if applying for temporary visitor visas for business or pleasure, would be eligible to receive such visas.

(2) *Application for nonresident alien Mexican border crossing identification card.* A citizen of Mexico shall apply for a nonresident alien border crossing identification card on Form OF-156, supporting the application with evidence of Mexican citizenship and residence, a valid or expired Mexican passport and one photograph, 1 and ½ inches square. Each applicant applying at a consular office shall appear in person before a consular officer and be interviewed regarding his eligibility for a temporary visitor visa. The personal appearance may be waived in the discretion of the consular officer.

(3) *Issuance and format of border crossing identification cards.* A nonresident alien Mexican border crossing identification card shall consist of a stamp placed in the alien's Federal passport document by consular officers stationed at posts designated in paragraph (a)(1). The stamps shall be numbered serially by each consular office beginning with the number 1 on each October 1 and shall be in the format prescribed by the Department and contain the following data:

(i) The post symbol;

(ii) The number of the card;

(iii) The title and location of the issuing office;

(iv) The date of issuance;

(v) The name(s) of the person(s) to whom issued; and

(vi) The signature and title of the issuing officer.

(b) *Nonresident alien Mexican border crossing identification card and B-1/B-2 nonimmigrant visitor visa.*

(1) *Aliens eligible to apply.* Under the conditions prescribed in this section, consular officers assigned to any consular office in Mexico may issue a nonresident alien border crossing identification card, as that term is defined in section 101(a)(6) of the Act, in combination with a B-1/B-2 nonimmigrant visitor visa, to a nonimmigrant alien who satisfactorily establishes that he:

(i) Is a citizen of Mexico;

(ii) Seeks to enter the United States as a bona fide temporary visitor for business or pleasure as defined in section 101(a)(15)(B) of the Act for periods of stay not exceeding 6 months; and

(iii) Is otherwise eligible to receive a temporary visitor visa or is the beneficiary of a waiver under section 212(d)(3)(A) of the Act of a ground of ineligibility which is valid for multiple applications for admission into the United States and for an indefinite period of time and which contains no

restrictions as to extensions of temporary stay or itinerary.

(2) *Application.* Application for a combined border crossing identification card and B–1/B–2 visitor visa may be made by a Mexican applicant at any United States consular office in Mexico on Form OF–156, supported by: (i) a valid Mexican Federal passport showing applicant's origin, identity, and nationality, and containing a photograph of the bearer if over the age of 14; and (ii) one photograph 1½ inches square unless the applicant is under the age of 16.

Each applicant shall appear in person before a consular officer in Mexico and be interviewed regarding his eligibility for a temporary visitor visa. This personal appearance may be waived in the discretion of the consular officer.

(3) *Issuance and format of border crossing identification cards and B–1/B–2 visitor visas.* A nonresident alien Mexican border crossing identification card and B–1/B–2 visitor visa shall consist of a numbered stamp placed in the alien's valid Mexican Federal passport by a consular officer in Mexico. Each stamp shall be numbered serially by each consular office beginning with the number 1 on the first of October of each year, shall be in the format prescribed by the Department and contain the following data:

(i) The post symbol;

(ii) The number of the card;

(iii) The title and location of the issuing office;

(iv) The indicia "Mexican Border Crossing Identification Card and B–1/B–2 Nonimmigrant Visa";

(v) The date of issuance;

(vi) The caption "Valid indefinitely for multiple applications for admission to the United States as a temporary visitor for business or pleasure" in the middle portion of the stamp; and

(vii) The signature and title of the issuing officer.

(c) *Waiver of certain grounds of ineligibility.* The excluding provisions of section 212(a) (16) and (17) of the Act are waived pursuant to section 212(d)(3) for a citizen of Mexico filing an application under the provisions of paragraphs (a) or (b) of this section who establishes that he is ineligible only by reason of his removal or deportation prior to November 1, 1956, because of entry without inspection or lack of required documents.

(d) *Validity.* A nonresident alien Mexican border crossing identification card issued solely or in combination with a B–1/B–2 visitor visa pursuant to the provisions of this section shall be valid until invalidated under the same conditions as provided in § 41.122(e) for the termination of nonimmigrant visas or revoked under the same conditions and procedures as provided in § 41.134 for the revocation of nonimmigrant visas. A nonresident alien Mexican border crossing identification card previously issued by a consular officer in Mexico on Form I–186 or Form I–586 shall be valid until revoked or voided regardless of any expiration date on the card.

(e) *Invalidation or revocation.* A nonresident alien Mexican border crossing identification card issued solely or in combination with a B–1/B–2 visitor visa pursuant to the provisions of paragraph (a) or (b) of this section may be invalidated pursuant to the provisions of § 41.122(e) or revoked pursuant to the provisions of § 41.134. Upon invalidation or revocation of such a card, the consular or immigration officer shall cancel the card by writing or stamping the word "canceled" plainly across the face of the card and indicating the location of the consular or immigration office at which the card was invalidated or revoked.

(f) *Voidance of Mexican border crossing cards issued in Mexico on Form I–186 or Form I–586.* A consular officer in Mexico may declare void, without notice, a nonresident alien Mexican border crossing card previously issued in Mexico on Form I–186 or Form I–586, upon a finding that the holder is ineligible to receive a nonimmigrant visa. The card shall be surrendered immediately upon voidance.

(g) *Replacement.* When a nonresident alien Mexican border crossing identification card issued solely or in combination with a B–1/B–2 visitor visa under the provisions of this section has been lost, mutilated or destroyed, the person to whom such card was issued may apply for a new card under the applicable provisions of this section. A nonresident alien whose border crossing identification card previously issued on Form I–186 or Form I–586 by a consular officer in Mexico has been lost, mutilated or destroyed, may apply for a combined border crossing identification card and B–1/B–2 visitor visa at any consular office in Mexico, provided the alien qualifies under the provisions of paragraph (b) of this section.

(Sec. 101, 66 Stat. 116, 8 U.S.C. 1101; Sec. 109(b), 91 Stat. 847)

Dated: October 14, 1983.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83-28590 Filed 10-19-83; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF AGRICULTURE

Forest Service

30 CFR Part 223

National Forest Timber Sales; Change in Required Cash Deposits

AGENCY: Forest Service, USDA.

ACTION: Change in policy.

SUMMARY: Forest Service policy on initial cash deposits on timber sales is hereby revised. Instead of a cash deposit of 5 percent, a high bidder now will be required to deposit in cash an amount equal to 10 percent of the total bid value of the sale. This change is necessary to help stabilize bidding on National Forest timber sales.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Wendall Jones, Timber Management Staff Forest Service, USDA, P.O. Box 2417, Washington, DC 20013 (202) 447–4051.

SUPPLEMENTARY INFORMATION: In late 1981 and in 1982 the Forest Service considered a number of changes in timber sale procedures designed to put the sale of National Forest timber on a more business-like basis. Proposals were discussed with timber purchasers, county and State officials, and other interested individuals. Meetings and work sessions were held. Approximately 450 purchasers and governmental officials were contacted. Proposed changes were published in the **Federal Register** on January 20, 1982 (47 FR 2886) and following consideration of comments, a revised policy was published on April 15, 1982 (47 FR 16178).

Among the changes in timber sale procedures considered in 1982 was the amount of "up-front" required to be deposited at the time of award of a contract. Because of the severely depressed market conditions which existed at that time, it was determined that a cash deposit of 5 percent of the bid value was appropriate and would be effective in reducing excessive bidding and encouraging early harvest without providing a deterrent to bidding by small business firms.

Since adoption of the 5 percent deposit requirement in the spring of 1982, there has been a substantial recovery of wood product markets. Higher prices for lumber and plywood have been followed by increases in bid rates. While overall bid rates in highly competitive areas seem closely tied to current lumber and plywood markets, a significant number of sales are being bid

to higher levels than appear to be prudent given current market conditions. In order to stabilize bidding on National Forest timber sales, it is appropriate to increase the amount of advance cash payment required at the time of award. Given the improved economic conditions, this increase should not reduce participation in the timber sale program by responsible small business firms.

Under the new policy, the high bidder will be required within 30 days of sale award to deposit in cash an amount equalling 10 percent of the total bid value rounded up to the nearest $100. On sales where the bidder has elected goverment construction of specified roads, the high bidder will be required to make the 10 percent deposit within 30 days of notification of having the high bid. This change will be issued as part of the Forest Service Manual, Chapter 2430. The present policy on use of this deposit as payment for timber remains unchanged.

Dated: October 13, 1983.

F. Dale Robertson,

Associate Chief.

[FR Doc. 83-28343 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD14 83-01]

Drawbridge Operation Regulations; Kalihi Channel, Honolulu Harbor, Hawaii

AGENCY: Coast Guard, DOT.

ACTION: Final rule, revocation.

SUMMARY: This amendment revokes the regulations for the John H. Slattery drawbridge over Kalihi Channel, Honolulu Harbor, because a permit to convert the bridge to a fixed bridge was issued on June 29, 1983. Notice and public procedure have been omitted from this action due to the change to a fixed bridge.

EFFECTIVE DATE: This rule becomes effective on December 2, 1983.

FOR FURTHER INFORMATION CONTACT: LT(jg) C. J. CONKLIN at (808) 546-7130.

DRAFTING INFORMATION: The drafters of this rule are LTJG C. J. CONKLIN, project officer, and LCDR T. J. DONLON, project attorney.

SUPPLEMENTARY INFORMATION: The State of Hawaii, Department of Transportation submitted applications to construct a two lane fixed bridge across the Kalihi Channel and to convert the existing John H. Slattery Bascule Bridge to a fixed bridge. This is in conjunction with a project to widen and improve Sand Island Access Road (FAP Route 64) from Nimitz Highway to Sand Island Park. After distribution of a public notice to solicit and evaluate comments on the proposed project, a review of documentation provided by the applicant, and an investigation of the needs of maritime navigation on the Kalihi Channel, the Commandant of the U.S. Coast Guard issued a permit approving the locations and plans of bridges across the Kalihi Channel on June 29, 1983. The applicant has requested to convert the existing bascule bridge to a fixed bridge effective December 2, 1983.

This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge which has been converted to a fixed bridge. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-2-80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In Consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by removing § 117.900.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: September 14, 1983.

A. C. Tingley,

Captain, U.S. Coast Guard, Commander, 14th Coast Guard District (Acting).

[FR Doc. 83-28581 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[OGD3 82-020]

Drawbridge Operation Regulations; Passaic River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Consolidated Rail Corporation, the Coast Guard is changing the regulations governing the Lyndhurst railroad drawbridge at Lyndhurst, NJ to provide that the draw need not open between 4 p.m. and 8 a.m. and by requiring six hours advance notice at all other times. This change is being made because of the limited number of requests for bridge openings. This action will continue to relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on November 21, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On November 12, 1982, the Coast Guard published a proposed rule (47 FR 51170) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as a Public Notice dated December 6, 1982. In each notice interested persons were given until December 27, 1982 and January 6, 1983, respectively, to submit comments.

Drafting Information

The drafters of this rule are Ernest J. Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of Comments

One response was received on the public notice and it did not object to the regulations but suggested a slight change in the effective hours. The suggestion was made to allow the bridge to close from 4 p.m. until 8 a.m. (instead of from 4 p.m. to 7 a.m.). The reasoning was that several drawbridges to the south have requested regulations utilizing 8:30 a.m. as a limiting time for regulations and one drawbridge to the north has regulations using 8 a.m. as a limiting time for regulations. The respondent felt that use of yet another hour (7 a.m.) as a limiting time might be confusing to the mariner. The Coast Guard agrees with the suggestion. Additionally, the bridge presently uses 8 a.m. as a limiting time in existing special regulations. Use of bridge hours in multiples of eight hours (8 a.m.- 4 p.m) would be less confusing and would not greatly affect or inconvenience any mariner. The hours of permitted closure, therefore, are changed in this final rule to 4 p.m until 8 a.m.

The requirement to open the draw as soon as possible for a vessel of the United States is added in this final rule.

This will not substantially affect the substance of the rule.

No economic evaluation has been prepared because of minimal economic impact. This is because no known detrimental effects will result due to existing clearance of the bridge in the closed position and the requirement for few openings.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities because no known entities will be affected.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.200(a)(4)(iii) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges.

(a) * * *

(4) * * *

(iii) Conrail Bridge (Lyndhurst), mile 11.7, Passaic River. The draw shall open on signal between 8 a.m. and 4 p.m. if at least six hours advance notice is given. The draw shall not be required to open at any other time except it shall open at all times as soon as possible for passage of a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: October 7, 1983.

J. L. Fear,

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

[FR Doc. 83-28580 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Honolulu Reg. 83-4]

Safety Zone Regulations; Lahaina, Maui

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around position 20-51-15N and 156-41-00W. The zone is needed to protect vessels and personnel engaged in the salvage operations raising a submerged submarine (former USS Bluegill) from the hazards created by other vessels entering the area. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 0600, on October 7, 1983. It terminates at 2400 on October 31, 1983 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Captain Bobby G. Burns (808) 546-7146.

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 respond to hazards to the water areas involved.

Drafting Information

The drafters of this regulation are Lt S. P. Purvine, project officer for the Captain of the Port, and LCDR Richard B. Cole, project attorney, 14th Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation are the efforts of the US Navy to raise the wreck of the USS Bluegill to permit it to be disposed of in a safer area.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended by adding a new section to read as follows:

PART 165—[AMENDED]

§ 165.143 Safety zone: Lahaina, Maui.

(a) *Location.* The following area is a safety zone: The waters encompassed by a circle of 1,000 yards radius around postion 20-51-15N, -156-41-00W.

(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 1.46; 33 CFR 165.3)

Dated: October 6, 1983.

B. G. Burns,

Captain, USCG, Captain of the Port, Honolulu, Hi.

[FR Doc. 83-28579 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Miami, Fl., Regulation CGD7-83-11]

Safety Zone Regulations; South Channel St. Lucie Canal, Mile 28.2 Vicinity of Seaboard System Railroad Swingspan Bridge Near Indiantown, Martin County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around Seaboard System Railroad swingspan bridge over the St. Lucie Canal, mile 28.2. The zone is needed to close the South Channel so the south rest pier No. 5, of the bridge can be reconstructed. Entry into this area is prohibited, except for vessels associated with the reconstruction of pier No. 5, unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on October 10, 1983. It terminates on April 10, 1984 unless completion of the bridge repair occurs first.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. D. Pittenger, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, Miami, Fl. 33130, Tel: (305) 350-5691.

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 potential hazard(s) to the equipment involved and vessels transiting the St. Lucie Canal.

Drafting Information

The drafters of this regulation are LCDR H. D. Pittenger, project officer for the Captain of the Port, and LCDR R. G.

Blythe project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will begin on October 10, 1983. For approximately six months the South Channel, St. Lucie Canal in the vicinity of the Seaboard System Railroad swingspan bridge will be closed during reconstruction of the south rest pier No. 5. The closure will result from the obstruction of the channel by construction equipment. Advance notice of passage may be directed to the Roadmaster at West Palm Beach, Florida, Tel (904) 832-3724. The north channel, which provides a horizontal clearance of 51.6 feet, will remain open for passage of navigation.

List of Subjects in 33 CFR Part 165

Harbors, Navigation (water), and waterways.

Regulation

In consideration of the foregoing, Part 165 of title 33 Code of Federal Regulations, is amended by adding a new § 165. TO711 to read as follows:

PART 165—[AMENDED]

§ 165. TO711 Safety Zone: South Channel, St. Lucie Canal, mile 28.2, vicinity of Seaboard System Railroad swingspan bridge near Indiantown, Martin County, Florida.

(a) *Location.* The following area is a safety zone: South Channel, St. Lucie Canal, mile 28.2, extending 100 feet east and west of the Seaboard System Railroad swingspan bridge.

(b) Regulations:

(1) In accordance with the general regulations in S165.23 of this part, entry into this zone is prohibited, with the exception of vessels associated with the reconstruction of pier No. 5, unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: October 3, 1983.

R. N. Roussel,

Commander, U.S. Coast Guard, Captain of the Port, Miami, Florida.

[FR Doc. 83-28582 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 165

[COTP Jacksonville, Florida Reg. 83-10]

Security Zone Regulations: St. Johns River, Jacksonville, Florida

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on and within 200 yards of Quarantine Island, on the St. Johns River in Jacksonville, Florida.

The zone is needed to safeguard vessels against damage from accidents, or other causes of a similar nature and to prevent interference with a military exercise.

Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 6:00 p.m., November 18, 1983. It terminates at 12:00 a.m., November 20, 1983 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander B. K. Klimek, c/o Commanding Officer, USCG Marine Safety Office, 2831 Talleyrand Avenue, Jacksonville, FL 32206, Tel: 904-791-2648.

Drafting Information

The drafters of this regulation are Commander M. E. Payne, Project Officer for the Captain of the Port, and Lieutenant Commander K. E. Gray, Project Attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin at 6:00 p.m. on November 18, 1983. It is a joint military exercise involving personnel and vessels from several services.

List of Subjects in 33 CFR Part 165

Harbors, Navigation (water), and Waterways.

Regulation

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

PART 165—[AMENDED]

§ 165.T7 83-10 Security Zone: St. Johns River, Jacksonville, Florida.

(a) *Location.* The following area is a security zone: The area on and within 200 yards of Quarantine Island in the St. Johns River, Jacksonville, Florida from 6:00 p.m. on November 18, 1983 until 12:00 a.m. on November 20, 1983.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

(50 U.S.C. 191; E.O. 10173; and 33 CFR 6.04-6)

Dated: October 11, 1983.

M. Woods,

Captain, U.S. Coast Guard, Captain of the Port, Jacksonville, Florida.

[FR Doc. 83-28583 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. NH-1250; A-1-FRL 24551]

Approval and Promulgation of Implementation Plans; New Hampshire; VOC Source Compliance Schedules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions will reduce air pollutant emissions from major sources of volatile organic compounds (VOC) in the State. The intended effect of this action is to satisfy conditions for Part D plan requirements for nonattainment areas under Section 172(b)(2) of the Clean Air Act.

EFFECTIVE DATE: November 21, 1983.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408 and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, (617) 223-5130.

SUPPLEMENTARY INFORMATION: On May 16, 1983 (48 FR 21975), EPA published a Notice of Proposed Rulemaking (NPR) for approval of emission limits and compliance schedules for five stationary sources of volatile organic compounds (VOC). These sources are Oak Materials Group, Ideal Tape Co., Markem Corp., Essex Group, and Nashua Corp.'s Merrimack Facility. These revisions were necessary to fulfill a condition for approval of New Hampshire's 1979 SIP for ozone, which requires the submittal of permits with compliance schedules for specified major VOC sources. In the May 16 notice, EPA also proposed that inclusion in the SIP of a regulation regarding miscellaneous metal parts coaters was not necessary because the

state certified it has no major sources in this source category.

The revisions and the rationale for EPA's proposed action are explained in the NPR cited above and will not be restated here. No public comments were received on the NPR.

Final Action

EPA is approving the emission limits and compliance schedules for the five sources identified above. Consequently, the remaining condition for approval of the 1979 ozone attainment plan is satisfied. EPA also notes that the federal requirement for regulation of miscellaneous metal parts coaters does not apply in New Hampshire because the State has no major sources of this type.

As a result of today's action, the bases for sanctions proposed by EPA at 48 FR 4972 (February 3, 1983) concerning the Southern New Hampshire Air Quality Control Region no longer apply.

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

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

Dated: October 14, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart EE—New Hampshire

1. Section 52.1520 paragraph (c) is amended by adding paragraph (25) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(25) Revisions to the State Implementation Plan for ozone, consisting of emission limits and compliance schedules for Oak Materials Group, Ideal Tape Co., Markem Corp., Essex Group, and Nashua Corp.'s Merrimack Facility, were submitted on December 23, 1982, December 30, 1982, January 19, 1983, and March 18, 1983.

§ 52.1527 [Amended]

2. Section 52.1527(a), *Part D—conditional approval,* is removed and reserved.

3. Section 52.1527(c), *Part D—no action,* is removed and reserved.

[FR Doc. 83-28588 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[Region II, Docket No. 12; A-2-FRL 2454-8]

Approval and Promulgation of Implementation Plans; Revision to the Commonwealth of Puerto Rico Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule announces that the Environmental Protection Agency (EPA) is approving, in part, a request from the Commonwealth of Puerto Rico to revise its Implementation Plan. This approval has the effect of establishing EPA-approved fuel oil sulfur content limitations for 78 sources in Puerto Rico for national ambient air quality standards for sulfur dioxide. EPA is taking no action, at this time, with regard to eight additional sources whose sulfur assignments require additional justification.

EFFECTIVE DATES: The action is effective on October 20, 1983 for all the affected sources except for the Peerless facility. For the Peerless facility this action will be effective December 19, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: A copy of the Commonwealth of Puerto Rico's submittal, EPA's review of this material and comments received during EPA's public comment period are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408

All comments dealing with the sulfur assignment for the Peerless facility should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1981 the Commonwealth of Puerto Rico's Environmental Quality Board (EQB) submitted to the Environmental Protection Agency (EPA) a proposed revision to its Implementation Plan. This revision concerns fuel oil sulfur content limitations (known as "sulfur assignments") applicable to 110 sources in Puerto Rico. During the spring and summer of 1982, EQB supplemented this original submittal with several additional submittals of technical information.

Sulfur assignments are regulated by the EQB in accordance with Rules 209 and 410 of the Commonwealth of Puerto Rico's "Regulation for the Control of Atmospheric Pollution." Appendix IX to this regulation (formerly called "Appendix B") lists the source-by-source sulfur assignments. This Appendix was originally approved by EPA on September 11, 1975 (40 FR 42191); however, since that time, changes have been made to certain of the assignments and certain omissions to the originally approved list were discovered. Today's **Federal Register** notice addresses these changes and omissions.

As previously noted, the March 3, 1981 Puerto Rico submittal identified sulfur assignments for 110 sources; however, only 95 of these were determined to be subject to EPA review and approval. Because the sulfur assignments for the remaining 15 sources were not revised from those previously approved by EPA on September 11, 1975, they are not subject to further EPA review.

A notice of proposed rulemaking on Puerto Rico's March 3, 1981 plan revision request was published in the **Federal Register** on February 28, 1983

(48 FR 8307). The reader is referred to this February 28, 1983 notice for a detailed description of Puerto Rico's proposal. In its February 28, 1983 notice EPA identified 85 sources whose specific sulfur assignments were being proposed for approval. For the 10 remaining sources EPA indicated that it intended to take no action at this time because of a number of unresolved questions concerning the potential of their assignments to violate the national ambient air quality standards for sulfur dioxide. EPA also advised the public that comments would be accepted as to whether the proposed revision to the Puerto Rico Implementation Plan should be approved or disapproved. During the comment period, which ended on March 30, 1983, EPA received eight comments.

Discussion of Comments Received

None of the comments received opposed EPA's proposed approval of the sulfur assignments for the 85 sources. Comments received from Yabucoa Sun Oil and Upjohn Manufacturing Company identified inaccuracies in Puerto Rico's data which were reflected by EPA in Table 1, "Approvable Sulfur-In-Fuel Assignment," of the February 28, 1983 proposal. Specifically Yabucoa Sun Oil's Hydrogen Plant Heater unit was listed with a proposed sulfur assignment of 0.50 percent, by weight. The company pointed out that it had been given approval by EQB to burn fuel oil with a sulfur content of 2.50 percent, by weight. The Upjohn Manufacturing Company noted that three boilers are in operation at its facility instead of two boilers as listed in Table 1.

The Puerto Rico EQB has confirmed to EPA that the sulfur assignment for Yabucoa Sun Oil's Hydrogen Plant Heater is, in fact, 2.50 percent, by weight, and that the Upjohn Manufacturing Company has been issued permits for three boilers. Since the air quality modeling analysis performed by EPA assumed the correct sulfur dioxide emission rates for these units, demonstration of attainment of standards is not affected by these two inaccurate entries. These two errors have been corrected in the listing of the sources and sulfur assignments appearing at the end of today's notice.

The State of Connecticut Department of Environmental Protection inquired as to why EPA used the COMPLEX II model in assessing the air quality impacts resulting from this plan revision. The COMPLEX II model was chosen by EPA because it is a model developed by EPA for use in areas with terrain features such as are found in Puerto Rico. Connecticut also questioned whether the air quality impact of the proposed plan revision on total suspended particulate concentrations was analyzed. Puerto Rico's requested revision only affects sulfur dioxide emission limitations, and does not alter existing approved particulate matter emissions limits. Since these particulate matter limitations have been demonstrated to provide for attainment of air quality standards, no additional analysis was conducted by EQB or EPA.

In comments submitted on January 18, 1983 EQB urged EPA to approve its 0.20 percent fuel oil sulfur assignment for the Peerless facility. Peerless was one of the ten sources listed in Table 2, "Sulfur-In-Fuel Assignments Requiring Additional Technical Justification," of EPA's February 28, 1983 proposed rulemaking notice.

EPA has conducted an analysis of the air quality impact of this facility using an EPA-approved model. This analysis indicated that the predicted maximum air quality impact from the use of 0.20 sulfur content fuel oil at Peerless is 7.9 $\mu g/m^3$ on a 3-hour basis, 1.7 $\mu g/m^3$ on a 24-hour basis and 0.2 $\mu g/m^3$ on an annual basis. These concentrations are below the significance levels contained in Title 40 Code of Regulations Part 51, Appendix S—Emission Offset Interpretative Ruling. The significance levels for sulfur dioxide are 25 $\mu g/m^3$ on a 3-hour basis, 5 $\mu g/m^3$ on a 24-hour basis and 1.0 $\mu g/m^3$ on an annual basis. Based on this analysis, EPA has determined that the use of 0.20 sulfur content fuel oil will not cause or contribute to violations of the national ambient air quality standards. As a result, EPA is approving the requested sulfur assignment for the Peerless facility.

Because in its February 28, 1983 proposed rulemaking notice, EPA advised the public that the Peerless facility was one of the ten sources on which no action was being taken, the public should be advised that today's approval of the Peerless sulfur assignment will not be effective until 60 days from the date of this **Federal Register** notice. If notice is received within 30 days that someone wishes to submit adverse or critical comments, this action to approve Peerless's sulfur assignment will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. This course of action is being followed because approval of Peerless's sulfur assignment is viewed as noncontroversial and it is anticipated that no adverse comments will be received.

In its January 18, 1983 letter EQB also informed EPA that it had revoked permits for several sources that were included by EQB in its implementation plan revision request. Since these sources are unable to operate, they are no longer being considered as part of today's action. Specifically, EQB has revoked the permits for eight facilities which were listed by EPA in Table 1, "Approvable Sulfur-In-Fuel Assignments," of the February 28, 1983 proposed rulemaking notice. The affected sources are as follows:

Arroyo Dye Works
Arroyo Pharmaceutical
Inter Hosiery
January Industries
Mecelo Caguas
Manhattan Hospital
Univis Optical
Vanity Paper Company

In addition, permits were revoked for emission points at the following facilities listed in Table 1 of the February 28, 1983 proposed rulemaking notice:

Central Guanica—Number 3
Puerto Rico Distillers—Numbers 2 & 3 Inc.—Arecibo
Puerto Rico Electric Power Authority—Units 1 & 4—San Juan

Based on these changes the number of sources with approvable sulfur-in-fuel assignments has been reduced from 85 to 77. However, as noted previously, the Peerless facility has been added to this list resulting in a total of 78 sources with approvable sulfur-in-fuel assignments.

In its January 18, 1983 letter EQB also informed EPA that it has revoked permits for the Oxochem facility and 29 of the 56 units at the Commonwealth Oil Refinery Corporation (CORCO) facility. These two facilities are also part of the ten listed in Table 2, "Sulfur-in-Fuel Assignments Requiring Additional Technical Justification," of the February 28, 1983 proposed rulemaking notice.

As a result of EQB's comments regarding Peerless, Oxochem and CORCO, the number of sources that EPA is not taking action on at this time has been reduced from ten to eight (27 units at CORCO are still affected). The revised list is as follows:

SULFUR-IN-FUEL ASSIGNMENTS REQUIRING ADDITIONAL TECHNICAL JUSTIFICATION

Source name	Description	Old percentage standards	Proposed percentage standards
Betteroads Asphalt Aguada	Oil Burner		2.50
Cartonera Nacional	2 Boilers		2.30
Commonwealth Oil Refining Corp.	HCC CO BA-154		1.00
	HCC CO BA-2-154		1.00
	Boiler B-803	1.00	1.00
	Boiler B-804	1.00	1.00
	Vaccum BA-151B	1.00	1.00
	Aux. Crude BA-102	1.00	1.00
	Crude Vac BA101-151A	1.00	1.50
	Lt. Crude BA 402-4	1.00	1.00
	Hot Belt BA-201	1.00	1.00
	Crude-Vac BA-101-151	1.00	1.50
	Visbreaker BA-1101-2	1.00	1.00
	Unit. Stripv BA-1302	1.00	1.00
	Crude Charge BA-1302	1.00	1.00
	Plat. Rerun AH-700	1.00	1.00
	Prefact. DH-107	1.00	1.00
	Xylene Splitter H-901	0.01	0.01
	Detol H-801	0.01	0.01
	Xylene Splitter H-902		1.00
	Platfor. AH-100-102	0.01	0.01
	Unit Depent. HT AH-20	1.00	1.00
	Unif. Charger AH-200	1.00	1.00
	Plat. Depent. AH-103	1.00	1.00
	Boiler B-501-2	1.00	1.00
	Boiler 503-4		1.00
	Fractioner H-1202	1.00	1.00
	Stabilizer H-1201	1.00	1.00
	Octafiner H-1200	1.00	1.00
Dupont Puerto Rico Inc	2 boilers		2.50
Ponce Asphalt-Humacao	Dryer	3.10	1.00
Ponce Cement [1]	Kiln #1—114	3.10	2.50
	Kiln #2—114	3.10	2.50
	Kiln #3—114	3.10	2.50
	Kiln #4—176	3.10	2.50
	Kiln #5—233		2.50
	Kiln #6—518	3.10	2.50
	Lime Kiln	3.10	2.50
	3 Boilers	3.10	2.50
Puerto Rico Electric Power Authority-Guayanilla.	Units 1, 2, 3, 4	1.00	1.50
	Units 5-1, 5-2, 6-1, 6-2	1.00	1.50
	GT PBK 1-1 & 1-2	0.50	0.50
Union Carbide Caribe	23 Furnaces S5-1	0.01	0.01
	Steam SPHEATER S5-2	0.01	0.01
	Steam SPHEATER S5-3	0.01	0.01
	RECYC SPHEATER S5-4	0.01	0.01
	Turbine GEN S3-4	0.05	0.05
	Boiler I S3-3	0.50	1.00
	Boiler II S3-3	0.50	1.00
	Boiler III S3-3	0.50	1.00
	Hidrotreater S5-5	0.01	0.01
	Oxide II IGT S6-20		0.50
	Tetralin HET. S6-13		0.01
	Pack Boiler [2]		0.50
	Waste Boiler [2]		0.50

[1] The description of the Kilns at this source has been changed based on comments submitted to EPA by EQB in a January 18, 1983 letter.
[2] The sulfur assignment for this emission point is not subject to EPA review and approval since it was developed by EQB pursuant to to EPA's previously approved new source review procedures. This emission point is listed for public information purposes only.

EQB also noted in its January 18, 1983 letter that permits were revoked for four sources from Table 3, "Sulfur-In-Fuel Assignments Previously Approved by EPA," of the February 28, 1983 proposed rulemaking notice. The affected sources are as follows:

Diazlite Inc.
Puerto Rico Olefins
Central Fajardo
Puerto Rico Distillers-Camay

Also, permits for units "GR PBK 1-1 and 1-2" from the Puerto Rico Electric Power Authority's Aguirre plant were revoked by EQB. These sources are not subject to EPA review and are included for informational purposes only.

One final comment contained in the January 18, 1983 letter was a request that the sulfur-in-fuel-oil assignment for Casera Foods be changed from the 1.2 percent contained in the SIP revision submitted to EPA, to 2.25 percent. Since this change in sulfur assignment requires an additional air quality modeling demonstration and must be subject to public comment, EPA is unable at this time to approve this revised sulfur assignment. However, EPA will address the revised sulfur assignment for Casera Foods in a future **Federal Register.**

EPA also received comments in letters dated March 25, March 30 and May 27, 1983 from the Puerto Rico Manufacturers Association (PRMA). The PRMA requested additional time to provide information and comments on that portion of the proposed rulemaking action related to the ten sources (as just noted, based on today's action the number of affected sources has been reduced to eight) for which EPA intended to take no action. EPA agrees to receive and consider any further information and comments PRMA may have on the eight sources prior to taking final action with respect to their sulfur assignments. Since final action on these sources will have to be preceded by an additional proposal and opportunity for public comment, any additional information or comments can be accommodated without difficulty.

PRMA also noted that the proposed sulfur assignment for five units of Union Carbide Caribe, Inc. (one of the sources on which EPA is not taking action) have not changed from earlier EPA-approved sulfur limits. The fact that EPA is taking no action at this time on the sulfur assignments for the eight sources listed earlier in no way affects the applicable SIP sulfur assignment for any individual emission point whose sulfur assignment had been previously approved by EPA.

In its February 28, 1983 proposed rulemaking notice, EPA listed for purposes of public information the sulfur assignments for 35 sources developed by EQB pursuant to EPA's previously approved new source review procedures and for 15 sources whose sulfur assignments were not revised from those previously approved by EPA on September 11, 1975. During the comment period, the SK&F Company questioned why the sulfur assignments established for its facilities at Guayama and Cidra were not listed in the proposed rulemaking notice. The sulfur assignments for both facilities were established by EPA and EQB pursuant to the federal Prevention of Significant Deterioration (PSD) permit program. Since the federally implemented PSD permit program is part of the Puerto Rico Implementation Plan (Title 40 Code of Federal Regulations Part 52.2729) the sulfur assignments for both facilities are federally approved. PSD affected sources were not listed in the February 28, 1983 **Federal Register** notice.

In addition, EPA stated in its February 28, 1983 **Federal Register** notice that 80 of the 85 sources are included in the PSD baseline. In fact, all 85 of the sources are included in the baseline. EPA presumed in its determination that actual emissions are equivalent to allowable emission levels. No information was presented to EPA during the comment period to indicate that emissions differed substantially from the

allowable limits. However, if in the future it can be shown that actual emissions were significantly less than allowable emissions at the time the baseline was triggered, the actual emission levels will be used in calculating PSD increment consumption. This procedure is consistent with EPA's PSD regulations.

Finally, the Caribbean Gulf Refining Corporation noted that in Table 3 of the proposed rulemaking notice, "Sulfur-In-Fuel Assignments Previously Approved by EPA," emission unit CH–3 is no longer in operation and N–2 has been replaced by YB–1 and Yb–2. As noted previously, the sulfur assignments for these units were provided for public information purposes only and are not affected by today's notice.

Final Determination

Based on EPA's analysis of the Puerto Rico submittal and a review of the comments received, EPA has concluded that sulfur assignments for 78 of the 86 (as noted earlier, nine sources have shut-down since the original EQB submittal and the number of sources subject to EPA review and approval has been reduced from 95 to 86) sources can be approved as not causing a violation of the national ambient air quality standards for sulfur dioxide. Therefore, the sulfur assignments for the 78 sources meet the requirements of Section 110 of the Clean Air Act and are approved. These sources and sulfur assignments are as follows:

Source name	Description	Approved sulfur assignment [1]
Abbott Chemical	Boiler-econ	2.09
	Boiler	2.09
	Boiler-econ	2.09
Asfalto Mayaguezano	Dryer	2.50
Asfalto D'Oeste	Boiler	2.50
Bacardi Corp. Catano	Boiler	2.50
	Boiler [2]	2.50
Betteroads San Juan	Oil burner	2.50
Bristol Corp	Boiler	2.50
	Boiler	1.94
Bumble Bee	Boiler	2.50
	Boiler [2]	2.50
	Incinerator [2]	2.50
Cadillac Uniform	2 boilers	2.50
Caribe Hilton	2 boilers	2.50
Casera Food	2 steam boilers	1.20
Central Cambalache	Numbers 1 & 2	2.50
	Numbers 3 & 4	2.50
Central Coloso	Boiler 1	2.50
	Boiler 2	2.50
Central Guanica	2 boilers	2.50
Central Mercedita	Boiler 5	2.50
	Boilers 6 to 9	2.50
Central Plata	Boilers 818 Y	2.50
	Boiler 1500	2.50
	Boiler 1600	2.50
Central Roig	Boilers 1 to 5	2.50
	Boiler 6	2.50
Centro Medico	2 boilers	2.50
Cerveceria Corona	3 boilers	2.50
Cerveceria India	Boiler	2.50
	Boiler	2.50
Condado Holiday Inn	2 boilers	2.50
Consolidated Cigar	2 boilers	2.50
Destileria Serralles	Boiler	2.50
Durile Corp	Boiler	2.50
Eli Lilly Co.—Carolina	3 boilers	2.50
Eli Lilly Co.—Mayaguez	2boilers	2.50
	Incinerator	2.50
Glamourette Fashions	6 boilers	2.00
Goya De PR	Boiler 600 HP	1.50
	Boiler 300 HP	1.50
	Boiler 1200 HP	1.50
Hanes Textiles	2 boilers	2.50
Hospital Regional of Bayamon	2 boilers	2.50
Insbon Asphalt Inc	Dryer	2.50
Industrial Siderurgica	2 boilers	2.00
Industria Lechera Puerto Rico	2 boilers	2.50
Inland Chemicals	Steam boiler	0.20
Inland Paper Co	2 boilers	2.50
La Concha Hotel	2 boilers	2.50
Merck, Sharp & Dohme	4 boilers	2.50
Molinos De Puerto Rico	Boiler	2.50
National Packing	3 boilers	2.50
	Boiler [2]	2.50
Neptune Packing	2 boilers	2.50
Olympic Mills	Boiler	2.50
	Oiler heater [2]	2.50
	Boiler [2]	2.50
Poerless [2]	Heater	0.20
Pfizer Inc	2 boilers	2.01
	Incinerator [2]	2.01
Phillips Corp	66-950-0070	0.10
	66-950-0060	0.10
	51-000-0010	2.50
	3.4-360-4010	2.50
	3.2-360-2010	0.15
	3.1-360-1020	0.15
	3.1-360-1030	2.00
	1.1-360-1010	0.15
	1.3-360-3050	2.50
	1.3-360-3020-30-40	2.50
	1.3-360-3010	2.50
	1.2-360-2050	0.15
	1.2-360-2040	0.15
	1.2-360-2030	2.50
	1.2-360-2020	2.50
	1.2-360-2010	0.15
	1.1-360-1020	2.50
	2.4-360-4050	0.15
	2.4-360-4040	2.50
	2.4-360-4030	0.15
	2.4-360-4020	2.50
	2.4-360-4010	2.50
	2.1-360-1020	0.15
	2.1-360-1010	0.15
	51-000-0020	2.45
	51-000-0030	2.45
	51-000-0040	2.45
Placco Company	Boiler	1.00
	Tube boiler	1.00
	Oil heater	1.00
	Oil heater	1.00
	2 ASP heaters	1.00
Ponce Asphalt-Ponce	Dryer	0.61
Ponce Candy	2 boilers	2.50
	Boiler [2]	2.50
Pittsburgh Plate & Glass Industries	2 boilers	1.00
	2 boilers	0.01
Puerto Rico Asphalt—Aguadilla	Burner	2.50
Puerto Rico Asphalt—Arecibo	Burner	1.90
Puerto Rico Asphalt—Bayamon	Burner	1.90
Puerto Rico Asphalt—Carolina	Burner	2.50
Puerto Rico Asphalt—Salinas	Burner	2.50
Puerto Rico Dairy Inc	2 boilers	2.50
Puerto Rico Distillers Inc.—Arecibo	3 burners	2.50
Puerto Rico Glass	Numbers 1-3	2.00
	Number 4	1.50
	Number 5	0.50
Puerto Rico Electric Power Authority—Aguadilla	Jet PPK 1-1 & 1-2	0.50
Puerto Rico Electric Power Authority—Ceiba	GT PBK 1-1 & 1-2	0.50
	Jet	0.50
Puerto Rico Electric Power Authority—Covadonaga	Jet PPK 1-1 & 1-2	0.50
Puerto Rico Electric Power Authority—Jobos	GT PBK 1-1 & 1-2	2.50
	Jet PPK 1-1 & 1-2	2.50
Puerto Rico Electric Power Authority—Palo Seco	Units 1 & 2	2.50
	Units 3/1 & 3/2	2.50
	Units 4/1 & 4/2	2.50
	GT PBK 1-1	0.50
	GT PBK 1-2	0.50
	GT PBK 2-1	0.50
	GT PBK 2-2	0.50
	GT PBK 3-1	0.50
	GT PBK 3-2	0.50
	Jet PPK 1 & 2	0.50
	Jet 1	0.50
Puerto Rico Electric Power Authority—San Juan	Units 5 & 6	2.00
	Units 7-1 & 7-2	2.00
	Units 8-1 & 8-2	2.00
	Units 9-1 & 9-2	2.00
	Units 10-1 & 10-2	2.00
	Jet PPK 1	0.50
	Jet 1	0.50
Puerto Rico Electric Power Authority—Vega Baja	GT PBK 1-1 & 1-2	0.50
Puerto Rico Electric Power Authority-Yabucoa	GT PBK 1-1 & 1-2	0.50
RCA Del Caribe	3 boilers	2.00
Rexach Asphalt—San Juan	Burner	1.75
San Juan Cement	Kilns #1-3	2.50
	3 boilers	2.50
Schering	3 boilers	2.50
Squibb Manufacturing Inc	2 boilers	2.48
	Brule incinerator	2.48
	Garver & Davis	2.48
	Waste heat boiler	2.48
	Incinerator [3]	0.50
	Boiler [3]	2.48
Star-Kist Tuna	4 boilers	2.50
	Boiler [2]	2.50
Sun Harbor	2 fire tube boilers	2.40
To-Rico Inc	Boiler	2.50
Travenol Labs	Boiler	2.50
Union Carbide Films	2 boilers	2.50
Union Carbide Grafito	36 furnaces	0.20
	Boiler	0.20
	Boiler	0.20
	C1S-1, 2 and 3 [3]	0.20
	2 pre-heaters [3]	0.20
	Hot water heater [3]	0.20
	Incinerator [3]	0.20
Upjohn Manufacturing Corp	3 boilers	2.50
V. Soske Shops Inc	Boiler	2.50
Winthrop Labs	2 boilers	2.00
Yabucoa Sun Oil	Boilers	2.50
	Crude heaters	2.50
	Heaters	2.00
	Hydrotreator	2.50
	Hydrogen plant heater	2.50
	Desulf. heater	2.50
	Solar generator	2.50

[1] Percent sulfur, by weight.

[2] The sulfur assignments for these emission points are not subject to EPA review and approval since they were developed by EQB pursuant to EPA's previously approved new source review procedures. These emission points are listed for public information purposes only.

[3] The sulfur assignment for this source is effective December 19, 1983.

As previously noted, EPA intends to take no action at this time on the fuel oil sulfur assignments for the eight

remaining sources listed earlier because of a number of unresolved questions concerning their potential to violate the national ambient air quality standards for sulfur dioxide. EQB and EPA have agreed to reevaluate in the near future the sulfur assignments for these sources using a more refined air quality impact analysis.

With the exception of the approval of a 0.20 percent sulfur assignment for the Peerless facility discussed earlier, this action is being made immediately effective because it imposes no hardship on the affected sources, and no purpose would be served by delaying its effective date.

Under Section 307(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 appropriate circuit within 60 days of today. 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 civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provision of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities [46 FR 6709, January 27, 1981]. The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves an action by the Commonwealth of Puerto Rico. It imposes no requirements.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110 and 301, Clean Air Act, as amended [42 U.S.C. 7410 and 7601])

Dated: October 14, 1983.

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

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by adding new paragraph (c)(30) as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) * * *

(30) Revision submitted on March 3, 1981 by the Commonwealth of Puerto Rico's Environmental Quality Board which establishes fuel oil sulfur content limitations [known as "sulfur assignments"] applicable to the 110 sources. On October 20, 1983, 78 of these 110 sources had their sulfur assignments approved by EPA.

[FR Doc. 83-28580 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 60

[AD-FRL 2387-5]

Standards of Performance for New Stationary Sources; Alternative Sampling Procedures for Sulfuric Acid Plants

Correction

In FR Doc. 83-26378 beginning on page 44700 in the issue of Thursday, September 29, 1983, make the following corrections:

§ 60.84 [Corrected]

1. On page 44701, first column, § 60.84(d), lines six and seven from the bottom, the formula should be corrected to read as follows:

$$E_{SO_2} = C_{SO_2} S \frac{1}{0.265 - 0.0126(O_2) - A(CO_2)}$$

2. On the same page, column two, § 60.84 (d), column three of the table, line three "$2,660 \times 10^{-6}$" should read "2.660×10^{-6}" and line four "$2,660 \times 10^{-7}$" should read "1.660×10^{-7}."

§ 60.85 [Corrected]

3. On the same page, column three, § 60.85 (e), last line "C_{SO}" should read "C_{SO_2}".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Amdts. 192-46 and 195-29; Docket No. PS-74]

Transportation of Natural and Other Gas and Hazardous Liquids by Pipeline; Repair or Removal of Girth Weld Defects

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: These amendments change the pipeline construction requirements of Parts 192 and 195 by modifying the present regulations on the repair or removal of defective girth welds utilizing performance standards for weld repair. The revised requirements permit the more cost effective repair of a weld crack as well as the repair of any weld defect in a previously repaired area provided that qualified weld repair procedures are followed. The procedures must assure that the soundness and mechanical properties of a repaired weld will be equal to an acceptable original weld.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: William A. Gloe, 202-426-2082, regarding the content of these amendments, or the Dockets Branch, 202-426-3148, regarding copies of the amendments or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

The requirements of 49 CFR Parts 192 and 195 governing the repair or removal of girth weld defects were derived from editions of industry codes that were in effect at the time of issuance of the original Federal pipeline safety regulations. As derived from American National Standards Institute (ANSI) B31.8 for gas pipelines, and from ANSI B31.4 for liquid pipelines, Part 192 and Part 195 treat weld repair and removal differently. Part 192 requires that "a weld must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead." By this language, and by a previous statement that unacceptable welds must be removed or repaired, Part 192 permits the repair of certain cracks that are up to 2 inches long. The 1968 edition of ANSI B31.8 specified that:

Minor cracks in the surface and filler beads may be repaired when so authorized by the company, but any crack penetrating the root bead or the second bead shall be cause for complete rejection of the weld. The entire weld shall then be cut from the pipeline and replaced. Minor cracks shall be defined as cracks visible in the surface bead and not over 2 inches in length.

Part 195 requires that "a weld that is found unacceptable under § 195.228 may not be repaired unless . . . [T]here are no cracks in the weld." Further, it defines removal by stating: "a cylinder of the pipe containing the weld must be removed and the ends rebeveled whenever . . . [T]he weld contains one or more cracks." The 1966 edition of ANSI B31.4, from which Part 195 was derived, stated that "Authorization for repair of welds, removal and repair of weld defects, and testing of weld repairs shall be in accordance with API Standard 1104." ANSI B31.4 at the time referenced the 9th edition of API Standard 1104 (1965), which edition did not permit the repair of weld cracks.

Parts 192 and 195 are in agreement on the need for weld removal if "the repair is not acceptable" (§ 192.245(b)) or "the weld was repaired and the repair did not meet the requirements of § 195.228."

Amendments 192–27 and 195–11 were issued in 1976 to make the regulations more compatible with offshore pipeline construction. Effective with those amendments, the repair of weld cracks, regardless of length, and the multiple repair of all weld defects have been permitted for gas and hazardous liquid pipelines being laid from a pipelay vessel. The DOT has received no reports to indicate that the revised weld repair requirements for offshore pipeline construction has posed a safety problem in any way.

In 1973, API Standard 1104, the industry standard for field welding, was revised to include procedures for the repair of girth weld cracks that are less than 8 percent of the weld length, and for the mutiple repairs of all weld defects. The prohibitions in the Federal regulations against repair of cracks and multiple repairs in onshore pipelines have become a much greater economic problem with the increase in diameter of pipelines constructed in recent years. Using today's welding technology, the 2-inch crack length weld repair limitation on gas pipelines and "no cracks" rule for weld repair on liquid pipelines are unreasonably restrictive, particularly for these larger diameter pipelines. These past limitations and multiple repair prohibitions have no proven safety benefit. Requirements that cause removal of a cylindrical section of large pipe, including the girth weld, can be vexatious when only a small part of a weld may be defective, especially if the weld is made to a fitting. Moreover, available information indicates that a girth weld replaced by a new section of pipe and two new girth welds may be no more safe than a weld repaired in accordance with qualified written repair procedures because of the problems associated with removal of a weld and rewelding under field conditions.

Since 1975, waivers from the weld repair and removal requirements of §§ 192.245, 195.230, and 194.232 have been granted by the MTB, based on substantial evidence that the repair procedures employed did assure the same weld soundness and mechanical properties after the repairs were completed as would have been obtained in an acceptable new weld. The petitions, facts about these waivers, and the supporting test data developed are in the docket file for those waiver proceedings. (Docket Nos. 76–4W, 77–6, 80–10W, and 82–3W)

Review

In recognition of the questionable safety value and economic burden of the restrictive weld repair and removal regulations, MTB initiated a regulatory review to examine various approaches toward changing the requirements. During the MTB review, consideration was given to alternative ways of reaching the objective, including simply deleting mandatory removal requirements, leaving weld repair to operator discretion. Deletion might be justified on the basis that other sections of the regulations on welding would still require qualified welding procedures and qualified welders, and that the provisions would be applicable to repair welding. Historical accident data were reviewed to determine the need for specific weld repair rules if removal were no longer required. MTB found that although no definite hazard could be attributed to faulty repairs of girth welds, a number of girth weld failures have occurred, and the remaining regulations would not address questions of possible failure cause, such as inadequate verification of crack removal, the lack of requirements for nondestructive testing of repairs, and degradation of weld heat-affected zones as a result of permissible multiple repairs. Because the reasons for the weld failures are, in general, unknown, it was concluded that there is a need to address the above areas in the form of weld repair procedures or performance standards.

The review did not take into account the experience of the offshore industry since 1976 under the relaxed weld removal requirements for offshore pipelines because offshore pipeline welds are required to be nondestructively tested 100 percent if practicable, but not less than 90 percent, and the fact that bending of the pipeline off the lay vessel until it is in place on the ocean bottom stresses the welds to an extreme degree such that construction operations themselves provide proof of weld integrity. MTB does not believe that offshore operators would risk the hazards of pipeline installation without requiring that all weld repairs are made in accordance with tested and proven procedures, such that the welds are of the highest quality even without a specific weld repair regulation.

During the review, the MTB received a June 2, 1981, petition from the American Petroleum Institute (API) for the replacement of relevant sections of the regulations with the requirements of Section 7.0, "Repair or Removal of Defects," of API Standard 1104. The MTB found that the API petition would overcome objections to the existing weld removal requirements but still would retain a requirement for crack length limitation. Section 7.0 specifies that a weld crack may be repaired only if "it is less than 8 percent of the weld length."

The MTB concluded that a new rule combining a performance requirement for weld soundness, ductility, and mechanical properties and incorporating by reference Section 7.0 of API Standard 1104 would accomplish the objective. This approach was recommended in the Regulatory Review Report in support of a draft Notice of Proposed Rulemaking, a copy of which was appended to the Report. However, MTB questioned the appropriateness of the 8 percent limitation on crack repair and sought public comments.

Notice of Proposed Rulemaking (NPRM)

An NPRM was published on January 24, 1983 (48 FR 2984), proposing to amend the regulations on the repair or removal of defective girth welds based upon information contained in petitions MTB has received and other information discussed in the Notice. The objective of the NPRM was to reduce excessive costs of pipeline construction resulting from the unnecessarily restrictive weld repair or removal requirements of §§ 192.245,

195.230, and 195.232 while at the same time assuring sound, ductile welds essential for pipeline safety. The NPRM proposed incorporating by reference the procedural requirements of Section 7.0 of API Standard 1104, the pipeline industry "Standard for Welding Pipelines and Related Facilities," the 15th (1980) edition, with requirements added related to multiple repair.

Discussion of Comments

Comments were received from 35 sources, including pipeline system operators, utility companies, the American Society of Mechanical Engineers (ASME), the American Gas Association (AGA), the New England Gas Association, the Interstate Natural Gas Association of America (INGAA), the New York Department of Public Service, the American Petroleum Institute (API), and the National Transportation Safety Board (NTSB). With the exception of the NTSB, all commenters agreed with the objective and with the need for change.

Two commenters suggested that performance language alone would meet the regulatory objective without the need to refer to Section 7.0 of API Standard 1104. One suggested wording for § 192.245 and the other for § 195.230 (deleting § 195.232). MTB agrees that performance language alone would meet the regulatory objective. Therefore, though editorially different from the commenters' suggestions, the Final rule is written in performance language, retaining elements of the present rules other than the prohibitions against the repair of weld cracks and the repair of previously repaired areas.

Three commenters suggested a clarification to assure that testing for mechanical properties is interpreted to be required as a part of the welding procedures development and not as a part of field welding. The change recommended is that the phrase ". . . mechanical properties specified in the welding procedure for the original weld" as stated in the NPRM should be ". . . mechanical properties specified for the welding procedure used to make the original weld." MTB agrees that this change is a helpful clarification of the intended meaning, and this wording is incorporated into the Final rule.

The API fully supported the DOT proposal but pointed out that the two failure examples given in the NPRM (NTSB Reports NTSB-PAR-73-4 and NTSB-PAR-76-4) were not failures attributable to pipeline girth weld repairs and are therefore not relevant to this rulemaking. The MTB recognizes that the failures were not attributable to girth weld repairs but believes them to be relevant since they involve failures of welds, has included them in the information base, and concluded from them and from other information available that a justification does not exist for discontinuation of all weld repair regulation. From the many supportive comments received in response to the NPRM, including those from industry, this remains a valid conclusion.

NTSB made two major points: (1) Repair should be limited to specific cases, since welds cannot be repaired consistently to the quality level of a proper original weld, and (2) instead of lowering the present welding standards, MTB should look for ways to improve the quality of production welds. The NTSB observation that "welds cannot be repaired consistently to the quality level of a proper original weld" was unsubstantiated and, moreover, does not recognize the problems associated with field cutouts and rewelding. One operator's comments describe several practical problems and make an opposing statement with regard to quality level:

> * * * cutting out a cracked weld and replacing it in the field is not desirable from a workmanship standard. A production bevel that is inspected in the factory under controlled conditions and according to Engineering Specifications, is readily welded in the field. On the other hand, Company and contractor welders state that a full replacement weld of a cut-out resulting from the removal of cracks or multiple defects rarely, if ever, meets the quality of the original weld, less the defective areas. This results primarily from the fact that a field bevel is substantially inferior in dimensional tolerances and finish to a machined, production factory bevel. Therefore, by rewelding only those defective areas deemed repairable by the standards set forth in Section 7.0 of API Standard 1104, while maintaining the maximum length of the original weld on the production bevel, can result in a high quality, mechanically sound girth weld.

Without presenting supporting data, the NTSB suggested that the present weld removal or repair regulations be left alone and that MTB focus on "better control of present qualified welding procedures" and "poor quality control". The NTSB suggestion sidesteps the primary question raised by the NPRM of whether or not it is necessary to remove a weld which contains a defect or, whether it is an equally safe practice to repair the defect. The enforcement of quality control for production welds is outside the scope of this rulemaking.

In closing, the NTSB stated that "the Safety Board would strongly object to a final rule which would result in weakening of the present standards." In the view of the stated positions of 34 other commenters, the views of the two Technical Advisory Committees and the MTB experience, including regulatory review, the welding standards of the DOT regulations are actually strengthened by this Final rule and brought in line with present welding technology. There will be no adverse effect on either the present standards or pipeline safety in general.

Crack Length Limitation

The MTB sought comment in the NPRM as to the needs for a specific limit on the length of a crack that may be repaired. As stated before, Part 195 now disallows crack repair regardless of length, while Part 192 permits the repair of weld cracks that are less than 2-inches long and do not penetrate the root or the second bead. Section 7.0 of API Standard 1104 limits authorization for the repair of cracks to those that are "less than 8 percent of the weld length."

By acquiescing to the incorporation of Section 7.0 without comment, it may be said that most commenters did not object to the 8 percent limit. Four commenters, the ASME, Northern Natural Gas Company, Northern Plains Natural Gas, and Panhandle Eastern Pipe Line Company stated that the limitation of 8 percent has no technical basis and is unnecessary for safety. The API commented:

> This limit was selected by the API-AGA Joint Committee on Oil and Gas Pipeline Field Welding Practices in order to be consistent with the workmanship provisions of Paragraph 6.8, 'Accumulation of Discontinuities,' of API Standard 1104. The eight percent criterion is considered very conservative with respect to a maximum repair length for cracks in a girth weld, which after a repair has been made has properties equivalent ot the original weld. In actuality, the length of the crack does not affect the quality of the repair, so long as the crack has been completely removed.

The Michigan Wisconsin Pipe Line Company commented that, "The consensus of the group was to maintain the 8 percent crack limitation based on Michigan Wisconsin's substantial pipeline construction experience that concludes the occurrence of a crack exceeding 8 percent is also very rare." In a similary cautious vein, the New York Department of Public Service commented:

> The 8 percent limit should not be relaxed unless by experience, research study, or other suitable means this limit can be shown to be unnecessary. The lack of any definitive evidence that repairs to cracks greater than 8% of the pipe circumference would not adversely affect safety should not be a basis for relaxation of this limit. It would be more

prudent to retain this limit as proposed until it can be shown, by experience or study, to be overly restrictive or not restrictive enough. The retention of this limit would at worst err on the safe side at this point in time.

The Conoco Maintenance Department stated:

> * * * 8 percent of the weld length as stated in API 1104 seems to be an arbitrary number and arguments could be made for extending it. However, it does appear reasonable and if crack lengths in excess of this are found, there may be other problems (material, welding procedure, welder skill, etc.).

MTB does acknowledge that a crack length limitation for onshore pipelines would call attention to the fact that other problems may exist if cracks longer than 8 percent of the weld length occur, and that other corrective action may be necessary. Also, in comparison with the present 2-inch limit of Part 192 (which is approximately equivalent with the 8 percent limit for an 8-inch pipe diameter), the 8 percent limit permits longer crack repairs on larger diameter pipe, which is consistent with both the objective of this rulemaking, and with the probability that nondestructive testing would be conducted more frequently on larger diameter pipelines because of the higher costs of construction and the need for intensive quality control.

Other than statements that the limitation appears to be useful and reasonable, no commenter provided a supportable technical or safety basis for adopting the 8 percent limit in the Federal regulations. Further, there has been no restriction on the length of a crack that may be repaired for offshore pipelines being installed from a pipelay vessel since Amendments 192–27 and 195–11 were issued in 1976, and there has been no reported pipeline safety problem resulting from this change offshore.

There are no pipeline safety data available to MTB to make a convincing argument at this time for reducing or extending the 8 percent crack length limitation. This limit has been established by the industry as consistent with other provisions of Section 6.0 of API Standard 1104 and imposes no additional burden on the industry. For the reasons given above, MTB believes that the 8 percent crack length limitation is a prudent requirement and accordingly incorporates it in the Final rule. The exception for repairs on an offshore pipeline installed from a pipelay vessel is unaffected.

Repair of a Defect in a Previously Repaired Area (Multiple Repair)

The present rules for both gas and liquid pipelines onshore require that if a weld is repaired and if the repair does not meet the standards of acceptability, the entire weld must be removed. Because of the severe hardship this can impose in the construction of large diameter pipelines, the NPRM proposed that multiple repairs be permitted for all pipelines as is now done on offshore lines installed from a pipelay vessel. Multiple repair would be permitted for onshore pipelines provided the final repaired weld has the same mechanical properties as specified for the original weld, with testing performed in the qualification of weld repair procedures. The NPRM also requested commenters to provide any data that may be available on the possible adverse effects of the repair of previously repaired areas, especially on high strength grades of steel. Experience in the repair of welds on modern line pipe steels indicates that with qualified repair procedures little or no degradation of the weld area will occur, and that the need for multiple repairs will be so infrequent that there is no practical basis for the present prohibition against multiple repairs. Experience with the offshore weld repair rule supports this conclusion.

Again, though the issue was addressed in a general way by several commenters, no substantive data relating to the effects of multiple repairs was provided. The New York Department of Public Service generally described the problem that may be encountered, and expressed concern by stating:

> This [multiple repairs] should be allowed in the DOT regulations only if the welding repair procedures have been developed and demonstrated by destructive testing that for the same number of weld repairs being made, there is no degradation of the final weld metal or HAZ [heat affected zone] physical and mechanical properties.

An industry commenter argued that the number of repairs should be limited, stating as follows:

> It is unreasonable to allow an unlimited number of repair attempts because there may be more time involved than in making a new weld. Also, the worst effect of multiple repairs is the resulting residual stress.

MTB agrees with this commenter that there could be situations where a cutout may save time and that certain types of repair are not desirable, but does not share the view that the revised regulations should specify either the type or a limiting number of repairs. The ultimate test of acceptability of a repaired weld, including the absence of residual stress, as far as the Federal regulations are concerned is in meeting the mechanical properties requirements that can be tested as a part of qualification testing for the weld repair procedures and weld inspection and testing requirements.

By the language in subparagraph (c) of the Final rule, "Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair," MTB specifies the basis for each weld crack repair or multiple repair in performance terms. The operator must have test data recorded to show that the repair if properly repeated on the pipeline will be successful. The Final rule will require such weld repair procedure qualification testing for onshore multiple repairs as is now done generally in offshore written welding procedure qualifications. Repair of previously repaired areas will be qualified as a part of the repair welding procedure by testing of welds repaired in an identical manner and for the same number of times that weld repair is to be repeated.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), requires that each proposed amendment to a safety standard established under that statute be submitted to a 15-member advisory committee for its consideration. The committee, composed of persons knowledgeable about transportation of gas by pipeline, considered the proposed amendment to § 192.245 at a meeting in Washington, D.C., on November 16–17, 1982.

In its report dated January 14, 1983 (a copy of which is in the docket), the Technical Pipeline Safety Standards Committee (TPSSC) found the proposed amendment, as set forth in a draft NPRM, to be technically feasible, reasonable, and practical provided that the words "additionally contain provisions to" are inserted between the words "procedures" and "assure" in subparagraph (b). Although the Final rule has been restated as a performance standard rather than incorporating Section 7.0 of API Standard 1104 by reference, the substance of this recommendation is in subparagraph (c) which supplanted subparagraph (b) in the NPRM.

Similarly, Section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) requires that the proposed amendment to §§ 195.230 and

195.232 be submitted for consideration by a 15-member advisory committee composed of persons knowledgeable about the transportation of hazardous liquids by pipeline. The committee considered the proposed amendment, as set forth in a draft NPRM at a meeting in Washington, D.C., on December 17–18, 1981. In its report, dated April 10, 1982 (a copy of which is in the docket), the committee states:

"The Committee agrees that the deletion of Paragraph 195.232—'Welds: Removal of Defects' is reasonable, feasible and practical. The proposed revision of Paragraph 195.230—'Welds: Repair of Defects' to provide that repair of weld defects and the testing of weld repairs be in accordance with Section 7.0 of API Standard 1104 was viewed as acceptable, but with the reservation that there is concern as to the degree of assurance as to the quality of the repair procedures which would be developed and the number of repair attempts which would be reasonable. The proposed omission of Section 7.0 limitation—'Such weld cracks may be repaired provided: (a) The crack is less than 8 percent of the weld length' was found to be unacceptable."

The MTB again presented the draft proposed amendment before the Technical Hazardous Liquids Pipeline Safety Standards Committee (THLPSSC) at a meeting in Washington, D.C., on December 7–8, 1982, with both the MTB staff and the Secretary of the API 1104 Committee providing additional technical data on the proposed amendment. The language of the proposed amendment presented to the committee was the same as that published in the **Federal Register** on January 24, 1983 (48 FR 2984). The report of the committee dated March 9, 1983, states that: "In a unanimous vote in favor, the 12 committee members present (2 absent) found the Notice of Proposed Rulemaking as drafted by the MTB staff to be technically feasible, reasonable, and acceptable."

Both committees expressed concerns about the effects of multiple repairs and objected to any omission of the 8 percent crack limitation of Section 7.0 of API Standard 1104. The Final rule is written to acknowledge the advice of the committees and to incorporate the 8 percent crack length limitation for onshore pipelines. The exception for offshore piplines being installed from a pipelay vessel was inadvertently omitted from the NPRM and was not considered by the committees on the assumption that the rules as proposed would apply to both onshore and offshore pipelines. The MTB has reconsidered, however, finds that there is no justification to apply the limitation to offshore pipelines being installed from a pipelay vessel, and continues the existing exception for offshore pipelines. Because this decision makes no change in the treatment of offshore pipelines from that in the present regulations, further committee review is unnecessary.

The Final Rule

In view of information developed in the DOT priority review together with other information and data contained in the API petition, the NPRM, responses to the NPRM, and the advice of the THLPSSC and the TPSSC, the MTB has determined that the present requirements for the repair or removal of defective girth welds are unnecessarily restrictive and impose a cost burden disproportionate to any safety benefit, and thus should be amended. This Final rule removes both the restrictiveness and the burdensome cost effect of the regulations while assuring pipeline safety.

The Final rule accomplishes this by retaining several elements of the present rules and incorporating in performance language the essential elements of Section 7.0 of API Standard 1104. The incorporation by reference of Section 7.0 of API Standard 1104 proposed for §§ 192.245 and 195.230 has not been adopted because the MTB has determined that incorporating that Standard by reference is unnecessary to accomplish the goals of this rulemaking, would add unnecessary and unintended requirements to the existing regulations, and would be contrary to the established policy of the MTB to use performance standards where feasible. The goal of this rulemaking is to relieve, consistent with safety, the undue cost burdens imposed by the current prohibitions on the repair of weld cracks and on multiple weld repairs. Section 7.0 was developed by the industry to provide guidelines rather than restrictions on weld repair. If adopted as a rule, however, Section 7.0 would impose certain requirements that are not intended by the MTB and may create future regulatory difficulties. For example, the incorporation of Section 7.0 would add requirements relative to all "injurious defects" where the term "injurious defects" is not defined by the regulations and is not otherwise used in discussion of weld acceptability.

In the amendment to the liquid pipeline safety standards, § 195.230 will incorporate requirements for removal of defects, now contained in § 195.232, as well as for the repair of defects. Section 195.232 has been eliminated. Based on the advice of the committees, and as proposed in the NPRM, the standards for repair and removal of defective welds have been made consistent with those for gas pipelines. The burden of the present prohibitions against repair of cracks and multiple repair is eliminated with the adoption of performance standards conditionally permitting such repair. With present weld repair technology, requiring the removal of a cylinder of pipe containing a defective weld (present § 195.232) is not justified on the basis of safety.

Based largely on advice of the committees, the limitation for the repair of weld cracks has been incorporated from API Standard 1104 in the Final rule. Weld cracks that are not longer than 8 percent of the weld length may be repaired in onshore pipelines, if qualified weld repair procedures are followed. No change is made in the requirements for offshore pipelines installed from a pipelay vessel as these lines have been excepted from crack length limitation on repairs since 1976. The written qualified procedures now required for all multiple repairs on offshore pipelines have been retained. New provisions allowing multiple repair of welds onshore eliminate the outright prohibition and are consistent with existing offshore requirements.

Conditions imposed on the repair of cracks, including the requirement of written weld repair procedures that are qualified under § 192.225 or § 195.214 and designed to ensure that the mechanical properties of the original weld are met, adequately compensate for any relaxation of the restrictions on weld repairs. These conditions are substantially the same as proposed in the NPRM, but are now stated in performance language. The existing requirements for removal of defects down to "clean" metal are clarified. Technical clarification is provided by use of the wording "sound" metal and by a requirement for preheating if conditions exist which would adversely affect the quality of the weld repair. This retains a preheat provision of § 192.245 but acknowledges that preheating may not be required for all weld repairs, consistent with Section 7.0 of API Standard 1104 and preheating requirements in § 192.237. Similarly, mandating use of the magnetic particle or dye penetrant test included in Section 7.0 to ascertain removal of defects is not needed where the rule requires removal down to sound metal. As that term is understood in the industry, either one of those tests or their equivalent would be required.

MTB encourages the incorporation of the requirements of Section 7.0 of API Standard 1104 into the written weld repair procedures that must be qualified

under § 192.225 or § 195.214 to meet this Final rule.

Classification

This Final rule is not a "major rule" under Executive Order 12291. The order defines a major rule as one which would have an annual effect on the economy of $100 million or more, a major increase in costs, or a significant adverse effect on the economy. As shown by the Regulatory Review Report and the Regulatory Evaluation for this proceeding, this Final rule does not have such an impact. This Final rule is also not a "significant" rule as defined by the Department of Transportation Policies and Procedures (DOT Order 2100.5).

The Regulatory Flexibility Act (5 USC 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. I certify that this Final rule will not have a significant economic impact on a substantial number of small entities because there will be no direct or indirect costs of compliance or other adverse effects.

List of Subjects

49 CFR Part 192

Pipeline safety, Girth welds.

49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Girth welds.

Based on the foregoing, MTB amends Title 49, Code of Federal Regulations, Parts 192 and 195 as follows:

PART 192—[AMENDED]

1. By revising § 192.245 to read:

§ 192.245 Repair or removal of defects.

(a) Each weld that is unacceptable under § 192.241(c) must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipeline vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.

(b) Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability.

(c) Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures that have been qualified under § 192.225. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair.

PART 195—[AMENDED]

§ 195.232 [Removed]

2. By removing § 195.232 and by revising § 195.230 to read:

§ 195.230 Welds: Repair or removal of defects.

(a) Each weld that is unacceptable under § 195.228 must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.

(b) Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability.

(c) Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures that have been qualified under § 195.214. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair.

Authority citation for Part 192 is: 49 U.S.C. 1672 and 1804; 49 CFR 1.53; and Appendix A of Part 1.

Authority citation for Part 194 is: 49 U.S.C. 2002; 49 CFR 1.53; and Appendix A of Part 1.

Issued in Washington, D.C., on October 14, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-28490 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-60-M

Proposed Rules

Federal Register
Vol. 48, No. 204
Thursday, October 20, 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.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 411

[Amendment No. 3]

Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Grape Crop Insurance Regulations (7 CFR Part 411), effective for the 1984 and succeeding crop years, by (1) Changing the policy to make it easier to read; (2) providing for insurance on grapes grown for processing as wine or juice; (3) adding a provision which permits determination of indemnities based on the acreage report rather than at loss adjustment time; (4) requiring a report of a stand if it is less than 90 percent of the original stand; (5) providing a coverage level if the insured does not select one; (6) adding a provision regarding the end of the insurance period of unharvested acreage as the date harvest should have started on the unit; (7) adding a 60-day claim for indemnity provision; (8) adding a section which allows for quality adjustment for grapes which do not meet the minimum requirements for processing of wine or juice and have a value of less than 75 percent of the market price; (9) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (10) adding a hail/fire provision for appraisals of uninsured causes; (11) changing the cancellation/termination dates to conform to farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition of "service office;" (14) providing for unit determination when the acreage report is filed; and (15) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the grape crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring grapes in accordance with the Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

COMMENT DATE: Written comments on this proposed rule must be submitted not later than December 19, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 411

Crop insurance, Grape.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposed to amend the Grape Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 411—[AMENDED]

1. The Authority citation for 7 CFR Part 411 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, 77 as amended (1506, 1516).

2. 7 CFR Part 411 is amended in the Table of Contents thereof by removing the word "Reserved" from § 411.3 and inserting, in its place, the words "OMB control numbers.

§ 411.3 [Added]

3. 7 CFR 411.3 is amended by removing the word "Reserved" in the title thereof and inserting, in its place, the following:

§ 411.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 411) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR 411.7(d) is amended by removing the Grape Crop Insurance

Policy therein and inserting the following:

Department of Agriculture—Federal Crop Insurance Corporation

Grape Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of Loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period.

(1) Adverse weather conditions;
(2) Fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption; or
(6) Direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6). Direct Mediterranean Fruit Fly damage shall be actual physical damage to the grapes on the unit which, as determined by us, causes such grapes to be unmarketable and shall not include unmarketability of such grapes as a direct result of a quarantine, boycott, or refusal to accept the grapes by any entity without regard to actual physical damage to such grapes.

b. We shall not insure against any loss of production due to:

(1) the neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) the failure to follow recognized good grape management practices;

(3) damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) any cause not specified in section 1a as an insured loss.

2. *Crop, Acreage, and Share Insured.* a. The crop insured shall be any insurable variety of grapes which are grown for wine, juice, raisins, or canning and which are grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be grapes grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured grapes at the time insurance attaches.

d. We do not insure any acreage:

(1) which the vines, after being set out, have not reached the number of growing seasons designated in the actuarial table;

(2) which has not produced an average of 2 tons of grapes per acre; or

(3) with less than 90 percent of a stand of bearing vines based on the original planting, unless inspected by us and we agree in writing to insure such acreage, (the actuarial table may provide exceptions to this clause).

e. Where insurance is provided for an irrigated practice:

(1) you shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good grape irrigation practice at the time insurance attaches; and

(2) any loss of production caused by failure to carry out a good grape irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to time insurance attaches.

3. *Report of Acreage, Share, Yield, and Where Applicable, Practice.* You shall report on our form:

a. all the acreage of grapes in the county in which you have a share;

b. the practice;

c. your share at the time insurance attaches;

d. the number of bearing vines (if less than 90 percent of a stand based on the original planting pattern); and

e. the most recent year's production records for insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any grapes grown in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual Premium.*

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

(Percent adjustments for favorable continuous insurance experience)

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	106	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) the contract of your estate or surviving spouse in case of your death;

(2) the contract of the person who succeeds you if such person had previously participated in the vineyard operation; or

(3) your contract if you stop vineyard operations in one county and start vineyard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.*

a. Insurance attaches each crop year on:

(1) February 1 in California;

(2) November 11 in Washington; and

(3) December 11 in all other states.

b. Insurance ends at the earliest of:

(1) total destruction of the grapes on the unit;

(2) the date harvest should have started on the unit, on any acreage which is not harvested;

(3) harvest;

(4) final adjustment of a loss; or

(5) December 10 (November 10 in Washington and California) of the calendar year in which the grapes are normally harvested.

c. In New York, Pennsylvania and Ohio, if you purchase any insurable acreage on or before January 5 of any crop year, and if we inspect, consider acceptable, and agree in writing to insure such acreage, insurance will be considered to have attached to such acreage on the preceding December 11.

8. *Notice of Damage or Loss.*

a. In case of damage or probable loss:

(1) You must give us written notice if during the period before harvest, the grapes on any unit are damaged and you decide not to further care for or harvest any part of them.

(2) You must give us notice:

(a) at least 15 days before the beginning of harvest if you anticipate a loss on any unit; or

(b) immediately, if damage occurs within 15 days prior to harvest or during harvest.

(3) If you are going to claim an indemnity on any unit, notice shall be given not later than 48 hours:

(a) after total destruction of the grapes on the unit;

(b) after discontinuance of harvest on the unit; or

(c) before harvest would normally start if any acreage on the unit is not to be harvested.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the grapes on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the grapes which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for Indemnity.*

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) total destruction of the grapes on the unit;

(2) harvest of the unit; or

(3) the calendar date for the end of the insurance period.

B. We shall not pay any indemnity unless you:

(1) establish the total production of grapes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) multiplying the insured acreage by the production guarantee;

(2) subtracting therefrom the total production of grapes to be counted (see section 9e);

(3) multiplying the remainder by the price election; and

(4) multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production:

(1) Grape production:

(a) which, due to insurable causes, does not meet the minimum sugar solids and/or quality requirements of the receiving processor and have a value of less than 75 percent of the market price for grapes meeting the minimum requirements or would not meet these requirements if properly handled, shall be adjusted by:

(i) dividing the value per ton of such grapes by the highest price election available for such grapes; and

(ii) multiplying the result by the number of tons of such grapes.

(2) Appraised production to be counted shall include:

(a) unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good grape management practices;

(b) not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an unisured cause; and

(c) any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) is not put to another use before harvest of grapes becomes general in the county;

(b) is harvested; or

(c) is further damaged by an insured cause before the acreage is put to another use.

(4) If any grapes are harvested before normal maturity, the production of such grapes shall be increased by the factor obtained by dividing the price per ton

received for such grapes by the price per ton for fully matured grapes.

(5) We may determine the amount of production of any unharvested grapes on the basis of field appraisals conducted after harvest was discontinued.

(6) When you have elected to exclude hail and fire as insured causes of loss and the grapes are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire".

(7) The comingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event sill we be liable for interest or damage in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any idemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) the amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) the amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all grapes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract: Cancellation and Termination.*

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity claim shall be the date you sign such claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
California	January 31.
Washington	November 20.
All other states	December 10.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* If such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract Changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date for counties with a November 20 or December 10 cancellation date, and by September 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.* For the purposes of grape crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding grade insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches and extending through normal harvest time and shall be designated by the calendar year in which the grapes are normally harvested.

e. "Harvest" means picking the grapes from the vines.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the grapes or a share of the proceeds therefrom.

k. "Ton" means 2000 pounds.

l. "Unit" means all insurable acreage of grapes in the county, located on contiguous land, on the date insurance attaches for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the grapes on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the

acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive Headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with . Appeal Regulations.

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on May 24, 1983.

Edward D. Hews,

Acting Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: October 14, 1983.

[FR Doc. 83-28593 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 113

[Docket No. 82-041]

Viruses, Serums, Toxins, and Analogous Products; Revision of Definitions, Titrations in Lieu of Animal Tests for Immunogenicity, and Inactivated Bacterial Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: These proposed revisions of the "Definitions" would delete references to obsolete terms and amend the definitions to more clearly conform to current products and practices. The proposed revision of the "Standard Requirements" for titrations in lieu of animal tests for immunogenicity and inactivated bacterial products would provide for broader use of cell lines and master seeds, and increase the use of *in vitro* procedures in place of animals for serial release testing. The net effect of these changes would be to reduce the cost of product testing without increasing the risk of substandard products teaching the public.

DATE: Comments must be received on or before December 19, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 829, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VA, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule contains no new or amended applications, recordkeeping, reporting, or information collecting subject to the Paperwork Reduction Act.

Executive Order 12291

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed rule would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Certification under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this proposed action would not result in a significant economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing. This action would result in no increase in regulatory requirements.

Alternatives

The alternatives considered are:

1. Do not amend the present regulations. This would result in continued reference to obsolete terms, restriction of cell line use for vaccine preparation and restriction of the master seed concept for virus preparation. No provision would be made for allowing the use of new bacterial extracts in addition to the present inactivated bacterial products.

2. Amend the regulations to delete the obsolete references, amend the definitions, provide for use of new products, increase use of cell lines, and broaden the application of the master seed principle. This would result in product improvement, reduced use of test animals, and substantial savings to the biologics industry and the general public. Therefore, this alternative proposal is adopted.

Background

All reference to Special Licenses in the regulations should have been deleted when provisions for such licenses were removed in an October 6, 1976, revision. Inadvertently, a reference was left in § 101.2(r). This rulemaking would delete this reference.

The present definition of "Master Cell Stock (MCS)" in § 101.6(d) of the regulations limits its application to the production of vaccines. This amendment would delete the limiting language and would thereby allow for preparation of other products made from cell lines such as diagnostic test kits. Such proposed change would relieve restrictions and reflect the present day state of the art more accurately.

Present § 101.7 is applicable only to seed viruses. Advances in manufacturing and testing methods have resulted in development of systems for handling other organisms, such as bacteria and chlamydia, which can be stored for use over long periods. This proposed revision would allow for the introduction of these changes by removing the word "virus" from the title and the definitions and substituting the term "organism."

In vitro potency tests for evaluating live virus vaccines have been in use for many years as a substitute for animal tests. Recent advances have made this approach feasible for potency tests of other products, such as chlamydial and bacterial vaccines. This proposed revision would provide for the broader application of the master seed concept by including other methods of *in vitro* evaluation. The title and the text of § 113.8 has been revised to reflect the broadened application. Fewer animals would be required for serial release testing and substantial reduction in test costs would result.

At the time the current regulations were published, inactivated bacterial

products consisted of bacterins, toxoids, and bacterin-toxoids. Subsequently, methods of production were developed which resulted in products which cannot be properly categorized in any of these classes. In general, these are the products of cell growth which are measured but cannot be considered as toxoids. This revision would add bacterial extracts to the Standard Requirements in § 113.85 for the benefit of licensees and the general public.

The current regulations provide a list of bacterins authorized for use as diluents for desiccated fractions in combination packages (§ 113.85(d)). Additional fractions have been shown to be needed to produce logical combinations, making this list outdated and unduly restrictive. Combinations currently licensed on the basis of data and described in filed Outlines of Production include other bacterins, bacterin-toxoids, toxoids, and vaccines as diluents, making this list obsolete and unnecessary. This revision would therefore delete the list of authorized bacterins presently contained in the regulations.

List of Subjects in 9 CFR Parts 101 and 113

Animal biologics.

Accordingly, parts 101 and 113, subchapter E, of title 9 of the Code of Federal Regulations are proposed to be amended as follows:

PART 101—DEFINITIONS

Section 101.2(r) is revised to read:

§ 101.2 Administrative terminology.

* * * * *

(r) *U.S. Veterinary Biologics Establishment License.* A document referred to as an establishment license, which is issued pursuant to Part 102 of this subchapter, authorizing the use of designated premises for production of biological products specified in one or more unexpired, unsuspended, and unrevoked product license(s).

* * * * *

Section 101.6(d) is revised to read:

§ 101.6 Cell cultures.

* * * * *

(d) *Master Cell Stock (MCS).* The supply of cells of a specific passage level from which cells for production of biologics originate.

Section 101.7 is revised to read:

§ 101.7 Seed organisms.

When used in conjunction with or in reference to seed organisms, the following shall mean:

(a) *Master Seed.* An organism at a specific passage level which has been selected and permanently stored by the producer from which all other seed passages are derived within permitted levels.

(b) *Working Seed.* An organism at a passage level between Master seed and Production Seed.

(c) *Production Seed.* An organism at a specified passage level which is used without further propagation for initiating preparation of a fraction.

PART 113—STANDARD REQUIREMENTS

Section 113.8 is revised to read:

§ 113.8 In vitro tests in lieu of animal tests for immunogenicity.

(a) Master Seed which has been established as pure, safe, and immunogenic shall be used for preparing seed for production when specified in the Standard Requirements or in a filed Outline of Production. The Deputy Administrator may exempt a product from a required animal test for release when an evaluation can with reasonable certainty be made by:

(1) Subjecting the Master Seed to the applicable requirements prescribed in § 113.135 or § 113.64;

(2) Testing the Master Seed for immunogenicity in a manner acceptable to Veterinary Services;

(3) Establishing a satisfactory count or titer based on a predetermined protective dose plus an adequate overage allowance for adverse conditions and test error; and

(4) Conducting counts or titrations on each serial and subserial in an accepted test system.

(b) Each serial and subserial derived from an approved Master Seed shall be evaluated by a test procedure acceptable to Veterinary Services and either released to the firm for marketing or withheld from the market on the basis of the results of the test when compared with the required minimum. The evaluation of such products shall be made in accordance with this paragraph.

(1) If the initial test shows the count or titer to equal or exceed the required minimum, the serial or subserial is satisfactory without additional testing.

(2) If the initial test shows the count or titer to be lower than the required minimum, the serial or subserial may be retested, using two new samples. The average counts or titers obtained in the retests shall be determined. If the average is less than the required minimum, the serial or subserial is unsatisfactory without further consideration.

(3) If the average is more than the required minimum, the following shall apply to live virus vaccines:

(i) If the difference between the average titer obtained in the retests and the titer obtained in the initial test is $10^{0.7}$ or greater, the initial titer may be considered a result of test system error and the serial or subserial considered satisfactory for virus titer.

(ii) If the difference between the average titer obtained in the retests and the titer obtained in the initial test is less than $10^{0.7}$, a new average shall be determined using the titers obtained in all tests. If the new average is below the required minimum, the serial or subserial is unsatisfactory.

(4) If the average is equal to or greater than the required minimum, the following shall apply to bacterial vaccines:

(i) If the average count obtained in the retests is at least three times the count obtained in the initial test, the initial count may be considered a result of test system error and the serial or subserial considered satisfactory for bacterial count.

(ii) If the average count obtained in the retests is less than three times the count obtained in the initial test, a new average shall be determined using the counts obtained in all tests. If the new average count is below the required minimum, the serial or subserial is unsatisfactory.

(5) *Exceptions.* When a product is evaluated in terms other than virus titer or organism count, a range shall be established to substitute for use in paragraphs (b)(3) or (4) of this section and specified in the Outline of Production.

(c) Final container samples of completed product derived from Master Seed found immunogenic in accordance with paragraph (a) of this section and found satisfactory in accordance with paragraph (b) of this section may also be subjected to an animal potency test by Veterinary Services as provided in this paragraph. Products shall be used according to label directions including dose(s) and route of administration.

(1) A one stage test using 20 vaccinates and 5 controls or a two stage test using 10 vaccinates and 5 controls for each stage shall be used. The criteria used for judging the specific response in the controls and vaccinates shall be conducted in accordance with the test protocol used in the Master Seed immunogenicity test.

(2) If at least 80 percent of the controls do not show specific responses to challenge, the test is inconclusive and may be repeated. If a vaccinate shows the specific responses to challenge expected in the controls, the vaccinate shall be listed as a failure.

(3) The results of the testing shall be evaluated according to the following table:

CUMULATIVE TOTALS

Stage	Number of animals	Failures for satisfactory serials	Failures for unsatisfactory serials
1	10	1 or less	3 or more.
2 (or 1)	20	4 or less	5 or more.

(4) When a serial has been found unsatisfactory for potency by the test provided in paragraphs (c)(1), (2), and (3) of this section, the serial shall be withheld from the market and the following actions taken:

(i) The Deputy Administrator shall require that at least two additional serials prepared with the same Master Seed be subjected to similar animal potency tests by Veterinary Services or the licensee or both.

(ii) If another serial is found unsatisfactory for potency, the product shall be removed from the market while a reevaluation of the product is made and the problem is resolved.

In § 113.85 the heading, introductory text, and paragraph (d) are revised to read:

§ 113.85 Bacterins, toxoids, bacterin-toxoids, and bacterial extracts.

Basic requirements for bacterins, toxoids, bacterin-toxoids, and bacterial extracts are provided in this section.

* * * * * * *

(d) A *bacterial extract* shall be the sterile, nontoxic, antigenic derivative extracted from bacterial organisms or from culture medium in which bacterial organisms have grown.

* * * * * * *

(37 Stat. 832–833 (21 U.S.C. 151–158)

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 14th day of October 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-28560 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-83-9]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before December 19, 1983.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——— 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administation, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on October 13, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
23744	Air Line Pilots Association	*Description of Petition:* To delete 14 CFR 121.357(d) thereby requiring approved airborne weather radar aboard all transport category airplanes engaged in Part 121 operations regardless of their locale. Currently those aircraft used solely within Hawaii, Alaska, and part of Canada are allowed to operate without approved airborne weather radar according to 14 CFR 121.347(d). *Regulations Affected:* 14 CFR 121.357(d). *Petitioner's Reason for Rule:* According to meteorological records, thunderstorms occur in Hawaii and Alaska with the same frequency as in major portions of Washington, Oregon, and California. Injuries to occupants of non-radar equipped aircraft have occurred in Hawaii, and based upon their experience pilots have indicated the need for airborne weather radar equipment to detect and avoid thunderstorms and other hazards such as hail, heavy rain, severe turbulence, etc. Besides avoidance of weather hazards, weather radar in the ground mapping mode is useful for cross-checking aircraft position based on other navigation systems. Airborne weather radar is also useful for terrain avoidance, especially in Alaska where mountain peaks exceed 20,000 feet in height. Except for one, all airlines in Hawaii that operate turbojet aircraft have already equipped their aircraft with airborne weather radar. Deletion of CFR 121.357(d) would, therefore, establish a minimum standard of safety in those areas which would best serve the public interest.
23762	Merle A. Finley	*Description of Petition:* To include in Section 91.163 the following statement: no person may operate an airplane unless the current empty weight and center of gravity are calculated from the values established by actual certified weighing of the airplane within the preceding 36 calendar months. *Regulations Affected:* 14 CFR Section 91.163. *Petitioner's Reason for Rule:* Implementing this as a rule will be in the public interest due to the increased accuracy of the weight and balance computation for each flight. Whether the aircraft is single or multi-engine, for private, air taxi, or airline use the people in it are all entitled to the same safe flight.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the Rule Requested
23062	Corporate Flight Inc	*Description of Petition.* To amend § 135.225 to permit air taxi pilots to conduct instrument approaches into airports not having approved weather reporting facilities. The air taxi aircraft would use 100 ft. higher minimums during these approaches and would contain two pilot crews with the pilot in command being airline transport rated. Both pilots will demonstrate these procedures to the Administrator every six months. *Denied 10/3/83.*

[FR Doc. 83-28512 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 300

Regulatory Flexibility Act Review of Rules and Regulations Under the Wool Products Labeling Act of 1939

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules, (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the rules issued to implement the Wool Products Labeling Act of 1939, (15 U.S.C. 68) have had a significant economic impact on a substantial number of small entities and if they have, whether the rules should be amended to minimize any significant economic impact on small entities.

DATES: Comments and data must be received on or before December 19, 1983.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580. Submissions should be marked "Wool-RFA comments".

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 376-2891.

However, the objective of this periodic review is to determine whether any of these rules have had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the Act.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data, (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with these comments.

(1) Have the rules had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for all of the rules?

(3) What burdens, if any, does compliance with any specific rule place on small entities?

(4) What changes, if any, should be made to the rules which would minimize the economic impact on small entities?

(5) To what extent do the rules overlap, duplicate, or conflict with other federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the rules since their promulgation in 1941 and, if so, what effect do these changes have on the rules or those covered by them?

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Wool Products Labeling Act of 1939 was enacted on October 14, 1940; the Act and the Commission's accompanying regulations became effective on July 15, 1941. The Act requires all wool products to bear a label showing the percentage of wool, recycled wool, and non-wool fibers contained in the product and the name of the manufacturer or other distributor. The Act prohibits the misbranding of wool products and is administered by the Commission, whose regulations establish the manner and format in which the information required by the Act is to be disclosed.

The Act and accompanying rules are designed to protect producers, manufacturers, distributors and consumers from the unrevealed presence of substitutes and mixtures of fibers in manufactured wool products. Consumers are able to make more informed purchasing decisions and to avoid unwanted or unnecessary items. Competition is enhanced since each manufacturer must accurately label its products as to content.

Since the Commission's rules primarily implement directives which are statutorily imposed, the costs imposed on affected industry members are not necessarily attributable to the rules.

List of Subjects in 16 CFR Part 300

Labeling, Textiles, Trade practices, Warranties, Wool.

Dated: October 3, 1983.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-28576 Filed 10-19-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 301

Regulatory Flexibility Act Review of Rules and Regulations Under the Fur Products Labeling Act

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules, (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the rules issued to implement the Fur Products Labeling Act, (15 U.S.C. 69) have had a significant economic impact on a substantial number of small entities and if they have, whether the rules should be amended to minimize any significant economic impact on small entities.

DATES: Comments and data must be received on or before December 19, 1983.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580. Submissions should be marked "Fur-RFA comments".

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania

Avenue, NW., Washington, D.C. 20580, (202) 376–2891.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Fur Products Labeling Act was enacted on August 8, 1951. The Act and the Commission's accompanying rules became effective on August 9, 1952. The Act and rules contain requirements for the labeling, invoicing, and advertising of fur products. The Act requires fur products to be labeled with the name of the animal which produced the fur; the country of origin; whether the furs are natural, dyed or otherwise artificially colored; and certain other characteristics of the fur product used. To ascertain compliance with the Act, fur products marketers must maintain records for each product sold. The Act prohibits the misbranding, false and deceptive invoicing, and false and deceptive advertising of fur products and requires that animal names used conform to the Fur Products Name Guide established by the Commission, which is charged with administering the Act.

The Act and accompanying rules are designed to protect producers, and consumers against misbranding, false advertising, and false invoicing of furs and fur products. Consumers are able to make more informed purchasing decisions and to avoid unwanted or unnecessary items. Competition is enhanced since each manufacturer must accurately label its product as to content.

Since the Commission's rules primarily implement directives which are statutorily imposed, the costs imposed on affected industry members are not necessarily attributable to the rules. However, the objective of this periodic review is to determine whether any of these rules have had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the Act.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data, (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with these comments.

(1) Have the rules had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for all of the rules?

(3) What burdens, if any, does compliance with any specific rule place on small entities?

(4) What changes, if any, should be made to the rules which would minimize the economic impact on small entities?

(5) To what extent do the rules overlap, duplicate, or conflict with other federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the rules since their promulgation in 1952 and, if so, what effect do these changes have on the rules or those covered by them?

List of Subjects in 16 CFR Part 301

Labeling, Furs, Trade practices, Warranties, Sheep.

Dated: October 3, 1983.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-28577 Filed 10-19-83; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 303

Regulatory Flexibility Act Review of Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the rules issued to implement the Textile Fiber Products Identification Act, (15 U.S.C. 70) have had a significant economic impact on a substantial number of small entities and if they have, whether the rules should be amended to minimize any significant economic impact on small entities.

DATES: Comments and data must be received on or before December 19, 1983.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580. Submissions should be marked "Textile-RFA comments".

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 376–2891.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Textile Fiber Products Identification Act was enacted on September 2, 1958; the Act and the Commission's accompanying regulations became effective on March 3, 1960. The Act requires each household textile product to bear a label containing the percentage of each fiber contained in the product, the name of the manufacturer or distributor, and the country of origin if the product was principally manufactured in a foreign country. The Act prohibits misbranding and false advertising of the fiber content of textile products and requires that the appropriate generic name must be used for all fibers. Generic names and definitions for manufactured fibers are established by the Commission, which is charged with administering the Act.

The Act and accompanying rules are designed to protect producers and consumers against misbranding and false advertising of the fiber content of textile products. Consumers are able to make more informed purchasing decisions and to avoid unwanted or unnecessary items. Competition is enhanced since each manufacturer must accurately label its product as to content.

Since the Commission's rules primarily implement directives which are statutorily imposed, the costs imposed on affected industry members are not necessarily attributable to the rules.

However, the objective of this periodic review is to determine whether any of these rules have had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the Act.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.), upon which submitted comments are based be included with these comments.

(1) Have the rules had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of

any such significant negative and/or positive economic impact.

(2) Is there a continued need for all of the rules?

(3) What burdens, if any, does compliance with any specific rule place on small entities?

(4) What changes, if any, should be made to the rules which would minimize the economic impact on small entities?

(5) To what extent do the rules overlap, duplicate, or conflict with other federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the rules since their promulgation in 1960 and, if so, what effect do these changes have on the rules or those covered by them?

List of Subjects in 16 CFR Part 303

Labeling, Textiles, Trade practices.

Dated: October 3, 1983.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-28579 Filed 10-19-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regs. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Income, What Is Not Income

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: Current regulations for the Supplemental Security Income (SSI) program define income as the receipt of anything in cash or in kind that can be used to meet an individual's needs for food, clothing, or shelter. The receipt of countable income will cause SSI benefits to be reduced or terminated. Current regulations (§ 416.1103) also provide a list of some items the receipt of which is not income because these items cannot be used as food, clothing, or shelter. However, this list does not encompass the receipt of certain other items which are not food, clothing, or shelter and which, if retained into the month following the month of receipt, will be excluded nonliquid resources. (Excluded nonliquid resources are, for example, household goods and personal effects or an automobile subject to limitations described in Subpart L of these same regulations.)

The proposed revision would expand the list of items that are not income to encompass the receipt of items (other than food, clothing, or shelter) which, if retained into the month following the month of receipt, will be excluded nonliquid resources. Thus, an individual who receives such an item will not be compelled to sell or trade it to obtain food, clothing, or shelter in order to compensate for the reduction or loss of SSI benefits due to its treatment as income when received.

DATES: We are inviting public comments on this Notice of Proposed Rulemaking (NPRM). If we receive your comments no later than November 21, 1983, they will be considered in developing the final regulations.

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, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7414.

SUPPLEMENTARY INFORMATION: Section 1611(a) of the Social Security Act (the Act) establishes the income and resources limits for SSI eligibility. The Act also specifies what types or amounts of income and resources are to be excluded (sections 1612 and 1613) from counting against the statutory limits. However, the Act does not define the terms "income" and "resources." Therefore, the Secretary of Health and Human Services (HHS) has provided definitions of these terms in regulations (20 CFR 416.1102 and 416.1201 respectively).

Current regulations also provide a list of items the receipt of which is not income (20 CFR 416.1103) because an individual cannot use them as food, clothing, or shelter. However, the current list of what is not income does not encompass the receipt of certain other items which are not food, clothing, or shelter and which, if retained into the month following the month of receipt, would be excluded nonliquid resources. Thus, despite the fact that the Act permits such items to be excluded in considering whether an individual meets the resources limit, the regulations require their consideration as income. The result is that receipt of an item such as a van specially equipped for a handicapped individual can cause a substantial reduction in SSI benefits for a month or make a person ineligible for benefits in the month of receipt, even though it will have no effect on either eligibility or payment amount for the following month. Because counting such items as income may cause an individual to dispose of them in order to replace the food, clothing, or shelter that would otherwise have been provided through SSI benefits, the proposed change would be consistent with the statutory intent that certain kinds of property not be taken into consideration when determining eligibility for SSI benefits.

Under the proposed policy change, the receipt of any item (other than food, clothing, or shelter) which, if retained, would be an excluded nonliquid resource will be considered solely under the resources rules (Subpart L of 20 CFR Part 416). It will not be considered at all under the income rules. The change will provide more equitable treatment for those who receive such items and will resolve an apparent conflict stemming from the application of income rules to items which would be excluded as nonliquid resources if retained beyond the month of receipt.

We considered excluding from the definition of income all items which would meet the definition of an excluded nonliquid resource (for example, a home which is a person's principal place of residence). However, the rational for defining certain items as not being income is that the recipient cannot use them as food, clothing, or shelter. Therefore, we have decided not to expand the definition of what is not income to cover food, clothing, or shelter even if such food, clothing, or shelter would become an excluded nonliquid resource if retained into the month following the month of receipt because to do so would cause us to duplicate that portion of the SSI benefit that is paid to provide for the basic needs of food, clothing, or shelter.

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not met any of the criteria for a major regulation. Based on the best available information, costs would be negligible. We estimate program costs of less than $1 million and administrative savings of

less than $1 million annually. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

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

(Catalog of Federal Domestic Assistance Program No. 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: May 12, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: July 12, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

Subpart K of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation of Subpart K of Part 416 reads as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act, as amended; sec. 211 of Pub. L. 93-66; 49 Stat. 647, as amended, 86 Stat. 1468, 86 Stat. 1470, 86 Stat. 1471, 86 Stat. 1475, 87 Stat. 154 (42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383.)

2. Section 416.1103 is amended by adding paragraph (j) to read as follows:

§ 416.1103 What is not income.

Some things you receive are not income because you cannot use them as food, clothing, or shelter, or use them to obtain food, clothing, or shelter. In addition, what you receive from the sale or exchange of your own property is not income; it remains a resource. The following are some items that are not income:

* * * * *

(j) *Receipt of certain noncash items.* Any item you receive (except shelter as defined in § 416.1130, food, or clothing) which would be an excluded nonliquid resource (as described in Subpart L of this Part) if you kept it, is not income.

Example 1: A community takes up a collection to buy you a specially equipped van which is your only vehicle. The value of this gift *is not* income because the van would be an excluded nonliquid resource under § 416.1216 in the month following the month of receipt.

Example 2: If you inherit a house which is your principal place of residence, the value of the house *is* income because this is an item which you are using as your shelter and to not consider this item income would cause us to duplicate the portion of your SSI benefit that is paid to provide for you shelter needs.

[FR Doc. 83-28564 Filed 10-19-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 490]

Clear Lake Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in southwest Lake County, California, to be known as "Clear Lake." This proposal is the result of a petition submitted by Mr. Paul Hessinger of the Mt. Konocti Winery, Mr. Jess S. Jackson of Chateau du Lac, Inc., and Ms. Signe Bengard.

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help wineries better designate the specific grape-growing areas where their wines come from and will enable wine consumers to better identify the wine they purchase.

DATE: Written comments must be received by December 5, 1983.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn.: Notice No. 490.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ed Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 [43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 [44 FR 56692) which added a new Part 9 to 27 CFR providing for the listing of approved American viticultural areas.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area surrounding the watershed of Clear Lake in southwestern Lake County, California, as a viticultural area. The proposed viticultural area is to be known as "Clear Lake." The petition was submitted by three of several grape-growers and winery owners located in the proposed viticultural area. The proposed viticultural area is located entirely within Lake County between the Mayacamas Mountains to the southwest and the Mendocino National Forest to the northeast. It extends to the southeast

to just north of the "Guenoc Valley" viticultural area which is also located in Lake County. The proposed "Clear Lake" viticultural area is located entirely within the boundaries of a larger viticultural area known as "North Coast."

The area encompassed by the proposed boundaries consists of 168,960 acres or 264 square miles of valley and upland terrain surrounding Clear Lake. Prominent among the growing areas contiguous to Clear Lake, and which fall within the proposed viticultural area designation, are Big Valley, Scotts Valley, Upper Lake, Clearlake Oaks, and Lower Lake.

Evidence provided by the petitioner states that there are over 3,000 acres planted to vines, and the proposed viticultural area now has three commercial wineries, two located in the Big Valley area, a third in Lower Lake, and others being planned.

The boundaries of the proposed viticultural area may be found on four (4) U.S.G.S. quadrangle (Topographic) maps, 15 minute series, scale 1:62,500—Lower Lake, Clearlake Oaks, Lakeport and Kelseyville. The specific boundaries proposed for the viticultural area are detailed in the regulation portion of this document at § 9.99(c).

Geographical Features

The petitioner claims the proposed viticultural area is distinguished from the surrounding areas on the basis of elevation, soil, watershed and climate. The petitioner bases these claims on the following evidence:

(a) *Elevation and Soils* The Mendocino National Forest on the northeastern boundary and the Mayacamas Mountain Range on the southwestern boundary geographically isolate the Clear Lake area from surrounding areas. Both of these mountain areas have heavily forested rugged terrains. In addition, because it is Federally controlled land, the Mendocino National Forest is unavailable for cultivation. The proposed viticultural area is rimmed by steep surrounding mountains ranging in heights to over 4,000 feet. The prominent inactive volcanic mountain, Mt. Konocti (elevation 4,300 feet) rises from the western edge of Clear Lake and dominates the countryside. The soil around the vicinity of Mt. Konocti consists of hillsides of rich volcanic alluvial types that are well suited for grape-growing. The lake itself, which is centrally located within the proposed viticultural area is 1,300 feet above sea level and the largest natural body of fresh water in California (70.5 square miles). Because of its size and location, Clear Lake has a demonstrable influence on the grape-growing areas immediately surrounding it. The 3,000 acres currently planted to vineyards around the lake are located at altitudes of 1,300 to 1,800 feet and are mostly flat or gently rolling benchlands of uniform deep sandy loam and clay loam soils. In comparision, the vineyard areas of Mendocino County located to the west of Clear Lake have average altitudes of less than 700 feet. The vineyard areas of Napa and Sonoma Counties located to the south of Clear Lake are less than 100 feet in altitude.

(b) *Climate and Watershed.* Clear Lake has a unique "Transitional" climate pattern, different than the other surrounding north coastal areas. The area is unique because it is close enought to the Pacific Ocean to be influenced by the maritime coastal air that flows through the gaps in the mountains located to the west. This coastal air flows gently across Clear Lake, cooling the area surrounding it in the summer. This coastal air does not penetrate the high mountains to the east of Clear Lake. On the east side of that mountain area the climate is much warmer, with little air flow.

The basic feature distinguishing Clear Lake from the surrounding areas is the unique geography of the Clear Lake watershed. Clear Lake serves to moderate the temperatures in the proposed viticultural area throughout the year by creating both a favorable warming temperature influence in the winter and a cooling influence in the summer.

The climate of the proposed Clear Lake viticultural area includes Region II and Region III as classified by the University of California at Davis' system of heat summation by degree days. A table of cumulative degree-days, published by the University of California Agricultural Extension Service Office in Lake, Mendocino and Sonoma Counties, shows the area around Upper Lake is relatively cool and consequently is classified as Region II. the area around Scotts Valley and Kelseyville is warmer and consequently is classified as Region III. These figures do not take into account Clear Lake's cold nights, uniformly cooler than anywhere else in the surrounding coastal counties which offsets the daytime heat and absence of adverse wind and fog conditions. In comparison, the climate in the Middletown area of Lake County located to the south of the proposed Clear Lake viticultural area is warmer and is classified as Region IV.

Mr. Charles Hemstreet, the Agricultural Advisor for Lake County (University of California-Cooperative Extension) stated that although the surrounding counties of Napa, Sonoma and Mendocino also have areas that are classified as Region III, Clear Lake's Region III is as different as it is the same as those counties. The Clear Lake Region III seasonal summation curve is somewhat differently shaped than those other coastal county curves. He stated that Clear Lake is without fog during the growing season, yet it has cooler nights (and often days) than those other north coastal counties at the time when fruit ripening occurs.

According to Mr. Hemstreet the Clear Lake area has less humidity during the growing season than the other surrounding north coastal counties because there are less periods of morning fog. He emphasized that Clear Lake as a moderating influence on the contiguous vineyard areas is a central issue in distinguishing the proposed viticultural area of Clear Lake from other grape growing areas within Lake County and other north coastal counties nearby.

According to the publication entitled "Climatography of the United States No. 81–4, Decennial Census of U.S. Climate," the growing season in Clear Lake is 223 days which is shorter than the surrounding areas. The beginning of the growing season is cooler in Clear Lake than Sonoma County, with a more rapid drop (comparatively) to winter temperatures. The growing season in Sonoma and Mendocino Counties is 308 and 268 days, respectively.

The average rainfall per year for the Clear Lake area is about 37 inches. The average rainfall at the Middletown area of Lake County located to the south of the proposed viticultural area is about 62 inches per year. The surrounding counties of Sonoma and Mendocino have rainfalls averaging 32 and 39 inches per year, respectively.

To summarize, the petitioner states that the basic features distinguishing Clear Lake from adjacent areas are the unique geography of the Clear Lake watershed, the warm days and cool nights during the growing season, the absence of adverse wind and fog conditions and the uniform deep sandy loam and clay loam soils.

Evidence Relating to Name and Boundaries

The petitioner claims the proposed viticultural area is locally/nationally known by the name "Clear Lake" and the boundaries are as specified in the petition. The petitioner submitted historical and current evidence consisting of the following to support these claims:

(a) Clear Lake, the largest natural fresh water lake located entirely within the boundaries of California, identifies the principal inhabited region of Lake County. For over a hundred years the Clear Lake region has been a popular resort and agricultural center.

(b) Mr. Ernest P. Penninov the author of "A History of the Lake County Early Grape and Wine Industry," documented events about the people that first settled around the Clear Lake area and their relationship to the development of the local wine industry. He said, that in 1865 a group of San Francisco capitalists organized the Clear Lake Water Company with the purpose of impounding water from Clear Lake for use in San Francisco.

(c) Several wineries that have been selling wines on a local and national level have used the name Clear Lake on their bottle labels to further identify their products.

(d) Some localities within the proposed viticultural area that use the name Clear Lake in their heritage are Clearlake Oaks, Clearlake Park, Clearlake Highlands and Clear Lake State Park. United States Geographical Survey maps document this information.

General Information

The first man to plant vines and make wine near Clear Lake was David Voight, who in 1872 settled a mile east of Lower Lake. Although Lake County claimed 600 acres of grapes in 1884, his was as yet the only commercial winery in the county. However, soon after that many of the winegrowers became winemakers as well. By the turn of the century, newspaper stories of the period told of groups of people ferrying around Clear Lake stopping at various wineries for drinks. At the 1893 Worlds Columbian Exposition in Chicago, Lake County wines were recognized by receiving awards. At the height of this era, a total of 36 wineries flourished in Lake County. Later, Prohibition brought a halt to all of this activity. The past 15 years have seen a significant return of vineyard development in the area.

Discussion

ATF feels the evidence submitted by the petitioner indicates establishment of "Clear Lake" as a viticultural area may be warranted. Accordingly, the establishment of this grape-growing region as a viticultural area is proposed in this document.

The petitioner states, "The basic features distinguishing Clear Lake from adjacent areas are the unique geography of the Clear Lake watershed, the warm days and cool nights during the growing season, the absence of adverse wind and fog conditions, and the uniform sandy loam and clay loam soils."

Public Participation—Comments

All interested persons are invited to participate in this proposed rulemaking by submitting written comments. Comments should be specific, pertain to the issues in this proposed rulemaking, and provide the factual basis supporting the data, views, or recommendations presented. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the proposed viticultural area boundaries are as specified in the petition. In addition, comments are invited on alternative boundaries. These comments should include data on the geographical and viticultural characteristics which distinguish the area encompassed from the surrounding areas.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request in writing, to the Director, within the comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine on the basis of written comments, our own research, and in light of any other circumstances, whether this viticulturaal area should be established. In addition, ATF may modify, through the rulemaking process, the viticultural area which may be established as a result of this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

Paper Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial regulatory flexibility analysis (5 U.S.C. 603) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners and other persons to use an appellation of origin, "Clear Lake," on wine labels and in wine advertising. ATF has determied that this rule neither imposes new requirements on the public nor removes privileges available to the public. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance with Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule" since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Ed Reisman, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.99. As amended, the table of section reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.99 Clear Lake.

Par. 2. Subpart C is amended by adding § 9.99 as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.99 Clear Lake.

(a) *Name.* The name of the viticultural area described in this section is "Clear Lake."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Clear Lake viticultural area are four U.S.G.S. maps. The maps are titled as follows:

(1) "Lower Lake Quadrangle, California," 15 minute series, 1958;

(2) "Clearlake Oaks Quadrangle, California," 15 minute series, 1960;

(3) "Lakeport Quadrangle, California," 15 minute series, 1958;

(4) "Kelseyville Quadrangle, California," 15 minute series, 1959.

(c) *Boundaries.* The Clear Lake viticultural area is located in southwestern Lake County, California.

The descriptive boundaries of the proposed viticultural area, using landmarks and points of reference on the applicable U.S.G.S. maps, are as follows:

Lower Lake Quadrangle Map (15 minute series) From the beginning point on Mt. Hannah in Section 16, Township 12 North (T12N), Range 8 West (R8W), identified as having an elevation of 3,978 feet, the boundary runs—

(1) East-southeasterly in a straight line to the point on Seigler Mountain in Section 23, T12N/R8W, identified as having an elevation of 3,692 feet;

(2) Then east-southeasterly in a straight line to the point on Childers Peak in Section 34, T12N/R7W, identified as having an elevation of 2,188 feet;

(3) Then east-northeasterly in a straight line to the point on the southeast corner of Section 25, T12N/R7W;

(4) Then northeasterly in a straight line to the point in Section 16, T12N/R6W, identified as being the "Baker Mine";

(5) Then northwesterly in a straight line to the point at the southeast corner of Section 23, T13N/R7W;

(6) Then northerly along the east line of Scetions 23, 14, 11, and 2, to the point at the northeast corner of Section 2, T13N/R7W, on the Clearlake Oaks Quadrangle map;

Clearlake Oaks Quadrangle Map (15 minute series) Continuing from the northeast corner of Section 2, T13N/R7W, the boundary runs—

(7) Then northwesterly in a straight line to the point in Section 21, T14N/R7W, called Round Mountain at an elevation of 2,400 feet;

(8) Then northwesterly in a straight line to the southeast corner of Section 4, T14N/R8W;

Lakeport Quadrangle Map (15 minute series) Continuing from the southeast corner of Section 4, T14N/R8W, on the Clearlake Oaks Quadrangle map—

(9) Then northwesterly on the Lakeport Quadrangle in a straight line to a piont on Charlie Alley Peak in Section 28, T16N/R9W, identified as having an elevation of 3,482 feet;

(10) Then westerly in a straight line to a point on Hells Peak in Section 29, T16N/R10W, identified as having an elevation of 2,325 feet;

(11) Then southeasterly in a straight line to a point on Griner Peak in Section 23, T15N/R10W, identified as having an elevation of 2,132 feet;

(12) Then southwesterly in a straight line to a point on Scotts Mountain in Section 8, T14N/R10W, identified as having an elevation of 2,380 feet;

(13) Then southeasterly in a straight line to a point on Lakeport Peak in Section 35, T14N/R10W, identified as having an elevation of 2,180 feet;

Kelseyville Quadrangle Map (15 minute series) Continuing from Lakeport Peak in Section 35, T14N/R10W, on the Lakeport Quadrangle Map—

(14) Then southeasterly in a straight line to a point at the southwest corner of Section 1, T13N/R10W;

(15) Then south by southeast in a straight line to to the point at the southeast corner of Section 36, T13N/R10W;

(16) Then south by southeasterly in a straight line to the point at the southwest corner of Section 18, T12N/R8W;

(17) Then east by northeast in a straight line to the beginning point at Mount Hannah, Section 16, T12N/R8W, on the Lower Lake Quadrangle Map.

Signed: October 4, 1983.

W. T. Drake,

Acting Director.

[FR Doc. 83-28558 Filed 10-19-83; 8:45 am]

BILLING CODE 4810-31-M

Fiscal Service

31 CFR Part 390

Administrative Offset of Claims

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth procedures for the collection of claims due the United States arising from transactions in Treasury securities, as administered by the Bureau of the Public Debt. The rule is needed to implement the administrative offset provisions of section 10 of the Debt Collection Act of 1982, Pub. L. 97-365, 96 Stat. 1749 (31 U.S.C. 3716).

DATE: Comments are due by December 19, 1983.

ADDRESS: Send comments to the Office of the Chief Counsel, Bureau of the Public Debt, 1435 G Street, NW., Room 309, Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT: Paul Dalton or Mary Lou Dasburg, Attorney-Advisers, Bureau of the Public Debt, Office of the Chief Counsel, Divisions Office (202) 447-9859.

SUPPLEMENTARY INFORMATION: Prior to the Debt Collection Act of 1982, the Bureau of the Public Debt relied on the common law right of offset as a tool to administratively collect claims owed to the United States. The Act, while providing statutory authority for administrative offset, also requires specific procedures and safeguards to ensure that alleged debtors will be afforded due process protections. One of the requirements of the Act is that Federal agencies issue regulations consistent with the Act and the Federal Claims Collection Standards (4 CFR, Chapter II) before collecting claims by administrative offset.

Executive Order 12291

The proposed rule is not a "major rule," as defined in Executive Order 12291, dated February 17, 1981, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) 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.

Paperwork Reduction Act

The Paperwork Reduction Act, Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. Chapter 35) does not apply to this rule because it does not contain information collection requirements which necessitate approval by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1167, does not apply to this proposed rule. The Commissioner of the Public Debt certifies under the provisions of 5 U.S.C. 605(b) that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities or impose significant reporting or compliance burdens on a substantial number of small entities.

List of Subjects in 31 CFR Part 390

Administrative practice and procedure, Claims.

Accordingly, it is proposed to add Part 390 to Subchapter B of 31 CFR, Chapter II, to read as follows:

PART 390—COLLECTION BY ADMINISTRATIVE OFFSET

Sec.
390.0 Scope of regulations.
390.1 General.
390.2 Notification procedure.
390.3 Agency review.
390.4 Written agreement for repayment.
390.5 Administrative Offset.

Authority: 31 U.S.C. 3701; 31 U.S.C. 3711; 31 U.S.C. 3716.

§ 390.0 Scope of regulations.

These regulations apply to the collection by the Bureau of the Public Debt of claims by administrative offset under section 5 of the Federal Claims Collection Act of 1966, as added by the Debt Collection Act of 1982 (31 U.S.C. 3716). They are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office, as set out in 4 CFR 102.3. The term "administrative offset," as defined in 31 U.S.C. 3701(a)(1), means "withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government."

§ 390.1 General.

(a) The Commissioner of the Public Debt, or designee, after attempting to collect a claim from a person under section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the claim by administrative offset if the claim is certain in amount. The Commissioner has determined that it is in the best interests of the United States to collect claims by administrative offset because of the decreased costs of collection and the acceleration in the payment of claims.

(b) If the six-year period for bringing an action on a claim provided in section 2415 of Title 28, United States Code, has expired, the claim may be collected by administrative offset only if the costs that would have been incurred in bringing such action were likely more than the amount of the claim. No collection by administrative offset shall be made on any claim that has been outstanding for more than 10 years unless facts material to the Government's right to collect the claim were not known and reasonably could not have been known by the official or officials responsible for discovering and collecting such claim.

(c) These regulations do not apply to any case in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute, nor do they apply to debts owed by other agencies of the United States or by any State or local government.

§ 390.2 Notification procedures.

Before collecting any claim through administrative offset, a notice shall be sent to the debtor by certified mail, return receipt requested, providing:

(a) written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of rights under section 10 of the Debt Collection Act of 1982 (31 U.S.C. 3716);

(b) an opportunity to inspect and copy the records of the agency with respect to the claim;

(c) an opportunity for review within the Bureau of the Public Debt of the determination of the Bureau with respect to the claim; and

(d) an opportunity to enter into a written agreement with the head of the agency, or designee, for the repayment of the amount of the claim.

In the case of an agent qualified under 31 CFR Part 317 or 31 CFR Part 321, the notice need not be sent by certified mail.

§ 390.3 Agency review

(a) A debtor may dispute the existence of the debt, the amount of the debt, or the terms of repayment. A request to review a disputed claim may be submitted to the Bureau within 30 calendar days of the receipt of the written notice described in § 390.2

(b) If the debtor requests an opportunity to inspect or copy the Bureau's records concerning the claim, 10 business days will be granted for the review. The time period will be measured from the time the request for inspection is granted or from the time the copy of the records is received by the debtor.

(c) Pending the resolution of a dispute by the debtor, transactions in any account(s) of the debtor maintained at the Bureau of the Public Debt may be temporarily suspended. Depending on the type of security, the suspension could preclude its payment, removal, or transfer, as well as prevent the payment of interest due thereon. Should the dispute be resolved in the debtor's favor, the suspension will be immediately lifted.

(d) During the review period, interest, penalties, and administrative costs authorized under the Federal Claims Collection Act of 1966, as amended, will continue to accure.

§ 390.4 Written agreement for repayment.

A debtor who admits liability, but elects not to have the debt collected by administrative offset, will be permitted to negotiate with the Commissioner of the Public Debt, or designee, concerning a written agreement for the repayment of the debt. If the financial condition of the debtor does not support the ability to pay in one lump-sum, reasonable installments may be considered. No installment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within 10 business days of its request by the Bureau. At the Bureau's option, a confess-judgment note or bond of indemnity with surety may be required for installment agreements. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 4 CFR Part 103 and 31 CFR 5.3.

§ 390.5 Administrative offset

If the debtor does not exercise the right to request a review within the time specified in § 390.3, or if, as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset shall be ordered in accordance with these regulations without further notice.

Dated: September 13, 1983.

W. M. Gregg,

Commissioner of the Public Debt.

[FR Doc. 83-28535 Filed 10-19-83; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 83-038]

Drawbridge Operation Regulations; Great Channel, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Cape May County Bridge Commission, the Coast Guard is considering a change to the regulations governing the Stone Harbor Bridge between Nummy Island and Stone Harbor, New Jersey to require that advance notice of opening be given May 15 through October 15 from 10 p.m. to 6 a.m., and by extending the current period when advance notice is required. This proposal is being made because of a steady decrease in requests for openings of the draw. This action should continue to relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before November 21, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, except holidays, at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668-7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of the Proposed Regulations

The Stone Harbor Bridge connects Nummy Island and the barrier beach at Stone Harbor and is most heavily used during the summer months. Due to shoaling throughout most of the oceanward approach to the bridge, navigation through the area is hazardous without local knowledge of Hereford Inlet. Consequently, the majority of the larger vessels generally enter and leave the inlet through the Ocean Drive Bridge located a little over a mile southward. The Stone Harbor Bridge has a 15 foot minimum vertical clearance when in the closed position.

The basis for this request is an overall reduction in number of bridge openings from May to October, averaging about 32 per month during 1982. No openings were requested from 10 p.m. to 6 a.m. (May–October) in 1981 and 1982. The extension of the requirement for 24 hour advance notice was recommended due to the substantial reduction in requests for openings during May and October over the last 3 years.

No draft economic evaluation has been prepared because of minimal, if any, economic impact these changes are expected to have on waterway users. This is based on the limited number of openings outside the prime boating period.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations by revising § 117.225(f)(11) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(11) Great Channel; Cape May County Bridge Commission bridge between Stone Harbor and Nummy Island, mile 0.7. The draw shall open on signal from May 15 through October 15 between 6 a.m. and 10 p.m., and from 10 p.m. to 6 a.m. if at least four hours notice is given. From October 16 through May 14, the draw shall open on signal upon 24 hours advance notice. The draw shall open as soon as possible upon request of a public vessel of the United States at all times.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: October 4, 1983.

J. L. Fear,

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

[FR Doc. 83-28584 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-2-FRL 2455-2]

Hazardous Waste Management Program; Vermont: Amended Application for Interim Authorization, Phase II, Components A, B, and C

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public comment period and notice of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Vermont amended application for Phase II, Components A, B, and C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

40 CFR 271.123 (formerly § 123.123(c)) requires the formal review period to recommence upon receipt of a revised

submission of the State's application, if the State's submission is "materially changed". EPA today reopens Vermont's Phase II, Components A, B, and C, application for public review because Vermont has made material changes to its regulations to correspond to federal Part 270 and Part 264 regulations in response to EPA comments on the state's earlier submission. EPA's review of the State's revised application began on September 27, 1983, the date EPA received the amended application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for Tuesday, November 22, 1983 at 9:00 a.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by November 14, 1983. EPA will determine by November 15, 1983, whether there is significant public interest to hold a hearing. All written comments on the amended Vermont Interim Authorization application must be received by the close of business on November 22, 1983.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Vermont's application for Interim Authorization on Tuesday, November 22, 1983 at 9:00 a.m. at the Pavillion Auditorium—Pavillion Building, 109 State Street, Montpelier, Vermont 05602.

Written comments on the application and written or telephoned communications of interest in holding a public hearing on the Vermont application must be sent to: Mary Jane O'Donnell, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, telephone (617) 223–4448.

If you wish to find out whether or not EPA will hold a public hearing on the Vermont application based upon EPA's determination that there was significant public interest in such a hearing, write or telephone the EPA contact, the person listed above, after November 15, 1983. This procedure is being used to expedite consideration of the Vermont application. As a result no additional **Federal Register** notice will be published concerning this hearing.

Copies of the amended Vermont Phase II Interim Authorization application are available during normal business hours for inspection and copying by the public at the following addresses:

Agency of Environmental Conservation, Division of Water Resources and Environmental Engineering, Air and Solid Waste Program, Heritage II, 79 River Street, Montpelier, Vermont 05602, Telephone (802) 828–3395.

Environmental Protection Agency, Region I Office Library, Room 2100B, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–5791

EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mary Jane O'Donnell, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–4448.

SUPPLEMENTARY INFORMATION: The State of Vermont received Interim Authorization for Phase I on January 8, 1981. Its Phase II application for Components A, B, and C was submitted to EPA on September 7, 1982. In the October 1, 1982 **Federal Register,** 47 FR 43405, a notice was published concerning a public hearing to be held on Vermont's Phase II Components A, B, and C Application for Interim Authorization. The notice also announced the availability of the application for public review and invited public comment on the application. A public hearing on the application was held on November 9, 1982 at which 1 party presented comments.

On May 5, 1983, EPA determined that the absence of state regulations corresponding to the federal 40 CFR Part 270 regulations (formerly 40 CFR Part 122) precluded EPA from granting Interim Authorization to Vermont. In addition, uncertainty about the legal status of the state's regulations analogous to the federal 40 CFR Part 264 regulations made it impossible to determine whether the Vermont program was substantially equivalent to Part 264.

On September 17, 1983, Vermont adopted regulations that were intended to clarify the legal status of the portion of the Vermont program that corresponded to the federal Part 270 and Part 264 regulations. On September 27, 1983, Vermont submitted a revised application reflecting the newly adopted regulations and the other associated changes to the Vermont program. It is this revised application that is being presented for public comment in this Notice. Within 90 days of this notice in the **Federal Register,** EPA will give notice again in the **Federal Register** as to the denial or issuance of Interim Authorization.

Lists of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: October 13, 1983.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 83-28586 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 48, No. 204
Thursday, October 20, 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

Land and Resource Management Plan; Inyo National Forest, Inyo, Mono, Fresno, Madera, and Tulare Counties, California, Mineral and Esmeralda Counties, Nevada; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national enviornmental impact statement in January 1979. That environmental impact statement documented the results of a review of 62 million acres of roadless and undeveloped lands within the 190 million acre National Forest System. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region, RARE II dealt with more than six million acres located in California and Nevada. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979, the State of California challenged the adequacy of the national RARE II Environmental Impact Statement as the basis for decisions to manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically only to the 46 roadless areas in California, it set binding precedent for any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, National Forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II recommended wilderness and nonwilderness areas during the Forest planning process.

The reevaluation of areas on the Inyo National Forest will be done as part of the Forest's land and resource management planning, and will be documented in the Forest Plan environmental impact statement.

During the reevaluation process, current management and protection policies and activities in roadless areas will continue. Wilderness values will be protected in areas recommended by RARE II for wilderness, while management for other uses will continue in areas recommended for nonwilderness.

On the Inyo National Forest, 13 roadless areas containing 184,970 acres were recommended for wilderness, and 11 areas containing 292,700 acres were recommended for nonwilderness. These areas, which will now be reevaluated, are listed below.

Name	Gross acres	Net national forest acres
South Sierra	107,500	106,570
S. Joaquin W	6,600	"
Wonoga Peak	11,380	"
S. Joaquin N&F	29,000	"
Independence Cr	14,400	"
Grant Lake	1,830	"
Tinemaha	29,380	29,220
Mt. Olsen	2,800	2,700
Coyote North	11,500	10,500
Mono Craters	6,900	"
North Lake	2,730	"
Dexter Canyon	18,100	"
Horton Creek	7,800	6,500
Glass Mountain	59,200	58,600
Nessie	1,310	"
Watterson	7,700	"
Rock Creek W.	3,040	"
Deep Wells	7,600	"
Whisky Creek	1,210	"
Excelsior	54,670	54,590
Nevahbe Ridge	620	"
Boundary Peak	50,200	"
Sherwin	3,800	"
Soldier Canyon	38,400	38,300

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, open houses will be held on December 6, 1983, at the Forest Supervisor's Office in Bishop, from 9 a.m. to 4 p.m.; and on December 7 at the Mammoth Ranger Station in Mammoth Lakes, from 9 a.m. to 4 p.m. These open houses will provide us with the opportunity to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

For further information about the proposed reevaluation, contact: Oliver F. A. Sapousek, Planning Officer, 873 N. Main Street, Bishop, CA 93514, (619) 873-5841.

Dated: October 13, 1983.

Leon R. Silberberger,

Acting Forest Supervisor, Inyo National Forest.

[FR Doc. 83-28544 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Vegetative Management Environmental Assessment; Shasta-Trinity National Forests, Humboldt, Modoc, Shasta, Siskiyou, Tehama, and Trinity Counties, California; Public Hearing

Notice is hereby given that a public hearing will be held on Tuesday, December 6, 1983, 2:00–5:00 p.m. and 6:00–9:00 p.m. in Room 116 of the Redding Civic Auditorium, Redding, California. Its purpose will be to receive oral testimony and/or written comments identifying the public issues, concerns, and management opportunities to be addressed in a vegetation management environmental assessment that the USDA Forest Service will prepare for the Shasta-Trinity National Forests. This hearing is part of the overall scoping process for the environmental assessment.

Individuals and organizations may express their views at this hearing or by submitting written comments for inclusion in the official record to the Forest Supervisor, Shasta-Trinity National Forests, 2400 Washington Avenue, Redding, California 96001. To be included in the official record, written comments must be postmarked by December 16, 1983.

For further information about the preparation of the environmental assessment, or the availability of other documents relevant to the environmental assessment, contact: Douglas Schleusner, Environmental Coordinator, Shasta-Trinity National Forests, 2400 Washington Avenue, Redding, California 96001, Telephone (916)246-5377.

Dated: October 14, 1983.

Barney Coster,

Forest Supervisor, Shasta-Trinity National Forests.

[FR Doc. 83-28548 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on Thursday, November 17, 1983, at 1:00 p.m. at the San Juan National Forest Office, Conference Room, 701 Camino del Rio, Durango, Colorado. The Board was established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) Recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; (3) discussion of effects of the San Juan National Forest Land and Resource Plan on allotment management plans and utilization of range betterment funds; (4) discussion of procedures for requesting refunds and/or credits of grazing fees.

The meeting will be open to the public. Persons who wish to attend and participate should notify David W. Cook, San Juan National Forest (303-247-4874) prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: October 11, 1983.

P. C. Sweetland,

Forest Supervisor.

[FR Doc. 83-28613 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Colville National Forest, Grazing Advisory Board Meeting; Meeting

The Colville National Forest Grazing Advisory Board will meet at 1 p.m. on November 2, 1983 at the Federal Building Conference Room, 695 South Main, Colville, WA 99114. The purpose of this meeting is to discuss range allotment management planning and to review the projects which will receive funding from the Range Betterment Fund monies in 1984.

The meeting is open to the public. Persons who wish to attend should notify Gary Oliverson, Colville National Forest, at the above address. Written statements may be filed with the committee before or after the meeting.

Dated: October 7, 1983.

William D. Shenk,

Forest Supervisor.

[FR Doc. 83-28891 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Deschutes National Forest Grazing Advisory Board; Meeting

The Deschutes National Forest Grazing Advisory Board will meet at 10 a.m. on November 14, 1983, at the Cascade Natural Gas Community Service Rom, 4th and Hawthorne Streets, Bend, Oregon 97701. The purpose of this meeting is:

1. Review the results of the Deschutes National Forest Range Improvement Activity Review.

2. Review Allotment Management Plans and Range Betterment Funds for 1984.

3. Review new Deschutes National Forest base property requirements.

4. Open discussion of topics of interest to the Advisory Board.

This meeting will be open to the public. Persons who wish to attend should contact Will Griffin, 211 NE Revere, Bend, Oregon 97701, telephone 382-6922, extension 362.

Lee F. Coonce,

Deputy Forest Supervisor.

October 14, 1983.

[FR Doc. 83-28617 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Sierra National Forest Grazing Advisory Board Meeting

The Sierra National Forest Grazing Advisory Board will meet at 10:00 a.m. November 9 in Room 3208 of the Federal Building, 1130 O Street, Fresno, California.

Agenda

1. Status and opportunities for County level cattle theft reduction programs.
2. Criteria for selecting permittees for future forage that may be developed.
3. Revision of allotment management plans and their signifance to land management objectives.
4. Projects accomplished during FY 1983 with Range Betterment Funds and projects proposed for FY 1984.
5. Other items presented by members of Board.

The meeting will be open to the public.

The committee has established the following rules for public participation: Matters identified by the public will be considered by the Board at the close of the planned agenda.

Dated: October 6, 1983.

Richard L. Stauber,

Forest Supervisor.

[FR Doc. 83-28508 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting and press conference of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 10:00 p.m., on November 3-4, 1983, at the Sheraton Hotel Gary, 465 Broadway Street, Gary, IN 46401. The purposes of the meetings are to discuss the status of a proposed block grants project; to hear a report by the Administration of Justice Sub. Committee on the status of the Indiana prison project; and to release a report on housing discrimination.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, IN 47401 (811) 337-9632; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, IL 60604 (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 14, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-28510 Filed 10-19-83; 8:45 am]

BILLING CODE 6335-01-M

Oregon Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Oregon Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 3:00 p.m., on November 18, 1983, at the Federal Building, 1220 S.W. Third, Portland, Oregon 97204. The purposes of the meeting is to discuss: Southeast Asian civil rights issues; housing; government assistance; education; and employment.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Thomas J. Sloan, 215

North West Orchard Drive, Portland, OR 97229, (503) 627–8162; or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, WA 98174, (206) 442–1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 13, 1983

John I. Binkley

Advisory Committee Management Officer.

[FR Doc. 83-28509 Filed 10-19-83; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 10:00 p.m., on November 10, 1983, at the Howard Johnson, 231 Michigan Avenue, Detroit, MI 48226. The purposes of the meeting are to discuss the tuition tax credits project and to plan activities for the coming year.

Persons desiring additional information on planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Rienstra, 1225 Thomas South East, Grand Rapids, MI 49506, (616) 949–4000; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, IL 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 13, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-28511 Filed 10-19-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Release of Draft Request for Proposals for the U.S. Civil Space Remote Sensing Satellite Systems Correction

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of release of Draft Request for Proposals for the U.S. Civil Space Remote Sensing Satellite Systems; Correction.

SUMMARY: This document corrects the release date for the draft Request for Proposals (RFP) which was published September 20, 1983, (48 FR 42843). Accordingly, the Source Evaluation Board for Civil Space Remote Sensing (SEB/CSRS) is correcting the release date for the draft RFP to read as follows:

The draft RFP will be released for comment on October 21, 1983. Following release, comments will be accepted for thirty (30) days. Current plans call for formal release of the RFP to the private sector approximately December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Sheila C. Frye, Source Evaluation Board, 11420 Rockville Pike, NBOC 1, Room 300, Rockville, Maryland 20852. Telephone: (301) 443–3925. (This is not a toll free number.)

Dated: October 17, 1983.

Raymond G. Kammer, Jr.,

Chairman, Source Evaluation Board for Civil Space Remote Sensing.

[FR Doc. 83-28628 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-12-M

International Trade Administration

[C-274-002]

Carbon Steel Wire Rod From Trinidad and Tobago Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters in Trinidad and Tobago of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the merchandise subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this merchandise in an amount equal to 12.29 percent of the *ad valorem* value of the subject merchandise. If this investigation proceeds normally, we will make our final determination by December 27, 1983.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew Debicke, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–5403.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Trinidad and Tobago of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice.

For purposes of this investigation, we preliminarily determine that government guaranteed loans confer a benefit to manufacturers, producers, or exporters in Trinidad and Tobago of wire rod. The estimated bounty or grant is 12.29 percent *ad valorem.*

Case History

On May 16, 1983, we received a petition from counsel for Atlanic Steel Company, Continental Steel Corporation, Georgetown Steel Corportion, Georgetown Texas Steel Corporation and Raritan River Steel Company on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that producers, manufacturers, or exporters in Trinidad and Tobago of steel wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on June 6, 1983, we initiated a countervailing duty investigation (48 FR 27415). We stated that we would issue a preliminary determination on or before August 9, 1983. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(C) or the Act, and postponed our preliminary determination until October 13, 1983 (48 FR 43206).

Trinidad and Tobago is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and, therefore, section 303 of the Act applies to this investigation. Under this section, since the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

On April 18, 1983, we presented questionnaires concerning the allegations in the petition to the

government of Trinidad and Tobago and to counsel for the Iron and Steel Company of Trinidad and Tobago (ISCOTT) in Washington, D.C. On August 12, 1983, we received the responses to our questionnaire from the government of Trinidad and Tobago and ISCOTT.

Scope of Investigation

The product covered by this investigation is carbon steel wire rod, a coiled semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. The merchandise is currently classified under item number 607.17 of the Tariff Schedules of the United States.

ISCOTT is the sole producer and exporter of carbon steel wire rod from Trinidad and Tobago.

The period for which we are measuring subsidization is January 1, 1982 to April 30, 1983.

Analysis of Programs

In their responses, the government of Trinidad and Tobago and ISCOTT provided data for the applicable period. Based upon our analysis of the petition, the response to our questionnaire, and legal briefs submitted by counsel for the ISCOTT and the petitioners, we determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that a bounty or grant is provided to manufactuers, producers, or exporters in Trinidad and Tobago of carbon steel wire rod under the program listed below.

A. Government Guarantees of Debt Service

Section 401, article I of the Completion and Cash Deficiency Agreement (CCDA), a financing contract entered into by the Government of Trinidad and Tobago (GOTT), ISCOTT and several external private and government-sponsored lenders, states "if, for any reason whatsoever, ISCOTT shall fail to pay or to pay in full any debt service amount on any debt service date with respect thereto, the Government, in consideration for the loans made by the lenders to ISCOTT, shall, and hereby covenants and agrees with each of the lenders to, pay to the lenders or the lender entitled to such debt service amount the cash deficiency in respect thereof . . . within 10 days after the applicable debt service date, unless prior thereto ISCOTT shall have paid such cash deficiency in full."

During the period 1978–1981, ISCOTT obtained several medium-term loans from private lenders and other government loan agencies in the United States and elsewhere. Petitioners allege that the guarantees provided for in Article IV of the CCDA enabled ISCOTT to obtain these loans at interest rates several points below those charged for comparable commercial loans. They contend that ISCOTT would have had to pay a substantial premium over the commercial rate charged (estimated by petitioner as 5 percent) if the loan financing had not been backed by a government guarantee.

Regarding the inclusion of a risk premium in the calculation of the benchmarks for measuring potential benefits to ISCOTT resulting from the GOTT's guarantees, the Department generally avoids such adjustments. Without substantial evidence on the record to support the use of a specific primium amount, we run the risk of substituting speculative and debatable assumptions as to the value of a guarantee for the recorded, independent judgment of the financial marketplace. In the absence of a sound basis upon which to fix the value of a risk premium, we have calculated the benefit to ISCOTT of the GOTT's guarantees by estimating the value of its not having to pay loan guarantee fees otherwise payable by a borrower in a comparable commercial transaction.

Similarly, we have made no adjustment in the rates paid by ISCOTT to reflect the company's payment of withholding taxes on foreign loans. Respondents contend that these tax liabilities result in a higher effective rate on such loans. The Department's long-standing administrative practice has been to consider the entire bounty or grant. Under section 771(6) of the Act the tax consequencies of countervailable benefits do not constitute an allowable offset.

On the basis of our understanding of standard commercial banking practice in comparable transactions, we have determined the normal guarantee fees payable in this situation. To calculate the subsidy value we compared the interest rates actually paid by ISCOTT with an adjusted rate reflecting the additional value of a government guarantee. After calculating the payment differential in each year of the loan, we then calculated the present value of this stream of benfits using the risk free rate, the secondary market rate of interest for long-term government debt in Trinidad and Tobago, as the discount rate. This amount was then allocated evenly over the life of the appropriate loan to yield the annual subsidy amount. The estimated net bounty or grant is 12.29 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by producers or exporters in Trinidad and Tobago of carbon steel wire rod.

A. Tax Benefits

Petitioners allege that ISCOTT benefits from preferential tax treatment accorded under the Fiscal Incentives Act and other provisions of the tax laws of Trinidad and Tobago.

The responses of both ISCOTT and the GOTT indicate that ISCOTT has not received any benefits or allowances available under the Fiscal Incentives Act or other provisions of the tax laws of Trinidad and Tobago. We will, however, seek additional information regarding the possibility that potential tax benefits arising out these provisions may be carried forward to later years.

B. Worker Training

Petitioners allege ISCOTT has benefitted from worker training subsidies provided through the Industrial Development Corporation.

The responses of both ISCOTT and the GOTT indicate the company has received no assistance for employee training under this program during the period of investigation. The responses do indicate, however, that some ISCOTT employees received training from the Management Development Centre (MDC). The MDC is a statutory body governed by a board of directors composed of individuals from both the public and private sectors. Courses offered and fees charged are approved by the board. Fees for the training of ISCOTT workers under this program were paid by the company. We will seek additional information regarding the MDC during verification.

C. Marketing Assistance

Petitioners allege ISCOTT has benefitted from marketing assistance provided by the GOTT through the International Marketing Organization Fund. The responses of both the GOTT and ISCOTT indicate ISCOTT has received no assistance under this program.

D. Preferential Export Insurance

Petitioners allege ISCOTT has benefitted from preferential export insurance provided through the Export Insurance Company, Ltd. The responses

of both ISCOTT and the GOTT indicate ISCOTT did not purchase any export credit insurance during the period for which we are measuring subsidization.

E. Export Shipping Rates

Petitioners allege ISCOTT has benefitted from preferential shipping rates provided at government direction or with government financial assistance.

The Shipping Corporation of Trinidad and Tobago (SCOTT) acts as a broker for ISCOTT in locating private vessel owners and negotiating shipping fees. As such, SCOTT is not responsible for setting rates, nor does it own any vessels. It is reimbursed for its services on a commission basis.

During the period of investigation, ISCOTT has used both SCOTT and a private concern based in New York as its agents for locating vessels and negotiating shipping rates. Rates have varied with each shipment, and ISCOTT has received no direct assistance from the GOTT for purposes of paying export freight charges. We have no evidence to indicate ISCOTT has benefitted from preferential shipping rates as the result of direct or indirect action by the GOTT.

F. Preferential Loans

In our initiation notice, we stated that we would investigate the allegation that ISCOTT received loans from the GOTT at preferential interest rates. Information now available to the Department indicates that private lending institutions served as the sources of ISCOTT's debt financing. Therefore, we preliminarily determine that no countervailable benefit exists with respect to this allegation. Regarding the GOTT guarantees of ISCOTT's debt financing, see the section of this notice entitled "Government Guarantees of Debt Service."

III. Programs for Which Additional Information Is Needed

A. Government Equity Participation in ISCOTT

The Iron and Steel Company of Trinidad and Tobago was incorporated June 20, 1975 to serve as the vehicle for a joint venture between the Government of Trinidad and Tobago and three private investors—Hoogovens Igmuiden, B.V.; Kawasaki Steel Corporation and Mitsui & Company. As originally conceived, the venture would involve the parties in the ownership and construction of a greenfield steel mill dedicated primarily to billet production. In 1976–77, changing market conditions led to reevaluation of the project. The GOTT purchased the equity interests of its partners and redefined the project to envisage construction of a scaled down mini-mill oriented primarily towards finished products. Specifically wire rod. After additional feasibility study, the GOTT determined to proceed with the redefined project. A financing package put together by a private concern was proposed and, on December 1, 1978, ISCOTT the GOTT, Barclays Bank, Ltd. (as Trustee) and several external private and government-sponsored lenders entered into a financing contract, the Completion and Cash Deficiency Agreement. Under the terms of the CCDA, the lenders committed to a total of approximately U.S. $243 million in capital financing. For its part, the GOTT agreed to provide equity investment in ISCOTT at a level which maintained a 60/40 debt to equity ratio for the company. Construction commenced on this basis, and ISCOTT began commercial wire rod production in August 1981. Completion of construction, as defined in the CCDA, is now scheduled for November 1983. Throughout this period the GOTT has made equity contributions to ISCOTT in accordance with its obligations under the CCDA.

It is well established that government equity participation in a commercial enterprise is not a subsidy *per se*. In assessing whether such participation gives rise to subsidies within the meaning of the countervailing duty law, the Department applies the standard of whether a government's investment is not inconsistent with commercial considerations. The issue is whether the investment, analyzed in terms of objective business or investment criteria operative *at the time the investment was made*, , may be deemed commercially reasonable in that, from the perspective of a commercial investor making the same decision in the same circumstance, there is a reasonable expectation of return within an acceptable period of time.

The test whether a particular investment is not inconsistent with commercial considerations is based on a case-by-case analysis of the commercial context in which the investment decision is made. In the case of ISCOTT, an assessment of commercial reasonableness must take into account the special circumstances of a start-up project in a developing country.

Factors ordinarily applied in the case of investment in an established industry or enterprise in a developed country may require adjustment or prove inappropriate. For example, investments in developing countries pose a variety of special problems which may include scarcity of capital, lack of complementary infrastructure, shortages of skilled labor, insufficient managerial experience and other "learning curve" costs. While these may, in some senses, increase the element of risk in such investments, the increased risk which may be present does not of itself become dispositive of the issue of whether a particular investment in a developing economy may be viewed as inconsistent with commercial considerations.

On the basis of preliminary analysis, the GOTT's decision to proceed with the ISCOTT project and its subsequent actions to maintain its commitment to it do not appear to contradict the requirements of commercial reasonableness. First, as originally conceived and later redefined, the ISCOTT mill was designed to make use of certain natural advantages. Trinidad and Tobago has ample natural gas reserves. The direct reduction of iron (DRI) process employed in ISCOTT's mill is particularly well suited to capitalize on the availability of natural gas. Trinidad and Tobago also enjoys a strategic geographic location close to plentiful sources of iron ore and to potential Caribbean, North American and South American markets. Second, the decision to install state of the art technology such as DRI, electric arc furnaces, continuous casters and high speed rolling equipment builds upon natural advantages by providing long-term cost efficiencies and producing consistent qualities of steel. Third, at the time the ISCOTT venture was initially conceived, the consensus among steel industry analysts was that projected demand would require installation of considerable new worldwide capacity by 1985. Moreover, as market conditions changed, the scope and purpose of the project were altered in response.

GOTT's commitments to the ISCOTT project were undertaken on the basis of at least three independent feasibility studies prepared by private consultants. The original concept of an integrated mini-mill emerged from both engineering and economic studies. The subsequent adaptation of the project to emphasize wire rod production was also based on a study which assessed the potential viability of the redefined project in a changed market. Finally, preparation of the financing package which formed the basis of the CCDA entailed a third, independent assessment of the project's financial prospects. All these studies drew tentative conclusions that the project was feasible and would be profitable. In our view, the GOTT's decision to supplement its own evaluation of the commercial viability of the ISCOTT project with independent

analyses by private consultants indicates a careful approach consistent with a prudent investment policy.

Independent confirmation of favorable projections made in the studies noted may be discerned from the decisions of several private commercial lenders to participate in the debt financing of the ISCOTT project. Participants include private lenders in the U.S., Japan, Canada and the Federal Republic of Germany. In addition to reviewing the feasibility studies commissioned by the GOTT, these lenders were also in a position to draw on their own internal resources and experience to assess the project's viability. That they chose to lend to the project is further indication of its commercial reasonableness. Moreover, while we do not question that guarantees provided by the GOTT served as an inducement to private lenders to finance the ISCOTT project, it is our understanding of commercial banking practice that any decision to lend would also have been based on additional consideration of the underlying project's viability and potential apart from the presence of governmental guarantees or backing. In these circumstances, the participation of private lenders should not be discounted as having no bearing on the central issue of whether investment in ISCOTT is consistent with commercial considerations.

If the GOTT's decision to commence the ISCOTT project appears to have been carried out on a sound commercial basis, its continued commitment through the period of construction and beginning of commerical production poses somewhat different questions. In this stage, fundamental assumptions supporting the commercial reasonableness of the decision to initiate the project must be measured against actual development and operating experience. The issue is whether that experience raises fundamental questions about the commercial reasonableness of the GOTT's maintaining its commitment to the ISCOTT project.

As noted *supra*, the terms of the CCDA included a commitment by the GOTT to maintain a 60/40 debt-to-equity ratio for ISCOTT. In addition, under Article III of the CCDA, the GOTT may provide funds necessary to achieve completion of the project. The GOTT's equity investments in ISCOTT are triggered by either a report or request by the company. The amount of capital sought is determined by deducting the cash surplus on hand or projected and available loan capital from total cash liabilities. The amount of the difference is invested by the GOTT in either working or fixed asset capital. In return for its payments, the GOTT is issued stock at the established price of TT $100 per share. Funds received in this manner are charged against ISCOTT's authorized share capital.

The GOTT has continued to make heavy equity investments in ISCOTT during a period in which the company has encountered significant difficulties associated with construction, start-up and initial commercial operation. Unanticipated construction delays have resulted in substantially higher than projected costs which have been compounded by the effects of inflation. Breakdowns in key plant components and delays in obtaining replacements have also hampered the project. Shortages of adequately trained operations, maintenance and management personnel present continuing problems. The plant has yet to approach full rated capacity, an engineering performance tests for all production units have not been completed. As a consequence, ISCOTT has not begun to achieve significant production levels or earnings on its products. It cash flow per-ton of capactiy figures remain negative. All of this has occurred against the bankground of a severely deteriorated world market for steel.

The fact construction delays and other difficulties have occurred during the course of ISCOTT's start-up phase does not, however, necessarily lead to the conclusion that the assumptions and expectations which arguably supported to GOTT's decision to embark upon the project are no longer tenable. First, natural advantages such as reliable and plentiful sources of basic inputs and location appear to continue to support ISCOTT's long-term prospects. Second, particularly in a developing country, the learning curve costs associated with the installation of a technologically advanced industrial facility may reasonably be expected to be higher than those in a more developed economy. Similarly, shortages of adequately trained manpower needed for the construction and maintenance of a major industrial plant make it more likely there will be delays in both construction and the achievement of fully operational status. In this respect it is significant that the CCDA made specific allowance for the possibility of delay, and that its final deadline for the certification of completion has not, as yet, been exceeded. Third, while ISCOTT's cash flow per-ton of capacity figures are negative, they nevertheless compare favorably with available estimates of expected per-ton development costs for new steel mills in both developing and developed countries. Fourth, while ISCOTT is not profitable, it has been conducting limited commercial operations for a period of only 24 months. Regardless of location in a developed or developing country, the Department has preliminarily found no indication in any of the sources available to it that a new industrial facility requiring large capital investment should be expected to show a positive rate of return within so short a time from the commencement of production. To the contrary, it appears the reasonable commercial expectation is that the project would normally be expected to operate at a loss for several years before beginning to earn a positive return on the initial investment. Fifth, lenders who participated in ISCOTT's debt financing arrangement do not appear to have withdrawn their support and have continued to make funds available to the company. Sixth, despite problems with start-up, ISCOTT has made some shipments to unrelated buyers, thereby demonstrating the existence of at least a potential market for its products.

In sum, while ISCOTT may not yet have unquestionably proven itself as a viable, self-sustaining venture, nothing in its experience to date establishes a compelling argument that the considerations or expectations which led the GOTT to begin the project have, in light of subsequent developments, lost all measure of commercial reasonableness. Though difficulties encountered during start-up have led to substantial cost increases not contemplated in the original projections, the GOTT's continuing commitment to the project, a commitment seconded by independent lenders, does not at this juncture appear wholly inconsistent with commerical considerations as we perceive them to operate within the context of establishing a technologically advanced greenfield industrial facility in a developing country.

Nevertheless, we are not unmindful of petitioner's contention that the withdrawal of Dutch and Japanese co-venturers at an early stage of the project raises questions as to its feasibility. We note, however, that the project underwent a basic alteration in concept following this withdrawal. The original plan had been for a mill to produce over a million metric tons of billets annually. A substantial portion of this capacity was to be committed to "off-take" by the co-venturers. Changing market conditions led to a reorientation of the

project towards the production of a specific finished product, wire rod. In addition to raising the possibility of direct competition with the co-venturers, this reorientation substantially removed their interest indications that, in at least one case, the co-venturers' own financial difficulties may have been an element in the decision to withdraw.

Finally, we also note the Mitsui resurfaced as a lender to the project.

As evidenced by its continuing and expanding equity commitment to ISCOTT, the GOTT has chosen to stay with the project in the apparent belief that, start-up problems notwithstanding, the company's long-term prospects justify continued support which will eventually pay off. On the basis of the information currently available to us, we are not in a position to preliminarily determine that assessment is not consistent with commercial considerations. We will, however, seek additional information regarding this program.

B. Loss Coverage or Absorption

Petitioners allege that at least a portion of the funds which the GOTT has committed to the ISCOTT project since the commencement of commercial operations should be treated as loss coverage or absorption. In effect, they maintain that ISCOTT has been the beneficiary of sublstantial operating studies without which the company could not remain viable.

As discussed in the section of this notice titled "Equity Participation by the Government", the GOTT's continued commitment to getting ISCOTT off the ground does not appear to represent an investment inconsistent with commercial considerations as we view then within the context of the start-up of a new industry in a developing country. While ISCOTT has begun to market its products on an intermittent basis, it is not yet a fully operational enterprise. From this perspective, equity infusions by the GOTT which may in some instances serve to offset initial operating losses may still be viewed primarily as investsments in the capitalization and establishment of ISCOTT rather than as operating subsidies. As such, they remain within the realm of commercial reasonableness which governs with respect to investment in the start-up of an enterprise. We will seek additional information regarding this issue during verification.

C. Point Lisas Development Zone

Petitioners allege the Point Lisas Development Zone, in which ISCOTT's steel mill is located, represents the GOTT's effort to establish an infrastruture specifically designed to support the company's operations. They allege that ISCOTT is the beneficiary of preferential rental or lease terms, that the Zone's Marine Bulk and Export Terminal was specially designed for use by ISCOTT and that roads, power lines and a natural gas pipeline have been provided to ISCOTT on terms which do not reflect their true cost.

The responses state that services similar to those provided in the zone do not exist in any other part of Trinidad and Tobago. Information currently available indicates rates paid by ISCOTT for the use of developed land within the Point Lisas Development Zone are paid according to a formula applied to all lessees in the area. The presence of other lessees within the Zone is also an indication that its facilities are not dedicated to sole use by ISCOTT. We will seek additional information regarding the Point Lisas Development Zone during verification to determine whether a specific or regional bounty or grant is being provided.

D. Import Duty Exemptions

Under the laws of Trinidad & Tobago imports may or may not be subject to duties under any one of three tariff schedules. Products on the First Schedule are assigned duties ranging from zero to some precentage of value. Those on the Second Schedule benefit from a general exemption. The Third Schedule establishes conditional exemptions for approved industries.

The First and Second Schedules are general enactments apparently applicable to all industries in Trinidad and Tobago. Section 49A of the Customs Act of 1973 empowers the Government to grant duty exemptions on any merchandise imported by a company which is within the approved industry list of the Third Schedule. ISCOTT has applied for and received exemptions under this provision.

On its face, the grant of duty exemptions to "approved industries" listed in the Third Schedule appears to establish a countervailable element of preferentiality. Examination of the Third Schedule, however, shows that approximately 76 industries in Trinidad and Tobago are apparently able to qualify for a Third Schedule exemption. In addition, a substantial portion of the items subject to a conditional exemption under the Third Schedule already qualify for a general Second Schedule exemption. Other items are assessed a duty free rate under the First Schedule. Finally, in a number of instances, individual construction contractors on the ISCOTT project have sought Third Schedule exemptions on their own behalf, and the direct or indirect benefit to ISCOTT cannot be calculated with any reasonable degree of certitude. Consequently, we will seek additional information regarding this program during verification.

E. Preferential Prices for Natural Gas

The petitioners allege that ISCOTT benefits from the provision of natural gas through government owned entities at preferential prices.

On the basis of information currently available, it appears that the price paid by ISCOTT for natural gas is established through negotiations between ISCOTT and the National Gas Company and/or the National Energy Company. There is no evidence on the record to indicate that these negotiations are not conducted at arm's length. Typical contracts between ISCOTT and its suppliers provide for a base price MMBTU with per annum escalator clauses and pass-through provisions to cover increases in the prices charged ISCOTT's suppliers by the AMCO Trinidad Oil Company, and independent, non-government owned entity. Since the prices ISCOTT pays for natural gas are negotiated at arm's length and ultimately based on the prices paid by its suppliers to an independent producer, we preliminarily determine ISCOTT receives no benefits from the provision of natural gas at perferential prices. We will, however, seek additional information regarding this program during verification.

F. Short Term Loans

ISCOTT indicates the receipt of several short-term loans from private sources during the period of investigation. Some of these loans have been repaid and others have been rolled-over. At this time, we have no evidence to indicate that these loans were made on a preferential basis, nor whether a guarantee fee was levied. We will seek additional information on these short-term loans.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation on all entries of Carbon steel wire rod from Trinidad and Tobago which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal

Register, and to require a cash deposit or the posting of a bond for each such entry of the merchandise in an amount equal to 12.29 percent of the *ad valorem* value of the subject merchandise.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 14, 1983, Room 3078 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by November 7, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.46 within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 13, 1983.

[FR Doc. 83-28563 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. 644]

Charles J. McVey, Jr. et al.; Order Temporarily Denying Export Privileges

The Department of Commerce (the "Department"), pursuant to the provisions of Section 388.19 of the Export Administarion Regulations [15 CFR 368, *et seq.* (1982)] (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Charles J. McVey, Jr., 1140 North Armando, Anaheim, California 92806; Rolf Lienhard, c/o Frank AG, International Transporte Franchthof West, Postfach 236, 8058 Zurich-Flughafen, Switzerland; and Yuri Boyarinov, c/o Electronorgtechnika, G-200, Smolenskaja pl. 32/34, Moscow, U.S.S.R.

The Department states that administrative proceedings have been initiated against the individual respondents by the Department's Office of Export Enforcement. The Department also states that its investigation gives it reason to believe: (i) That McVey, Lienhard and Boyarinov conspired and acted in concert to divert U.S.-origin electronic equipment, some of which was originally approved for export to Switzerland, by reexporting such equipment to the Union of Soviet Socialist Republics (U.S.S.R.), in violation of the Regulations; (ii) that McVey exported or attempted to export U.S.-origin equipment from the United States to Switzerland without the required validated export licenses; (iii) that McVey filed Shipper's Export Declarations representing that the destination for this equipment was Zurich, Switzerland, knowing, however, that the actual destination was the U.S.S.R.; (iv) that Lienhard reexported or caused to the reexported U.S.-origin electronic equipment from Switzerland to the U.S.S.R. without having first obtained the required reexport authorization from the Office of Export Administration; (v) that Yuri Boyarinov caused, aided, abetted, counseled, commanded, induced, procured, or permitted the reexport of U.S.-origin electronic equipment from Switzerland to the U.S.S.R. without having first obtained the required reexport authorization from the Office of Export Administration; and (vi) that these respondents may attempt future exports contrary to the Regulations, either directly or through one or more of the known related parties, unless appropriate action is taken to preclude such attempts.

The Department states further that on March 9, 1983, a federal grand jury: (1) Charged McVey, Lienhard and Boyarinov with conspiring to export U.S.-origin electronic equipment from the United States to the U.S.S.R. without having first obtained the required validated export licenses from the Department; (2) charged McVey with knowingly exporting and causing to be exported from the United States to the U.S.S.R. electronic equipment without having first obtained to required validated export license from the Department and charged Lienhard with aiding and abetting such exports; and (3) charged McVey, doing business as Facilities Management, Ltd., with knowingly and willfully making false statements and representations to a government agency (the Department).

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to Charles J. McVey, Jr., Rolf Lienhard and Yuri Boyarinov is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. Sections 2401–2420 (Supp. V 1981)) and the Regulations, and to avoid circumvention of the administrative proceedings.

Anyone who is now or may in the future be dealing with the above-named respndents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered—

I. All outstanding validated export licenses in which respondents or any related party appear or participate, in anyt manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors, or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly, or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application, (b) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith, (c) in obtaining from the Department or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States, and subject to the Regulations; and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents

are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Business organizations and individuals now known to be owned by or affiliated with the named respondents, and which are accordingly subject to the provisions of this order, are:

Vanguard International, Ltd., Apartado Postal P.O. Box 1824 Panama 1, Panama

and

1116 North Armando, Anaheim, California 92806

Facilities Management, Ltd., 1140 North Armando, Anaheim, California 92806

Land Resources Management, Inc., 1114 and 1116 North Armando, Anaheim California 92806

Societe Anonyme Technologie Spatiale aka: SATs, aka: Space Technologies, Inc., Les Maladiers, 2022 Bevaix, Switzerland

Frank AG aka: Frankair Frank AG, Zurich, Switzerland aka: Frankair, Postfach 236, 8058 Zurich-Flughafen Switzerland

Janice McVey, 18331 Jacotal, Villa Park, California 92667

Charles Julius McVey, III, 18331 Jacotal, Villa Park, California 92667

Michael McVey, 18331 Jacotal, Villa Park, California 92667

ICOHAGE International, Handelesgesellschaft, Weylenstrasse 440, Zurich, Switzerland

Interprojekt Gesellschaft, Rosenberg 345, Zurich, Switzerland

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of Section 388.19(b) of the Regulations, the respondents or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of the administrative proceedings initiated against the respondents. A copy of this order and Parts 387 and 388 of the Regulations shall be provided to the respondents and the above-designated related parties under the notification procedures set forth in § 388.19(c) of the Regulations.

Date: October 13, 1983.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 83-28606 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Salmon and Steelhead Advisory Commission; Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Salmon and Steelhead Advisory Commission will hold public hearings for the purpose of obtaining public comments on a report to the Secretary of Commerce which considers alternatives for coordinating management of salmon and steelhead in offshore waters, the State of Washington and in the Columbia River and its tributaries.

DATES: Comments must be received by November 10. Individuals or organizations wishing to comment may do so at public hearings to be held as follows:

November 2, 1983—National Marine Fisheries Service, Northwest and Alaska Fisheries Center (Auditorium), 2725 Montlake Boulevard East, Seattle, Washington

November 3, 1983—Oregon Department of Fish and Wildlife, 506 S.W. Mill St., Portland, Oregon

Both public hearings will start at 7:00 p.m. and adjourn at or about 10:00 p.m., or when all public testimony has been received.

Written comments on the secretarial report should be sent to the following address by November 10: Dr. Peter Bergman, Salmon and Steelhead Advisory Commission, 2401 Bristol Court S.W., Olympia, WA 98502.

SUPPLEMENTARY INFORMATION: The subject of the hearings will be a proposed report on salmon and steelhead management prepared for the Secretary of Commerce. The public review report contains alternatives for management structures and for resolving contentious issues facing salmon managers, i.e., state fishery agencies, Indian tribes, and Federal fishery agencies, in the Washington and Columbia River Conservation areas. The report has been prepared at the direction of the Salmon and Steelhead Advisory Commission established by Public Law 96-561. Issues treated include a coordinated management structure, management objectives, enforcement, and a dispute resolution mechanism.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Regional Director, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115, Telephone (206) 527-6150.

Dated: October 14, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28574 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 13, 1983.

The USAF Scientific Advisory Board Arnold Engineering Center Advisory Group will hold meetings on November 15, 1983, from 8:00 am to 4:00 pm and on November 16, 1983, from 8:00 am to 2:30 pm Central Standard time, at Arnold Air Force Station, TN, in the A&E Building Conference Room. The purpose of the meeting will be to receive classified briefings and hold classified discussions on selected Air Force Ground Test Facilities Requirements and Programs.

The meeting concerns matters listed in Section 552b(c) of Title 5, United

States Code, specifically subparagraphs (1) and (4) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-28549 Filed 10-19-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

October 13, 1983.

The USAF Scientific Advisory Board Aeronautics Panel will meet at NASA Langley Research Center, Hampton, VA, December 6, 1983. The purpose of the meeting will be to review current aeronautical research efforts being pursued by NASA Langley scientists. The meeting will convene at 9:00 am and adjourn at 5:00 pm.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-28550 Filed 10-19-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Changes in Section 10721 Rate Tender Format

AGENCY: Military Traffic Management Command, Army Department, DOD.

ACTION: Notice of Format Revision.

SUMMARY: Effective November 1, 1983, with the concurrence of the General Services Administration, Optional Form 280 (Uniform Tender of Rates and/or Charges for Transportation Services), and the tender preparation instructions will be revised. Tender format changes are: (1) Changing Block 16 to read: "GOVERNING PUBLICATIONS. The rates, charges, or services shown herein are subject to the publications listed below. If there are no governing publications, enter 'None'."; and (2) Changing Block 17B. To read only: "Description of Service." All carriers may continue to use existing supplies of Optional Form 280, but will be required to modify the form to conform to these revisions.

Additional Information

Effective November 1, 1983, carriers submitting Optional Form 280 to the Military Traffic Management Command are also required to enter the following information on the form: (1) To assure currentness of all tenders, all carriers must now specify an expiration date in Block 6 of the tender form. The date of expiration will not be less than ninety days nor more than two years from the effective date. As required, the Military Traffic Management Command may negotiate with carriers for exceptions to this requirement; and (2) To facilitate contacting carriers, the words "For pickup call" and telephone number, will be added in Block 14 of the tender form.

FOR FURTHER INFORMATION CONTACT: Mr. Julian Jolkovsky, Headquarters, Military Traffic Management Command, ATTN: MT-INNT, 5611 Columbia Pike, Falls Church, Virginia 22041. Telephone: (202) 756–1149/1567.

SUPPLEMENTARY INFORMATION: In 46 FR 40788, dated August 12, 1981, Military Traffic Management Command with the concurrence of General Services Administration issued a notice to require use of a revised tender format (Optional Form 280). Since the Military Traffic Management Command requires all tender filings to observe this format, this is not an optional form for the submission of transportation rates and service to the Department of Defense.

John O. Roach, II,

Army Liaison Officer With the Federal Register.

[FR Doc. 83-28548 Filed 10-19-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Privacy Act of 1974; Proposed New System of Records

AGENCY: Department of the Navy (U.S. Marine Corps), DOD.

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Marine Corps proposes to add a system of records to its inventory of systems of records subject to the Privacy Act of 1974. The proposed new record system notice is set forth below.

DATE: The proposed action will be effective without further notice on November 21, 1983, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: (202) 694–1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93–579 were published in the Federal Register as follows:

FR Doc. 83–6317 (48 FR 10422) March 11, 1983

FR Doc. 83–6992 (48 FR 11312) March 17, 1983

FR Doc. 83–8688 (48 FR 14432) April 4, 1983

FR Doc. 83–12048 (48 FR 25964) June 6, 1983

A new system report as required by Title 5 of the United States Code section 552a(0) was submitted on September 7, 1983.

October 17, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

MMC00010

SYSTEM NAME:

Marine Corps Marathon Automated Support System (MCMASS).

SYSTEM LOCATION:

Marine Corps Marathon Office, Quantico, VA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All participants in the Marine Corps Marathon.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains information as provided on the Marine Corps Marathon Liability and Publicity Release form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947 as amended by DoD Reorganization Act of 1958, 10 U.S. Code 136; 10 U.S. Code 133; 32 CFR Part 237 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the Blanket Routine Uses at the head of the published Marine Corps systems notices in the Federal Register. Additionally, the following routine uses apply:

Electronic and print media—To provide publicity on the marathon event.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape and disks as well as in paper files.

RETRIEVABILITY:

Records are retrieved by name, runner number, or telephone number.

SAFEGUARDS:

Records are maintained in an area accessible only to authorized personnel. The terminals are in a room with windows protected by bars and the room is locked when not being used by authorized personnel. User identification codes and passwords known only by the data input operators and their supervisors are required for access to the terminals.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Marathon Coordinator, Marine Corps Marathon, P.O. Box 188, Quantico, VA 22134.

NOTIFICATION PROCEDURES:

Requests from individuals should be addressed to the system manager. Written requests for information should contain the full name, runner number, and telephone number. For personal visits, the individual should be able to provide identification bearing picture and signature or sufficient verbal data to ensure that the individual is the subject of inquiry.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-28621 Filed 10-19-83; 8:45 am]

BILLING CODE 3810-01-M

Intent To Prepare a Draft Environmental Impact Statement and Implementation of the Scoping Process for the Proposed Homeporting of a Surface Action Group (SAG) in Stapleton, Staten Island, New York, as the Preferred Alternative

Pursuant to regulations implementing the procedural provisions of the National Environmental Policy Act, Title 40, *Code of Federal Regulations*, and the requirements of Executive Order 12382, Intergovernmental Review of Federal Programs and the Department of the Navy policy for intergovernmental coordination of land and facility plans, programs and projects, the Navy hereby announces its intention to prepare a Draft Environmental Impact Statement (DEIS) for the proposed homeporting of a Surface Action Group in Stapleton, Staten Island, New York. A Surface Action Group consists of a battleship, a cruiser, two guided missile destroyers and a destroyer. In addition, two Naval Reserve frigates will be homeported with the Surface Action Group.

The primary impacts of the proposed action would be the development of a new major Naval installation in the New York City area. Approximately 40 acres of New York City-owned vacant land would be leased or sold to the U.S. Navy for waterfront facilities together with portions of Fort Wadsworth, an existing, though under-utilized U.S. Army installation, would be transferred to the U.S. Navy for redevelopment as a Surface Action Group support facility. New piers, dredging, and other construction is proposed to provide suitable homeport requirements.

Approximately 3,500 Naval personnel, including 2,200 families would relocate to the area. Area impacts would include: (1) Increased demand on community services, (2) increase in school enrollments, (3) increased traffic, (4) possible reduction in available rental properties, (5) increased chance of oil spills, and (6) air quality modifications from steam generating facilities and increased vehicular traffic.

Proceedings are underway to retain an unaffiliated consulting firm to prepare the Draft Environmental Impact Statement. Work on the DEIS is expected to commence on or about January 1, 1984, and publication of the completed document for public review is planned for October 1984.

Local and regional concerns over the Navy's proposal to develop a new homeport installation will be carefully considered in the preparation of the Scope of Work under which the DEIS will be developed. Comments and concerns should be forwarded to:

Commanding Officer, Northern Division, Naval Facilities Engineering Command, Building 77L, U.S. Naval Base, Philadelphia, Pennsylvania 19112. Attn: Code 09P.

Additionally, to affect the scoping process, the U.S. Navy will conduct a public meeting to solicit comments/concerns to be considered in the Draft Environmental Impact Statement for the proposed Surface Action Group Homeport Facility in Stapleton, Staten Island, New York. The meeting is scheduled for 7:00 p.m. Thursday evening, November 3, 1983, at the Post Chapel, Building 203, Fort Wadsworth, Staten Island, New York.

The meeting will be conducted by Commander T. W. Bone, CEC, U.S. Navy, assigned to the staff of the Commanding Officer, Northern Division, Naval Facilities Engineering Command. The meeting will be informal. Individual speakers will be requested to limit their statement to approximately five minutes. Written statements will be accepted at the meeting or they may be mailed to the address noted above. Comments will be received until November 15, 1983.

If further information/assistance is required in regard to this notice of intent, please contact Mr. Robert Ostermueller at Northern Division, Naval Facilities Engineering Command, telephone (215) 897-6357.

Dated: October 18, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28669 Filed 10-19-83; 8:45 am]

BILLING CODE 3810-AE-M

Board of Advisors to the Superintendent, Naval Postgraduate School; Monterey, California; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C App. I), notice is hereby given that the Board of Advisors to the superintendent, Naval Postgraduate School, Monterey, California, will meet on November 17-18, 1983, at Herrmann Hall at the School. On both days the first session of the meeting will commence at 8:15 a.m. and terminate at 12:00 noon and the second session will commence at 1:15 p.m. and terminate at 5:00 p.m. All sessions will be open to the public.

The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the Effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end the board will inquire into the curricula, instruction, physical equipment, administration, state of morale of student body, faculty and staff, fiscal affairs, and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

For further information concerning this meeting contact: Commander

Robert V. Foley, USN (Code 007), Naval Postgraduate School, Monterey, California 93940, Telephone: (408) 646–2514.

Dated: October 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28562 Filed 10-19-83; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee, Pacific Basin Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Pacific Basin Task Force will meet on November 8–10, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to United States national security interests and naval strategies in the Pacific and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone (202) 694–8422.

Dated: October 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28552 Filed 10-19-83; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on November 14–15, 1983, onboard an aircraft carrier at sea. The November 14 session the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. The November 15 session will commence at 8:30 a.m. and terminate at 1:00 p.m. Both sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to the tactical command, control and communications facilities onboard an aircraft carrier. The orientation will include tours and briefs on the Tactical Support Center (TSC), strike operations, Tactical Force Command Center (TFCC), air operations, Combat Information Center (CIC) and communications capabilities. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelly, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217, Telephone number: (202) 696–4870.

Dated: October 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28553 Filed 10-19-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

College Work-Study Program

AGENCY: Office of Postsecondary Education.

ACTION: Notice closing date for filing the Fiscal-Operations Report (FISOP) for the College Work-Study/Soma and Trust Territories (CWS /STT) Program.

SUMMARY: The Secretary gives notice of the deadline date for submitting a 1982–83 award year FISOP for those institutions of postsecondary education that participated in the College Work-Study/Samoa-Trust Territories program. A FISOP must be filed if an institution participated in the program during that year, regardless of its intent to apply for 1984-85 funds. Under the CWA/STT program, the Secretary reserves an amount of money in accordance with Section 442(f) of the Higher Education Act to make awards to eligible institutions of higher education that are located outside of American Samoa and the Trust Territories of the Pacific Islands. From its award under Section 442(f), an institution may use its funds to provide College Work-Study employment only to students who reside in either American Samoa or the Trust Territories of the Pacific Islands and who attend eligible institutions outside or those dominions. Under the College Work-Study program, the Secretary provides financial aid to needy students to meet their costs of attendance. the CWS program is authorized under Part C of title IV of the Higher Education Act of 1964.

(42 U.S.C. 2751–2756b)

Closing Date for FISOP

An institution must submit its FISOP for the College Work-Study/Samoa and Trust Territories Program by November 21, 1983.

Reports Delivered by Mail: A FISOP sent by mail must be addressed to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, 400 Maryland Avenue, S.W., (Room 4621, Regional Office Building 3), Washington, D.C. 20202.

An institution must show proof of mailing its FISOP. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, or (3) any other proof of mailing acceptable to the Secretary of Education.

If a FISOP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

Reports Delivered by Hand: A FISOP that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, 7th and D Streets SW., Room 4621, Regional Office Building 3, Washington, D.C. The Campus and State Grants Branch will accept hand-delivered FISOPs between

8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sunday and Federal holidays. This document will not be accepted after 4:30 p.m. November 21, 1983.

FISOP Information: FISOP has been mailed to the institutions by the program office. An institution shall prepare and submit its FISOP in accordance with the instructions included in the package.

Noting in the program information package is intended to impose any paperwork, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: The following regulations are applicable to these programs:

College Work-Study—34 CFR Parts 675 and 668.

The final regulations governing the awarding of funds under this program were published in the **Federal Register** August 2, 1982 (47 FR 33398).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Coates, Chief, campus and State Grant Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, D.C. 20202, Telephone (202) 245–2320.

(Catalog of Federal Domestic Assistance No. 84.033, College Work-Study Program)

Dated: October 17, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–28604 Filed 10–19–83; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Board on International Education Programs; Meeting

AGENCY: Department of Education.

ACTION: Rescheduling of meeting.

SUMMARY: This notice sets forth the rescheduling of the forthcoming meeting of the Subcommittee on Critical Needs in International Education as delegated by the National Advisory Board on International Education Programs. This meeting announcement was originally published in the **Federal Register** on September 15, 1983, page 41482. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATE: November 9, 1983.

ADDRESS: ROB–3, Office of Postsecondary Education Conference Room, Room 4905.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Whitehead or Marguerite A. Follett, International Education Programs Office, ROB–3, Room 3916, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202) 245–9691.

SUPPLEMENTARY INFORMATION: This is a notice regarding the second meeting of Subcommittee on Critical Needs in International Education. This meeting, originally scheduled for October 25, 1983, has been rescheduled to November 9, 1983. The purpose of this Subcommittee is to assess critical needs in international education and to make recommendations to the full Board which in turn will make recommendations to the Secretary.

Signed at Washington, D.C., on October 17, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–28605 Filed 10–19–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84–15–000]

Connecticut Light & Power Co.; Filing

October 14, 1983.

Take notice that on October 6, 1983, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated June 20, 1983 between (1) CL&P and Western Massachusetts Electric Company (WMECO and together with CL&P, the NU Companies) and (2) Braintree Electric Department (Braintree).

CL&P states that the Transmission Agreement provides for transmission services to Braintree for the wheeling of Braintree's purchase of an entitlement in pumped storage capacity obtained from Connecticut Municipal Electric Energy Cooperative during the period commencing June 20, 1983 and terminating July 11, 1983.

CL&P further states that the transmission charge rate is a weekly cost-of-service rate equal to one fifty-second of the annual average cost of transmission service on the electric transmission system of the NU Companies and is determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The weekly transmission charge is determined by the product of: (i) The weekly transmission charge rate ($/kW-week), and (ii) the number of kilowatts that Braintree is entitled to receive during each such week. The weekly transmission charge is reduced by up to 50% to give due recognition for related transmission payments made by Braintree to the Boston Edison Company.

CL&P requests an effective date of June 20, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to WMECO and Braintree.

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 motions or protests should be filed on or before October 31, 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. 83–28513 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–20–000]

Connecticut Light & Power Co.; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 7, 1983, the 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 Commonwealth Electric Company (Commonwealth). The Agreement, dated as of May 6, 1983, provides for the NU Companies to sell to Commonwealth power from the systems of the Northeast Utilities Companies (system power) 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 the NU Companies would offer to sell such

system power to Commonwealth only when it was economical to do so. Commonwealth would only accept such offer if it was economical to do so.

Commonwealth will pay a capacity charge to the NU Companies for each transaction in an amount equal to the megawatts of system capacity reserved for Commonwealth by the NU Companies during each hour of a transaction multiplied by the capacity charge rate which is negotiated prior to each transaction. Commonwealth will pay an energy charge to the NU Companies for each transaction in an amount equal to the megawatt hours delivered by the NU Companies during such transaction multiplied by the energy charge rate. The energy charge rate is based on the heat rate and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide energy at the time of a transaction.

CL&P requests an effective date of September 11, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to WMECO and Commonwealth.

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 October 31, 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. 83-28516 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-16-000]

Connecticut Light & Power Co.; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertianing to a Northfield Mountain Purchase Agreement between CL&P, Western Massachusetts Electric Company ((WMECO) and together with CL&P, the Licensees) and Braintree Electric Light Department (Braintree) dated as of July 25, 1983.

CL&P states that the Purchase Agreement provides for the sale to Braintree of specified percentages of capacity and related pondage from the Licensees Northfield Mountain Pumped Storage Hydro Electric Project (Project) together with related transmission service during the period July 25, 1983 through October 31, 1983.

CL&P further states that the capacity charge rate for the Project is a rate determined on a cost-of-service basis for the entire Project. The weekly transmission charge is equal to one-fifty second of the average annual cost of transmission service on the transmission system of the Licensees and their affiliated Notheast Utilities companies and is determined in accordance with Schedule B to the Purchase Agreement, multiplied by the number of kilowatts of winter capability which Braintree is entitled to receive pursuant to the Purchase Agreement during such week. The station service charge is equal to the average cost of oil-fired generation on the system of the Licensees and their affiliated Northeast Utilities companies for the prior month, multiplied by Braintree's share of the Project's station service energy requirements.

CL&P indicates that the services to be provided under the Purchase Agreement are the same as services provided by the Licensees relating to a prior sale of capacity from the Project to Baintree Electric Light Department pursuant to a purchase agreement dated as of May 1, 1982. (Rate Schedule FERC Nos. CL&P 272 and WMECO 206).

CL&P requests an effective date of July 25, 1983, and therefore requests waiver of the Commission's notice requirements.

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 October 31, 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. 83-28516 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6703-001]

Walter T. Crosby and Thomas J. Baker; Surrender of Preliminary Permit

October 14, 1983.

Take notice that Walter T. Crosby and Thomas J. Baker, Permittee for the proposed Fishtrap Project No. 6703, has requested that its preliminary permit be terminated. The preliminary permit was issued on February 9, 1983, and would have expired on July 30, 1984. The proposed project would have been located at the U.S. Army Corps of Engineers Fishtrap Dam and Reservoir in Pike County, Kentucky.

The Permittee filed its request on September 19, 1983, and the surrender of the permit for Project No. 6703 will be deemed effective 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28530 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-23-000]

Eastern Shore Natural Gas Co.; Tariff Filing

October 14, 1983

Take notice that on October 11, 1983, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

To Be Effective November 1, 1983

Twenty-fourth Revised Sheet No. 5
Twenty-fourth Revised Sheet No. 6
Ninth Revised Sheet No. 7
Twenty-fourth Revised Sheet No. 10
Twenty-fourth Revised Sheet No. 11
Twenty-fourth Revised Sheet No. 12

Eastern Shore states that the purpose of the filing is to reflect a Purchase Gas Cost Current Adjustment, to reflect a Demand Charge Adjustment, to reflect a Deferred Gas Cost Adjustment, to report the Projected Incremental Pricing Surcharges, and to reflect a Transportation Surcharge Adjustment. This filing is being made in accordance with section 20, 21 and 23 of Eastern Shore's FERC Gas Tariff and provisions of the Stipulation and Agreement

approved by letter order issued March 27, 1981 in Docket No. RP80–84.

Eastern Shore states that copies of the filing have been mailed to each of its 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 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 October 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. 83-28518 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6076-002]

Fairview Orchards Associates; Surrender of Preliminary Permit

October 14, 1983.

Take notice that Fairview Orchards Associates, Permittee for the Rock Creek Project No. 6076 has requested that the preliminary permit be terminated. The preliminary permit for Project No. 6076 was issued on July 11, 1983, and would have expired on December 31, 1984. The project would have been located on Rock Creek in Nevada County, California.

Fairview Orchards Associates filed the request on September 15, 1983, and the surrender of the preliminary permit for Project No. 6076 is deemed accepted as of September 15, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28519 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-19-000]

Graham-Michaelis Corp.; Petition for Adjustment Relief for Waiver of Filing Requirement

October 14, 1983.

On September 19, 1983, the Graham-Michaelis Corporation (Graham-Michaelis) 211 North Broadway, P.O. Box 247, Wichita Kansas 67201, the operator of the Weidner No. 1 Well, Haskell County, Kansas filed with the Federal Eenergy Regulatory Commission (Commission) a petition for adjustment relief under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) 15 U.S.C. 3301–3432 (Supp. V 1981). Graham-Michaelis seeks an adjustment of the 150-day filing deadline set forth in § 271.805(c) to make the effectice date of the seasonally affected well designation for the Weidner No. 1 Well retroactive to October 1, 1981. In the alternative, Graham-Michaelis seeks waiver of said 150-day requirement to allow it to file a new petition for seasonally affected status for the subject well for earlier periods of disqualification and such other relief as the Commission deems proper.

Section 271.805(a) of the Commission's regulations specifies that if a stripper well's production averages more than 60 Mcf per production day during any 90-day production period, then both the purchaser and the operator are required to file a written notice of disqualification with the Commissioner, the appropriate jurisdictional agency, and each other. Section 271.805(c) provides that the right to collect a maximum lawful price under NGPA section 108 terminates on the last day of the 90-day disqualification period unless, within 150 days of the last day of such period, the operator files a petition for determination that such increase in production was the result of the application of an enhanced recovery technique. Section 271.805(d) provides that if this petition is filed later than the 150 day period, then sales from the well are not qualified for the ceiling price under Section 108 from the last day of the disqualifying period until the petition is filed.

The Weidner No. 1 well was designated as a stripper well under section 108 of the NGPA by order of the Kansas Corporation Commission, Docket No. NGPA—79–0939, dated November 30, 1979. For the period of Jyly 1, 1981, thru September 30, 1981, the average per-day production was 64.3 Mcf per day. The average per-day production for the period of August 1, 1981, through October 30, 1981, was 63.8 Mcf per day. Petitioner states that Graham-Michaelis was unaware that the subject well disqualified as a stripper well during the above stated periods of overproduction. However Graham-Michaelis did file a Notice of Disqualification for overproduction pursuant to § 271.805(a) on Novémber 15, 1982 for the period May 1, 1982 through July 31, 1982. Petitioner also filed a petition under § 271.805(c) for a determination that the well was seasonally affected. The Kansas Corporation Commission approved this petition and entered an Order on February 5, 1983, designating the subject well as seasonally affected. However, the Commission's staff discovered that the subject well had become disqualified in the above-mentioned 1981 period, and notified petitioner of this fact. petitioner then filed a Notice of Disqualification concerning this earlier 1981 period.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. 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. 83-28520 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6693-001]

James G. Guercio; Surrender of Preliminary Permit

October 14, 1983.

Take notice that James W. Guercio, Permittee, for the proposed Caribou Ranch Hydro Project No. 6693, has requested that its preliminary permit be terminated. The permit was issued on February 15, 1983, and would have expired July 31, 1984. The project would have been located on the North Boulder Creek in Boulder County, Colorado.

The Permittee filed its request on September 20, 1983, and the surrender of the preliminary permit for Project No. 6693 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28521 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-48-000]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 14, 1983.

Take notice that on October 7, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, twentieth Revised Sheet No. 7,

which reflects decreases in Michigan Wisconsin's one-part rate and the commodity component of its two-part rate of 9.65 cents per dekatherm.

Michigan Wisconsin has also filed Ninth Revised Sheet No. 7a which reflects the fact that since there were zero MSAC's reported by Michigan Wisconsin customers, there is no PGA reduction.

Copies of this filing were served upon the Michigan Wisconsin's 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 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 October 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. 83-28522 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-6-000]

Mountain Fuel Resources, Inc.; Filing

October 14, 1983.

Take notice that on October 7, 1983, Mountain Fuel Resources, Inc. (Resources) submitted a filing for acceptance of Original Sheet No. 31 to its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1983. The tariff change would establish a Gas Research Institute (GRI) charge adjustment provision.

Resources states it will collect from Mountain Fuel Supply Company (Mountain Fuel), through its Rate Schedule No. 1, the GRI charge adjustment on volumes of gas sold for resale to Mountain Fuel. The Public Service Commission of Utah, in its Case No. 82-057-15, ordered that these charges, previously included in Mountain Fuel's general retail rates, would not be allowed after January 1, 1984, except as Mountain Fuel indirectly would pay the GRI charge adjustment in the cost of gas purchased from Resources under Resources' FERC Tariff. Resources proposes to begin collecting the GRI charge adjustment effective January 1, 1984.

Resources states that a copy of the filing has been served on the Public Service Commission of Utah, the Public Service Commission of Wyoming and Mountain Fuel Supply Company.

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 October 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. 83-28523 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-522-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

October 17, 1983.

Take notice that on September 26, 1983, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP83-522-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate tap facilities necessary to provide an additional point of delivery to its affilitate, National Fuel Gas Distribution Corporation (Distribution), in Sandy Township, Clearfield County, Pennsylvania, under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that it proposes to deliver up to 43 Mcf of natural gas per day through the proposed tap, pursuant to its Rate Schedule RQ. Applicant indicates that the subject volumes are within its currently authorized level of sales and will have no major impact on its peak day and annual sales. It is indicated that authorization to provide service to Distribution was granted in a certificate issued May 10, 1974, in Docket Nos. CP73-294 and CP74-211. Applicant states that Distribution will bear the entire cost for construction of the proposed facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28524 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-5-000]

Pacific Interstate Offshore Co.; Filing of Initial Rate in FERC Gas Tariff

October 14, 1983

Take notice that on October 7, 1983, Pacific Interstate Offshore Company (PIOC) tendered for filing its initial rate in its FERC Gas Tariff, Volume No. 1, for the Pitas Point Project as certificated in Docket No. CP82-194.

The reason for submittal of the initial rate filing is that gas is expected to commence flowing from the production platform on or after November 9, 1983, and the project facilities will commence operations upon the flow of gas. Under Commission order dated June 21, 1983, PIOC is required to file its FERC Gas Tariff no more than 60 days and no less than 30 days prior to the commencement of gas sales, reflecting an initial rate based upon an up-to-date cost computation consistent with the Stipulation and Agreement approved by the Commission. This tariff is submitted in compliance therewith.

Copies of the filing were served upon the company's sole purchaser under the FERC Gas Tariff, Pacific Lighting Gas Supply Company.

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 October 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 the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28525 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3895-002, et al.]

Phillips Petroleum Co. (Successor in Interest to Phillips Oil Company), et al.; Applications for Certificate, Abandonment of Service and Petitions To Amend Certificates [1]

October 14, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-3895-002, E, Sept. 21, 1983	Phillips Petroleum Company (successor in interest to Phillips Oil Company), 336 Home Savings and Loan Building, Bartlesville, Okla. 74004.	Kansas Nebraska Natural Gas Company, Hugoton Field, Texas County, Oklahoma.	(1)	14.73
G-4283-004, E, Sept. 22, 1983	Mitchell Energy Corporation (successor in interest to Crown Central Petroleum Corporation), P.O. Box 4000, The Woodlands, Texas 77380.	Natural Gas Pipeline Company of America, R.S. Deanng Gas Unit #1, R.R. Crawford Gas Unit #1, Faith and Boydston Gas Unit #1, and R.M. Thompson Gas Unit #1, Wise County, Texas.	(2)	14.65
G-17461-001, D, Sept. 30, 1983	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	United Gas Pipe Line Company, N.W. Corpus Channel Field, Nueces and San Patricio Counties, Texas.	(3)	
CI61-152-000, D, Sept. 29, 1983	CNG Producing Company, One Canal Place, Suite 3100, New Orleans, Louisiana 70130.	Texas Gas Transmission Corporation, Parish Pass Wilson & Bay Round Fields, Terrebonne Parish, Louisiana.	(4)	
CI68-621-001, D, Sept. 23, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, West Cameron Block 179, Offshore Louisiana.	(5)	
CI69-919-000, Sept. 23, 1983	Cabot Petroleum Corporation, 921 Main Street, Suite 900, Houston, Texas 77002.	Transcontinental Gas Pipe Line Corporation, Block 238, Ship Shoal Area, Offshore Louisiana.	(6)	15.025
C177-24-002, D, Sept. 20, 1983	Champlin Petroleum Company, P.O. Box 1257, Englewood, Colorado 80150.	Panhandle Pipe Line Company, Weld County, Colorado.	(7)	
CI77-210-001, C, Sept. 1, 1983	ARCO Oil and Gas Corporation, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	High Island Block 111 Field, Offshore Texas	(8)	14.65
			(9)	
CI83-435-000, A, Sept. 20, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, High Island Area Block A-416 "A", Offshore, Texas.	(10)	14.73
CI83-436-000 (CI86-436), B, Sept. 27, 1983.	Union Oil Company of California, Union Oil Center, Box 7600, Los Angeles, California 90051.	Michigan Wisconsin Pipe Line Company, Buck Point Field, Vermilion Parish, Louisiana.	(11)	
CI83-437-000 (CI71-872), B, Sept. 21, 1983.	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Lovedale Field, Woodward County, Oklahoma.	(12)	
CI83-438-000, B, Sept. 21, 1983	Phillips Oil Company (successor in interest to General American Oil Company of Texas), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Aminoil USA, Inc. (Successor in interest to Fox Gasoline Company), NE/4 NE/4 Section 24-2S-4W, Stephens County, Oklahoma.	(13)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI83-439-000, B, Sept. 21, 1983	....do	Aminoil USA, Inc. (Successor in interest to Fox Gasoline Company), NE, NE, NW, Section 24-2S-4W and SE, NE, SW, E/2 SE, SW, and S/2 SW, SE, Section 13-2S-4W, Stephens County, Oklahoma.	(19)	
CI83-440-000 (CI70-234), B, Sept. 22, 1983.	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Breckenridge Gasoline Company, Miller County, Arkansas and Caddo Parish, Louisiana.	(14)	
CI83-441-000, B, Sept. 26, 1983	Phillips Oil Company (successor in interest to General American Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Cabot Carbon Company, Section 24, Block B-5, Public School, Lands, Winkler County, Texas.	(15)	
CI83-442-000, A, Sept. 26, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Florida Gas Transmission Company, Sabine Pass Block 11, Offshore Louisiana.	(16)	15.025
CI83-443-000, A, Sept. 26, 1983	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	Transcontinental Gas Pipe Line Corporation, Brazos Area Block A-39, Offshore Texas.	(17)	14.73
CI83-444-000, E, Sept. 26, 1983	Phillips Petroleum Company (successor in interest to Phillips Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Arkansas Louisiana Gas Company, North Ruston Field, Lincoln Parish, Louisiana.	(18)	15.025
CI83-445-000 (CI61-1535), B, Sept. 26, 1983.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Northwest Central Pipeline Corp., S.E. Eureka Field, Grant and Alfalfa Counties, Oklahoma.	(19)	
CI83-446-000, B, Sept. 27, 1983	Northern Pump Company, 1915 57th Avenue North, Minneapolis, Minnesota 55430.	Tennessee Gas Pipeline Company, South Riverside Field, Nueces County, Texas.	(20)	
CI83-448-000, A, Sept. 28, 1983	McMoRan Offshore Exploration Co., P.O. Box 6800, Metairie, Louisiana 70009.	Texas Eastern Transmission Corporation, Vermilion Block 146 "A" Platform, Offshore Louisiana.	(21)	15.025
CI83-449-000, D, Sept. 29, 1983	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	Getty Oil Company, NE Section 55, Block 4, I&GN RV, Company Survey, Carson County, Texas.	(12)	
CI83-450-000, B, Sept. 29, 1983	....do	Atlantic Richfield Company, Section 72 & 73, Block H, GH and SA, Railroad Survey, Schleicher County, Texas.	(22)	
CI83-451-000, A, Sept. 30, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, South Marsh Island Block 160 "A", Offshore Louisiana.	(24)	14.73
CI84-1-000 (CI81-154-000), B, Oct. 3, 1983.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Arkansas Louisiana Gas Company, Calhoun Field, Ouachita Parish, Louisiana.	(25)	
CI84-2-000 (CI81-254-000), B, Oct. 3, 1983.	....do	Texas Eastern Transmission, East Melrose Field, Goliad County, Texas.	(26)	

¹ Effective August 1, 1983, Phillips Oil Company assigned to Applicant its interest in the Banks Unit, Hugoton Field, Texas County, Oklahoma.
² On July 1, 1983, Mitchell succeeded to the Small Producer interest of Crown Central in the R.S. Dearing Gas Unit #1, R.R. Crawford Gas Unit #1, Faith and Boydston Gas Unit #1, and The R.R. Thompson Gas Unit #1 wells located in Wise County, Texas.
³ Sun released rights to the lease because all economically recoverable reserves had been depleted.
⁴ Depletion of reserves prior to a rollover gas purchase contract.
⁵ Economic depletion of reserves.
⁶ Applicant is filing under Gas Purchase Contract dated March 17, 1969, amended by Amendment dated February 7, 1983.
⁷ Panhandle has released from the gas sales contract gas production from the #1 Ranchero 31-33 and #2 Ranchero 41-33 wells, Spindle Field, Weld County, Colorado.
⁸ Applicant is filing to add additional acreage.
⁹ Not Used.
¹⁰ Applicant is filing under Gas Purchase and Sales Agreement dated August 11, 1983.
¹¹ The leases were released to the lessors due to noneconomic production.
¹² Due to depletion of gas reserves, the unit well was plugged and abandoned and the leases were released to the landowner.
¹³ Termination of contract. Last gas sales December, 1975.
¹⁴ Uneconomical.
¹⁵ No gas taken by purchaser since 1956 and contract has expired.
¹⁶ Applicant is filing under Gas Purchase Contract dated September 15, 1983.
¹⁷ Applicant is filing under Gas Sales and Purchase Agreement dated September 9, 1983.
¹⁸ Effective August 1, 1983, Phillips Oil Company assigned to Phillips Petroleum Company its interest in the Mathewes D Sand Unit located in Lincoln Parish, Louisiana.
¹⁹ Conoco has no leasehold interest committed to Rate Schedule No. 188.
²⁰ The last well on the only lease still in effect is not capable of producing any more gas and the reservoirs of gas under our leases in the South Riverside Field have been completely depleted.
²¹ Applicant is filing under Gas Purchase Contract dated August 2, 1983.
²² The oil and gas lease was released.
²³ All wells on the lease have been plugged and abandoned and the lease is no longer active.
²⁴ Applicant is filing under Gas Purchase and Sales Agreement dated September 12, 1983.
²⁵ Property dedicated to this contract was sold effective January 1, 1983.
²⁶ Property dedicated by this contract has been released by Getty.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 83-28526 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-11-000 and RP83-30-000]

Transcontinental Gas Pipe Line Corp.; Amendment to Settlement Agreement as to Rates of Transcontinental Gas Pipe Line Corp.

October 13, 1983.

On October 7, 1983, in the above-docketed proceeding, Transcontinental Gas Pipe Line Corporation (Transco) filed an Amendment to Settlement Agreement as to Rates of Transcontinental Gas Pipe Line Corporation. In this filing, Transco seeks waiver of the Commission's regulations to permit it to amortize its deferred purchase gas amount over a 12 month period instead of the 6 month period specified in 18 CFR 154.38. Transco will also amend its settlement approved on April 28, 1983, to adjust several eligibility quantities relevant to participation in Transco's Industrial Sales Program (ISP). Transco also proposes to amend its settlement so as to provide a preference to gas released from its producer-suppliers when scheduling transportation under its Contract Carriage Program (CCP). Certificate authority for the extension of the ISP and CCP programs is the subject of separate applications filed on October 11, 1983. Transco also seeks authority to file, on behalf of its producer-suppliers, amendments to their rate schedules to reflect price reductions.

Anyone 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, protests or comments should be filed on or before October 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 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. 83-28527 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-1-000]

United Gas Pipe Line Co.; Filing of Tariff Sheets

October 14, 1983.

Take notice that on October 5, 1983, United Gas Pipe Line Company (United) tendered for filing with the Federal Energy Regulatory Commission (Commission) Third Revised Sheet No. 1-B, and First Revised Sheet No. 1-D to its FERC Gas Tariff, Original Volume No. 1, being an update to the Table of Contents. It is proposed that these tariff sheets become effective on November 10, 1983.

Any person desiring to be heard or 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 October 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. 83-28528 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-2-000]

United Gas Pipe Line Co.; Filing of Tariff Sheets

October 14, 1983.

Take notice that on October 5, 1983, United Gas Pipe Line Company (United) tendered for filing with the Federal Energy Regulatory Commission (Commission) Tenth Revised Sheet No. 1-A, and Second Revised Sheet No. 1-C to its FERC Gas Tariff, Original Volume No. 2, being an update to the Table of Contents. It is proposed that these tariff sheets become effective on November 10, 1983.

Any person desiring to be heard or 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 October 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. 83-28529 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59135B TSH-FRL 2454-5]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-80, and TM-83-81, two applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-205, 401 M St. SW., Washington DC. 20460 (202-382-3736).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-80

Date of Receipt: August 29, 1983.

Notice of Receipt: September 9, 1983 (48 FR 40781).

Applicant: Confidential.

Chemical: (Generic) Polyether acid phosphate.

Use: (Generic) Additive for cutting fluids.

Production Volume: 7500 kg.

Number of Customers: 1.

Exposure Information: Confidential.

Test Marketing Period: 1 year.

Commencing on: October 7, 1983.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure to the test market substance is expected to be low. Due to expected low releases, the test market substance should not pose an unreasonable environmental risk.

Public Comments: None.

TME 83-81

Date of Receipt: August 29, 1983.

Notice of Receipt: September 9, 1983 (48 FR 40781).

Applicant: Confidential.

Chemical: Amine salt of a substituted organic acid (generic).

Use: Corrosion inhibitor (generic).

Production Volume: 4000 kg.

Number of Customers: 1.

Worker Exposure: Confidential.

Test Marketing Period: 1 year.

Commencing on: October 7, 1983.

Risk Assessment: Based on test data, the test market substance is a moderate eye and skin irritant. However, workers are expected to wear appropriate protective equipment, including rubber gloves, apron and safety glasses. Releases to the environment are expected to be insignificant. No other significant health or environmental effect concerns were identified.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: October 7, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-28587 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-210014; OPP-FRAL-2456-4]

Rodenticide Bait Stations; Hearings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearings.

SUMMARY: In PR Notice 83-5, EPA announced its intention to hold hearings regarding the use of bait stations, as required by rodenticide labeling, when baits are placed in locations accessible to children, pets, domestic animals, or wildlife. This notice announces the schedule for the hearings. Through these hearings EPA hopes to provide interim guidance to rodenticide users and to determine whether there is need for future action.

DATE: The hearings will be held in two sessions, the first session will be held on Friday, November 4, 1983, in Arlington VA, at 9:30 a.m. and will adjourn by 3:00 p.m.; the second session will be held on Monday, March 5, 1984, in Sacramento, CA, at 9:30 a.m. and will adjourn by 4:00 p.m. Persons intending to participate in the meetings must notify the Agency's contact person by October 25, 1983, for the first session or by Janurary 31, 1984, for the second session.

ADDRESSES: The hearings are scheduled as follows:

1. Rm. 1112, Crystal Mall CM #2, 1921 Jefferson Davis Highway, Arlington, VA
2. California Department of Food and Agriculture, North Building, 1220 N St., Sacramento, CA.

FOR FURTHER INFORMATION CONTACT:

By mail:

William W. Jacobs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington D.C. 20460.

Office location and telephone number: Rm. 225, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2783).

SUPPLEMENTARY INFORMATION: On July 21, 1983, EPA issued PR Notice 83-5 which dealt with a variety of issues relating to the use of rodenticides in bait stations. The notice, which was amended August 16, 1983, outlined the history of required label language regarding bait stations, the Agency's criteria for "tamper-proof bait stations," EPA's concerns for protecting baits used in sensitive areas, and EPA's intent to hold public hearings to gather information pertinent to the use of bait stations. These hearings are being held under the authority of section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136s(b)).

PR Notice 83-5, p. 4, also identified certain bait stations which EPA had examined and for which the Agency had reviewed performance data. These stations were judged to be the units examined which

> * * * would appear to provide adequate protection when used properly and in a manner consistent with rodenticide labeling.

PR Notice 83-5 also described in general terms the types of bait stations which the Agency believes provide inadequate protection for use in sensitive areas.

Since the mid 1960's, marketers of federally registered commensal redenticides have been required to include in their use directions a statement such as:

> Treated baits should be placed in locations not accessible to children, pets, wildlife and domestic animals, or in tamper-proof bait boxes.

In response to requests for clarification of the term, EPA developed a set of "Proposed Criteria" for tamper-proof bait boxes. These criteria, listed in PR Notice 83-5, indentified the performance features felt by EPA to be essential to a truly "tamper-proof" bait station.

Recently, concerns have been expressed to the Agency that these criteria are to restrictive and that none of the stations now on the market satisfies these criteria fully. At the same time, the Agency has become aware that a number of stations that are available do not provide an adequate degree of protection for use in areas accessible to children, pets, domestic animals, or wildlife. EPA issued PR Notice 83-5 to offer an immediate clarification of its position regarding the use of bait stations.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not give EPA direct regulatory authority over bait stations, unless they are sold with a pesticide product in them. EPA's authority concerning the use of bait stations is, therefore, limited to establishing whether baits are used according to label instructions. Accordingly, EPA has determined that use of inadequate bait protection in sensitive areas (i.e., places accessible to children, pets, domestic animals, and wildlife) constitutes misuse of a pesticide.

At the same time, EPA cannot develop standards for market entry for bait stations. The degree of bait protection needed in particular use situations must be determined by the applicator.

While PR Notice 83-5 was issued to give interim guidance to rodenticide users, EPA recognized that more detailed guidance is needed in the future. Therefore, the Agency has scheduled public meetings to obtain additional information on bait station use and to determine needs for future action by EPA or other parties. EPA is seeking information in the following areas:

1. Practices and problems with the use of bait stations.
2. Attitudes regarding EPA's "Proposed Criteria" for tamper-proof bait boxes, including any suggested changes in the criteria, terminology, and/or rodenticide label language pertaining to bait stations.
3. Ideas for developing standards and test protocols through existing standards-setting institutions.
4. Accidents, illnesses, deaths, or nontarget exposures resulting from the use of commensal rodenticides.

Persons interseted in participating in Session I must notify the Agency no later than October 25, 1983. Those wishing to participate in Session II must inform EPA by January 31, 1984. Interested parties should contact Dr. William Jacobs at the address or telephone number listed above. Telephone contacts regarding participation must be confirmed in writing.

Participants will testify before a hearing panel convened to help the Agency in its determination. Comments will be limited to ten minutes per individual, with five additional minutes allowed for questioning by the panel. EPA must receive paraticipants' written comments by November 2, 1983, for Session I or by February 20, 1984, for Session II.

The Agency will issue a report of its findings within 180 days after the conclusion of Session II. This report will include the panel's conclusions and recommendations for future actions regarding bait stations. All comments and other relevant information obtained by the Agency will be weighed by the

panel before its final conclusions are drawn.

Dated: October 17, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-28718 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-282]

Final Action, Approval of Conversion Application; First Federal of Michigan

October 5, 1983.

Notice is hereby given that on September 22, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal of Michigan, Detroit, Michigan, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, 115 West Washington Street, Indianapolis, Indiana, 46206.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28536 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-284]

Final Action, Approval of Conversion Application; Hawkeye Savings & Loan Association

October 5, 1983.

Notice is hereby given that on September 6, 1983, the Office of General Counsel of the Fedreal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Hawkeye Savings and Loan Association, Boone, Iowa, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28538 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC 285]

Final Action, Approval of Conversion Applications; Platte Valley Federal Savings & Loan Association

October 5, 1983.

Notice is hereby given that on September 7, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Platte Valley Federal Savings and Loan Association, Gering, Nebraska, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, Post Office Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28539 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC—283]

Final Action, Approval of Conversion Application; Valley Federal Savings & Loan Association of Grand Junction

October 5, 1983.

Notice is hereby given that on September 1, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Valley Federal Savings and Loan Association of Grand Junction, Grand Junction, Colorado, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28537 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; First Virginia Banks, Inc.

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 Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares or assets of First Virginia Bank of the Peninsula, Grafton, Virginia. Comments on this application must be received not later than November 14, 1983.

Board of Governors of the Federal Reserve System, October 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28556 Filed 10-19-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed de Novo Nonbank Activities; Corestates Financial Corp., 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 interests, 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 Fedeal 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 Philadelphia** (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Corestates Financial Corp,* Philadelphia, Pennsylvania (mortgage financing activities; California): To engage through its indirect subsidiary, Colonial Mortgage Service Company Associates, Inc., in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans at a proposed new office of Colonial Mortgage Service Company Associates, Inc. located in Riverside, California serving the State of California. Comments on this application must be received not later than November 14, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad Banking Company of Georgia,* Augusta, Georgia (financing activities; Georgia): To engage, through its subsidiary, CMC Group Inc. and CMC's subsidiary Capitol Premium Plan, Inc., Charlotte, North Carolina, in the making or acquiring for its own account or for the account of others, loans and extensions of credit consisting of the financing of fire and casualty premiums primarily on automobile liability and collision insurance issued by insurance companies and written by insurance agencies. These activities would be conducted from an office located in Charlotte, North Carolina, serving the State of New Jersey. Comments on this application must be received not late than November 14, 1983.

Board of Governors of the Federal Reserve System, October 14,1983

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28557 Filed 10-19-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Angola Bancorporation, Inc., et al.

The companies 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. *Angola Bancorporation, Inc.,* Angola, Indiana; to become a bank holding company by acquiring 80.25 percent of the voting shares of First National Bank of Angola, Angola, Indiana. Comments on this application must be received not later than November 14, 1983.

2. *Fox Lake Bankshares, Inc.,* Fox Lake, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Fox Lake, Fox Lake, Wisconsin. Comments on this application must be received not later that November 14, 1983.

B. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Twin City Bancshares, Inc.,* North Little Rock, Arkansas; to become a bank holding company by acquiring at least 92.54 percent of the voting shares of Twin City Bank, North Little Rock, Arkansas. Comments on this application must be received not later than November 14, 1983.

C. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Citizens State Bank* and *Citizens Holding Corporation Employee Stock Ownership Plan,* Keenesburg, Colorado to become a bank holding company by increasing its ownership from 24.9 to 41.46 percent of the voting shares of Citizens Holding Corporation, Keenesbury, Colorado and indirectly to acquire control of its subsidiary the Citizens State Bank, Keenesbury, Colorado. Comments on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28555 Filed 10-19-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Development of Direct-Reading Monitoring Methods; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: October 24, 1983.

Time: 9:00 to 11:30 a.m.

Place: Conference Room B, NIOSH, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To peer review a project entitled, "Development of Direct-Reading Monitoring Methods." These methods will be used to monitor environmental contaminants in the workplace.

Additional information may be obtained from: Mary Lynn Woebkenberg, Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-4266; Commercial: 513/684-4266.

Dated: October 13, 1983.

Donald R. Hopkins,

Acting Director, Centers For Disease Control.

[FR Doc. 83-28609 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Subcommittees of the Arthritis Advisory Committee scheduled for October 24 and 25, 1983. The meeting was announced by notice in the **Federal Register** of September 16, 1983 (48 FR 41649).

FOR FURTHER INFORMATION CONTACT: Dotti Moore, National Center for Drugs and Biologics (HFN-150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5197.

Dated: October 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28532 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83C-0321]

Dow Corning Ophthalmics, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dow Corning Ophthalmics, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione in coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition (CAP 3C0177) has been filed by Dow Corning Ophthalmics, Inc., P.O. Box 1767, Midland, MI 48640, proposing that the color additive regulations be amended to provide for the safe use of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione in coloring contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 11, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-28534 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, dated December 2, 1980, Section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Friday, December 9, 1983, at 1689 C Street, Room 107, in the South Kaloa Building, Anchorage, Alaska. The agenda will include status reports on the Bristol Bay Cooperative Management Plan, the Kantishna Hills/Dunkle Mine Study, Title XI Regulations (transportation and utility systems), and a review of Cooperative Planning zones for Alaska.

For further information contact: Alaska Land Use Council, P.O. Box 100120, Anchorage, Alaska 99510, (907) 272-4322, (907) 271-5485 (FTS).

October 14, 1983.

William P. Horn,

Deputy Under Secretary.

[FR Doc. 83-28614 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-10-M

Fish and Wildlife Service

Endangered Species Permit; 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.*):

Applicant: Detroit Zoological Park, Royal Oak, MI—PRT 2-11149

The applicant requests a permit to import one captive-born female Brazilian tapir *(Tapirus terrestris)* from Metropolitan Toronto Zoo, Canada, for enhancement of propagation.

Applicant: Steven C. Christenson, Denton TX—PRT 2-11194

The applicant requests a permit to import one bontebok *(Damaliscus dorcas dorcas)* trophy taken from the ranch of Victor Pringle, Bedford, Cape, S. Africa, for enhancement of survival of the species.

Applicant: San Antonio Zoological Gardens, San Antonio, TX—PRT 2-11183

The applicant requests a permit to import a pair of captive-born cheetahs *(Acinonyx jubatus)* from the Cheetah Research and Breeding Center, De Wildt, Pretoria, S. Africa, for enhancement of propagation.

Applicant: Sedgwick County Zoological Society, Wichita, KS—PRT 2-11094

The applicant requests a permit to export 12 captive-born Siamese crocodiles *(Corcodylus siamensis)* to the Herpetological Station, Olsova, Czechoslovakia, for enhancement of propagation.

Document 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 & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these application 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: October 17, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-28627 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Fairbanks District Advisory Council; Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting on November 22, 1983. The location of the meeting will be the second floor training room at the BLM offices at Fort Wainwright, Gaffney and Marks Road. The meeting will convene at 8:30 a.m. and conclude at 5:00 p.m. Public comments will be received by the council from 1:00 p.m. to 3:00 p.m.

Topics to be included in the meeting are:

1. Briefing on the planning progress for the Steese National Conservation Area

and the White Mountain National Recreation Area.

2. Briefing on the reogranization of the Fortymile Resource Area.

3. Discussion of the Fairbanks District mineral management policy.

4. Discussion of reindeer permits for BLM administered land.

5. Exchanges.

All meetings and activities of the Council are open to the public.

Carl D. Johnson,

District Manager.

[FR Doc. 83-28592 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Known Geologic Structure Data Base; Postponement of Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Postponement of public meeting.

SUMMARY: The Eastern States Office of the Bureau of Land Management hereby gives notice that the Public Meeting on the Known Geologic Structure Data Base published in the October 7, 1983, **Federal Register** is (48 FR 45851) postponed indefinitely.

FOR FURTHER INFORMATION CONTACT: Bob Hall, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 235-2846; or Wink Hastings, Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 220, Milwaukee, Wisconsin 53203, (414) 291-4421.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83-28400 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-GJ-M

Designation of Bluewater Canyon Natural Area as an Area of Critical Environmental Concern; New Mexico

AGENCY: New Mexico, Bureau of Land Management, Interior.

ACTION: Pursuant to the authority of the Federal Land Policy and Management Act of 1976 (43 USC 1701, 1711 and 1712), I hereby designate the following public lands as the Bluewater Canyon Area of Critical Environmental Concern (ACEC): T. 12 N., R. 11 W., Section 6 N½ SW¼, NW¼SE¼, N½SW¼SE¼ (within).

SUMMARY: The ACEC lies within the area described aggregating 89 acres in Cibola County, New Mexico.

The subject lands have been determined to meet the criteria for being described as an ACEC. The subject lands contain resource values, identified in the Bureau's land use planning process, as requiring special management attention. These lands contain representative natural system, scenic values, wildlife resources and cultural values. These lands include the only perennial stream on public lands in the area. This perennial stream represents a unique opportunity to preserve an important riparian ecosystem in a remote, unspoiled setting. The management actions prescribed in the interim ACEC plan element will protect the quality resource of the canyon from adverse change and prevent irreparable damage. These actions include restrictions on mineral development, closure to grazing, off-road vehicle use and surface disturbance. This ACEC was addressed in the West Socorro Grazing Environmental Impact Statement and the Divide Management Framework Plan which was approved on February 1, 1983.

Management actions called for upon designation are outlined in an interim ACEC plan element and environmental assessment. The document is available for inspection at the Rio Puerco Resource Area Office, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Area Manager, Rio Puerco Resource Area, 3550 Pan American Freeway, N.E., Albuquerque, New Mexico 87107, Telephone (505) 766-3114.

Charles W. Luscher,

State Director.

[FR Doc. 83-28543 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[M-58031 (SD); M-58032 (SD); M-58033 (SD); M-58034 (SD); M-58035 (SD)]

Realty Action; Competitive Sales of Five Parcels of Public Land in Lyman County, South Dakota

AGENCY: Bureau of Land Management, Miles City District, South Dakota Resource Area Office, Department of the Interior.

ACTION: Notice of realty action M-58031 (SD); M-58032 (SD); M-58033 (SD); M-58034 (SD); and M-58035 (SD) competitive sales of public land in Lyman County, South Dakota.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976) at no less than fair market value:

5th Principal Meridian

M-58031 (SD)

T. 103 N., R. 75 W.,
Section 22, lot 4, containing 28.70 acres.

M-58032 (SD)

T. 103 N., R. 73 W.,
Section 5: S½NE¼, containing 80.00 acres.

M-58033 (SD)

T. 103 N., R. 73 W.,
Section 5: NE¼NE¼.
T. 104 N., R. 73 W.,
Section 32: SE¼SE¼, containing 80.00 acres.

M-58034 (SD)

T. 103 N., R. 78 W.,
Section 29, Lot 1, containing 2.60 acres.

M-58035 (SD)

T. 103 N., R. 74 W.,
Section 2, Lot 1, containing 1.05 acres.

The land will be offered for sale by sealed bid only, utilizing competitive bidding procedures on December 31, 1983, at 1:30 pm M.S.T., at Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107. A separate bid must be submitted for each parcel. The parcels are described as follows:

M-58031 (SD) This land parcel is located approximately 13 miles southeast of Kennebec, South Dakota in Lyman County. These lands are along the Big White River with some being rolling grasslands (White River Breaks) with shale slide banks near the river.

M-58032 (SD) This parcel is located approximately 8 miles south of Reliance, South Dakota in Lyman County. The parcel is rolling grasslands with some brush draws (White River Breaks) about one-half mile west of Big White River.

M-58033 (SD) This parcel is located approximately 8 miles south of Reliance, South Dakota in Lyman County. The parcel is rolling grassland with brushy draws (White River Breaks) about one-half mile west of the Big White River.

M-58034 (SD) This parcel is located approximately 16 miles southwest of Presho, South Dakota in Lyman County. The parcel is along the Big White River with cottonwoods, ash trees, and shrub undergrowth.

M-58035 (SD) This parcel is located approximately 8 miles southwest of Reliance, South Dakota in Lyman County. The parcel is along the Big White River and consists mainly of shale slide bank.

All of the above parcels have section line access and are being offered for sale because each is isolated from other blocks of public land and they are difficult and uneconomical to manage.

The proposed sale is consistent with the Bureau's planning system and Lyman County government officials have been notified of the sale. The transfer of the tract into private ownership will benefit the public interest and provide for better land management.

Terms and conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States, together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

4. Access to the parcel must be in compliance with County and State regulations.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM Montana 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 of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including environmental assessment, and the record of public discussions is available for review at the Mile City District Office, Miles City, Montana, or the South Dakota Resource Area Office, Belle Fourche, South Dakota.

SUPPLEMENTARY INFORMATION: *Bidder Qualifications:* The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state of the U.S. A state, state instrumentality or political subdivision submitting a bid must be authorized to hold porperty. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of South Dakota. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value which will not be disclosed, and bids must be individually submitted for each parcel in this notice.

Method of Bidding: The land will be sold by sealed bid only. Each bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the U.S. Department of Interior, Bureau of Land Management, for not less than one-fifth (20%) of the amount bid.

Sealed bids will be received at the Montana State Office, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107, until 1 pm, M.S.T., December 21, 1983. Sealed bids will be opened in the Montana State Office, 222 North 32nd Street, Billings, Montana.

The sealed bid envelope must be marked in the lower left-hand corner, as follows:

Public Land Sales: M–58031(SD); or M–58032(SD); or M–58033(SD); or M–58034(SD); or M–58035(SD). (Whichever applies to bid). Date: December 21, 1983.

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Sale Continuation: In the event any of these parcels are not sold at the initial sale offering, the unsold parcels will then be available for sale over the counter on a first come, first served basis, at the Montana State Office, Bureau of Land Management, 222 North 32nd Street, Billings, Montana.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited. All bids will be either returned, accepted or rejected within 60 days of the sale date.

Dated: October 14, 1983.

Ray Brubaker,

District Manager for the State Director.

[FR Doc. 83-28542 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Utah; Circle Cliffs Combined Hydrocarbon Lease Conversion EIS and Scoping

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement and conduct scoping.

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM), will prepare an environmental impact statement (EIS) covering the proposed conversion of existing oil and gas leases within the Circle Cliffs Special Tar Sand Area (Garfield County, Utah) to hydrocarbon leases, under the Combined Hydrocarbon Leasing Act of 1981.

The BLM Division of EIS Services, Denver, Colorado, will assist the Cedar City District Office in preparing the Circle Cliffs Lease Conversion EIS. The statement will analyze the impacts of the lease conversions and proposed in-situ development. The Circle Cliffs Lease Conversion EIS will be tiered to the Tar Sand Leasing Regional EIS, which analyzes the broader issues related to a combined hydrocarbon leasing program for eleven Special Tar Sand Areas in Utah including the Circle Cliffs area.

A public scoping meeting to assist in determining the scope of the Circle Cliffs Lease Conversion EIS will be held in Salt Lake City, Utah, on November 9, 1983. The meeting will be held in the 13th floor conference room of the BLM, Utah State Office, University Club Building, 136 East South Temple, from 7 p.m. to 9 p.m. Interested parties may also submit comments to the BLM Escalante Resource Area in Escalante, Utah or the BLM Cedar City District Office in Cedar City, Utah.

The purpose of scoping is threefold: (1) To inform the public of the nature of the combined hydrocarbon leasing program and the lease conversions proposed for the Circle Cliffs Special Tar Sand Area; (2) to gather resource information from the public; and (3) to consider concerns, problems, and/or issues important to the public, including possible alternatives, for possible inclusion in the Circle Cliffs Lease Conversion EIS.

A summary of the proposed Circle Cliffs Special Tar Sand Area lease conversions and the resulting tar sand project to be addressed in the Lease Conversion EIS can be obtained from Morgan Jensen, District Manager, Bureau of Land Management, Cedar City District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720; telephone: (801) 586–2401. For persons who may not be able to attend the public meeting or contact the Area Manager, Escalante Resource Area, letters of comment regarding the EIS scoping may be sent to the Cedar City District Office at the address given above.

Dated: October 14, 1983.

Morgan S. Jensen,

District Manager.

[FR Doc. 83-28541 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19967]

Realty Action; Modified Competitive Sale of Public Lands in Gem County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land has been examined, and through land use planning, which included public imput, it has been determined that the sale of the tract is consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered for sale at public auction for no less than appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted.

Boise Meridian, Idaho

T. 6 N., R. 1 E.,
Sec. 18, SW¼NE¼.
Containing 40 acres.

The patent when issued, will contain the following reservations to the United States and convenant:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. Oil and gas, with the right to explore and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. Subject to all existing rights and reservations of record.

4. Pursuant to authority contained in Section (4) of Executive Order 11990 of May 24, 1977, and Section 203 of the Federal Land Policy and Management Act of 1976, this patent is subject to a restriction which constitutes an covenant running with the land, that the portion of the land lying within SW¼NE¼, sec. 18, T. 6 N., R. 1 E., Boise Meridian, Idaho, containing a developed spring must be managed to protect and maintain the wetland-riparian habitat and the spring development on a continuing basis.

In addition, the patent is subject to the following conditions:

The successful bidder agrees that he/she takes the real estate subject to the existing grazing use of Little Cattle Company, holder of grazing record #1296. The rights of Little Cattle Company to graze domestic livestock on the real estate according to the conditions and terms of grazing record #1296 shall cease on February 28, 1986. The successful bidder is entitled to receive annual grazing fees from Little Cattle Company in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

Except for oil and gas, the Federally owned mineral interests will be offered for conveyance in the sale. It has been determined that the mineral interests being offered for conveyance have no know mineral value. It is agreed that a bid will constitute an application for conveyance of those mineral interests being offered. The declared high bidder will be required to deposit a $50 nonreturnable filing fee (43 CFR 2720.1-2(c)) and one-fifth of the full bid price (43 CFR 2711.3-1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date.

DATES: The public auction will be held on December 27, 1983, at 10:00 a.m. If no acceptable bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the 4th Tuesday of January at the same hour and place and continued the 4th Tuesday of each succeeding month until the lands are sold as specified in this notice or the sale is otherwise terminated.

ADDRESSES: The public auction will be held at the Boise District Office 3948 Development Avenue, Boise, Idaho, 83705. Additional information concerning these lands, terms, and conditions of the sale and bidding instructions may be obtained for Mike Berch, Realty Specialist, at the above address or by calling (208) 334-1582.

SUPPLEMENTARY INFORMATION: The land will be sold at public auction by modified competitive bidding. Warren J. Davis, Valparaiso, Indiana 46383, the adjoining landowner, will be the designated bidder to have a preference right to purchase the parcel at the highest bid price. The preference right is offered because Mr. Davis' deeded property adjoins the parcel on four sides and there is no legal access. For a period of forty-five (45) days from the date of this notice, interested parties may submit comments regarding the proposed action. 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 action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

Dated: October 14, 1983.

Martin J. Zimmer,

District Manager.

[FR Doc. 83-28599 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19969]

Realty Action; Modified Competitive Sale of Public Lands in Gem County, Idaho

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following described land has been examined, and through land use planning, which included public input, it has been determined that the sale of the tract is consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered for sale at public auction for no less than appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted.

Boise Meridian, Idaho

T. 6 N., R. 1 E.,
Sec. 21, SE¼SW¼, S½SE¼;
Sec. 22, SW¼SW¼;
Sec. 27, W½NW¼;
Sec. 28, N½NE¼.
Containing 320 acres.

The patent when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals, including oil and gas, with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. Reservation of right-of-way for Power Project 1971 withdrawn by Federal Power Commission order dated September 5, 1958, under authority of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended, (16 U.S.C. 818).

4. Subject to all existing rights and reservations of record.

In addition, the patent is subject to the following condition:

The successful bidder agrees that he/she takes the real estate subject to the existing grazing use of Highland Livestock and Land Co. and Spring Valley Livestock Co., holders of grazing record numbers 1129 and 1455, respectively. The rights of Highland Livestock and Land Co. and Spring Valley Livestock Co. to graze domestic livestock on the real estate according to the conditions and terms of grazing record numbers 1129 and 1455, shall cease on February 28, 1989, and February 28, 1986, respectively. The successful bidder is entitled to receive annual grazing fees from Highland Livestock and Land Co. and Spring Valley Livestock Co. in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

DATES: The public auction will be held on December 27, 1983, at 10:00 a.m. If no acceptable bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the 4th Tuesday of January at the same hour and place and continued the 4th Tuesday of each succeeding month until the lands are sold as specified in this notice or the sale is otherwise terminated.

ADDRESSES: The public auction will be held at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Additional information concerning these lands, terms, and conditions of the sale and bidding instructions may be obtained from Mike Berch, Realty Specialist, at the above address or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: The land will be sold at public auction by modified competitive bidding. Jessie Little Naylor, Emmett, Idaho 83617, and Colin McLeod, Jr., Caldwell, Idaho 83605, the adjoining landowners, will be the designated bidders to have a preference right to purchase the parcel at the highest bid price. The preference right is offered because Mrs. Naylor and Mr. McLeod, Jr., are the historical grazing users, their deeded property adjoins the parcel on three sides and there is no legal access. For a period of forty-five (45) days from the date of this notice, interested parties may submit comments regarding the proposed action. 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 action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

Dated: October 14, 1983.

Martin J. Zimmer,

District Manager.

[FR Doc. 83-28600 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19970]

Realty Action; Modified Competitive Sale of Public Lands in Gem County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land has been examined, and through land use planning, which included public input, it has been determined that the sale of that tract is consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered for sale at public auction for no less than appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted.

Boise Meridian, Idaho

T. 6 N., R. 1 E.,
Sec. 32, NW¼NE¼, N½NW¼.
Containing 120 acres.

The patent when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C 945.

2. Oil and gas, with the right to explore and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. Subject to all existing rights and reservations of record.

In addition, the patent is subject to the following conditions:

The successful bidder agrees that he/she takes the real estate subject to the existing grazing use of Highland Livestock and Land Co., holder of grazing record #1129. The rights of Highland Livestock and Land Co. to graze domestic livestock on the real estate according to the conditions and terms of grazing record #1129 shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from Highland Livestock and Land Co. in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

Except for oil and gas, the Federally owned mineral interests will be offered for conveyance in the sale. It has been determined that the mineral interests being offered for conveyance have no known mineral value. It is agreed that a bid will constitute an application for conveyance of those mineral interests being offered. The declared high bidder will be required to deposit a $50 nonreturnable filing fee (43 CFR 2720.1-2(c)) and one-fifth of the full bid price (43 CFR 2711.3-1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date.

DATES: The public auction will be held on December 27, 1983, at 10:00 a.m. If no acceptable bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the 4th Tuesday of January at the same hour and place and continued the 4th Tuesday of each succeeding month until the lands are sold as specified in this notice or the sale is otherwise terminated.

ADDRESSES: The public auction will be held at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Additional information concerning these lands, terms, and conditions of the sale and bidding instructions may be obtained from Mike Berch, Realty Specialist, at the above address or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: The land will be sold at public auction by modified competitive bidding. Jessie Little Naylor, Emmett, Idaho 83617, the adjoining landowner, will be the designated bidder to have preference right to purchase the parcel at the highest bid price. The preference right is offered because Mrs. Naylor is the historical grazing user, her deeded property adjoins the parcel on four sides and there is no legal access. For a period of forty-five (45) days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and by the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw

any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

Dated: October 14, 1983.

Martin J. Zimmer,

District Manager.

[FR Doc. 83-28601 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Intent To Enforce Specific Rules for Camping in Designated Campsites on McGregor Range, New Mexico

AGENCY: Bureau of Land Management, Las Cruces District, New Mexico, Interior.

ACTION: Notice of intent to enforce specific rules for camping in designated campsite on McGregor Range.

SUMMARY: Notice is hereby given that the Bureau of Land Management will enforce specific rules relating to recreational occupancy on use of the public land in accordance with the authority of the regulations contained in 43 CFR 8383.3 to protect the public health and safety, protect the lands from fire, prevent soil erosion, and to utilize and protect outdoor recreation and other resource values of the public lands.

On those public lands in southcentral Otero County, New Mexico, known as the McGregor Range, under joint administration of the Bureau of Land Management and the Department of the Army, the user, as a condition of use, shall: (a) Pitch tents or park trailers or place other camping equipment only in places provided for such purposes; (b) before departure, remove equipment and clean any rubbish from the place occupied for recreation purposes and (c) camp overnight only in places provides or posted for such purposes. This supplemental rule shall be in effect only on the day before and the dates of the McGregor Range Special Deer Entry Permits Hunts as published in the annual Proclamation of the New Mexico Department of Game and Fish. At all other times and on these dates, access will be limited to the dates and times specifically authorized by the United States Army Air Defense Center, Fort Bliss, Texas.

A Map of the subject area is available for inspection at the Bureau of Land Management, Las, Cruces District Office, Las Cruces, New Mexico.

DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel C.B. Rathbun, District Manager, Las Cruces District Office, P.O. Box 1420, Las Cruces, New Mexico 88004, Telephone: (505) 524-8551, FTS 571-8312

SUPPLEMENTARY INFORMATION: McGregor Range was withdrawn by the Army for use as a missile and artillery firing range. The Bureau of land Management was given the administration of livestock forage, livestock grazing, and wildlife habitat. New Mexico Department of Game and fish was given the administration of wildlife and the U.S. Fish and Wildlife Service was given the administration of animal damage control through Memoranda of Understanding written after the original withdrawal.

Nine designated campsites were established on McGregor Range to be used by hunters during the deer entry hunts allowed by the Army on specific weekends. The specific rules apply to these campsites.

Notice to the public will be given by posting the rulemaking at the check station during the hunt and by sending, prior to its start, a narrative description of the rulemaking to persons successfully drawing a hunt permit.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332[2][C]) is required.

Charles W. Luscher,

New Mexico State Director.

[FR Doc. 83-28603 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Utah; Vernal District Grazing Advisory Board; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Vernal District Grazing Advisory Board will be held on November 15, 1983.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 170 South 500 East, Vernal, Utah.

The agenda for the meeting will include: (1) Review of last year's minutes (2) Status of Ashley-Duchesne and Three Corners Range Program Summaries and the Bookcliffs Resource Management Plan (3) The status of FY 83/84 range betterment work (4) BLM-SCS ranch management plans (5) Utah Division of Wildlife range-wildlife related programs (6) Report of progress maintenance coop agreements (7) Review of proposed range betterment work FY 84 (8) Predator and pest control (9) District allotment evaluation program.

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, Bureau of Land Management, 170 South 500 East, Vernal, Utah by November 14, 1983.

Depending on the number of persons wishing to make statements, the District Manager may establish a per person time limit. Oral statements will be taken beginning at 10:30 a.m., November 15, 1983.

Summary minutes of the Board meeting will be maintained at the District Office and will be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 83-28602 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Intent To Amend the Scattered Blocks and East Mendocino Management Framework Plans, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to 43 CFR 1610.2(c), notice is hereby given that the Arcata Resource Area, Ukiah District, California, will prepare an amendment to the Management Framework Plans (MFPs) for the Scattered Blocks and East Mendocino Planning Units. These amendments are being done in response to an exchange proposal by Louisiana-Pacific Coporation.

DATE: The exchange is anticipated to be completed in April 1984.

FOR FURTHER INFORMATION CONTACT: Jack Lahr, Area Manager, Arcata Reasource Area, 1585 "J" Street, P.O. Box II, Arcata, California 95521, Telephone (707) 822-7648.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management is considering an exchange proposal by Louisiana-Pacific Corporation, and three tracts of land identified for disposal involve planning amemdments.

Parcel 4 is in Section 3 of T. 11 N., R. 15 W., M.D.M. and totals 40 acres. Parcel 5 is in Section 1 of T. 11 N., R. 15 W., and Section 35 of T. 12 N., R. 15 W., M.D.M. and totals 123.16 acres. Parcel 11 is in Section 18 of T. 20 N., R. 12 W.,

M.D.M. and totals 114.44 acres. Parcels 4 and 5 were identified in the Scattered Blocks MFP for retention and multiple-use management; parcel 11 is a finger of a large tract of land identified in East Mendocino MFP for multiple-use management. These parcels would be exchanged for privately owned land north of the King Range National Conservation Area to consolidate BLM administered land in that area. The public is invited to participate in the comment on the preparation of these planning amendments. General comments should be submitted to the Arcata Resource Area Manager within 30 days of the date of this notice. Other opportunities for public comment will be announced through the median, a mailing list, and the **Federal Register**.

Dated: October 12, 1983.

Van W. Manning,

District Manager.

[FR Doc. 83-28610 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

California Preliminary Recommendations for Benton-Owens Valley/Bodie-Coleville Wilderness Study Areas and Availability of the Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to the notice of availability extending the public comment period on the Draft EIS.

SUMMARY: On September 16, 1983, a Notice of Availability for the Draft Benton-Owens Valley/Bodie-Coleville Wilderness Environmental Impact Statement (EIS) was published in the **Federal Register** (48 FR 41651, September 16, 1983). That notice is hereby amended as follows: In the section entitled **"DATE,"** the first sentence should read; "The public comment period is open for 90 days through December 21, 1983."

This change is due to the EIS being filed by the Environmental Protection Agency on September 23, 1983.

DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald McGee, BLM, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, CA 93301, telephone: (805) 861-4191; or Bill Payne, BLM, California State Office, 2800 Cottage Way, Sacramento, CA 95825, telephone: (916) 484-4541.

Dated: October 11, 1983.

Ed Hastey,

California State Director.

[FR Doc. 83-28607 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[CA-13219]

Conveyance of Public Land; Riverside County, California

October 12, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713, 1719), Joseph L. Chiriaco, Inc., Chiriaco Summit, California 92201, has purchased by competitive sale public land in Riverside County, California, described as:

San Bernardino Meridian, California

T. 6 S., R. 12 E.,
Sec. 10, Lots 1, 3, 4, 6, 8, 10, and 12.
Containing 173.71 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Joseph L. Chiriaco, Inc.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83-28611 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease M 45934 Acquired, Hill County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination, August 1, 1983.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16-⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this notice.

Dated: October 13, 1983.

Cynthia L. Embretson,

Chief, Fluids Adjudication Section.

[FR Doc. 83-28616 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Prineville District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Prineville District Council will be held in the district conference room. The public and news media is welcome to attend any segment of the council meeting.

The agenda will consist of discussion of (1) the district wilderness program; (2) public land sale program and; (3) development of a resource management plan (RMP) on the Two Rivers Planning Area.

DATE: The meeting will be held on November 22, 1983, at 10:00 A.M. Persons wishing to address the Council either orally or in writing are requested to contact the District Manager at the address below by November 18, 1983.

ADDRESS: Bureau of Land Management, 185 E. 4th Street, Prineville.

Summary minutes of the meeting will be maintained in the District office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

Dated: October 12, 1983.

Gerald E. Magnuson,

District Manager.

[FR Doc. 83-28612 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32195]

Realty Action Competitive Sale of Public Land In Seneca County, Ohio

This will amend the Notice of Realty Action for public land sale ES 32195 published in the May 27, 1983, **Federal Register**, which announced the proposed sale of two federally owned parcels under Bureau of Land Management jurisdiction in Seneca County, Ohio. The date of the proposed sale has been postponed indefinitely.

Further details concerning the proposed sale are available from Robert Gausman, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virgina 22304.

Lane Bouman,

Acting Eastern States Director.

[FR Doc. 83-28816 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Craig District Advisory Council Meeting

In accordance with Public Law 94-579, notice is hereby given that there will be a field trip for the Craig District Advisory Council on November 2, 1983. The Council will tour the Cross Mountain Wilderness Study Area by helicopter.

Council Members will meet at 9:30 a.m. at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado.

The tour will be open to the public; however, the public must provide their own transportation.

Dated: October 11, 1983.

Gene R. Keith,

Acting District Manager.

[FR Doc. 83-28779 Filed 10-19-83; 11:01 am]

BILLING CODE 4310-84-M

[C-076707 et al.]

Colorado; Termination of Classifications

Correction

In FR Doc. 83-27235 beginning on page 45608 in the issue of Thursday, October 6, 1983, make the following corrections:

1. On page 45609, the first column, under **"Clay Creek to Beaver Creek Site"**, T. 45 N., R. 12 W., in Sec. 18, the second line should read "SW¼, and SE¼NE¼SW¼ excluding".

2. In the second column, the eleventh and twelfth lines, the date "December 30, 1965" should read "December 30, 1964".

3. In the third column, under **"Willow Creek Site"**, T. 9 N., R. 85 W., Sec. 5 should read "Sec. 5, lots 5, and 8, and Tracts 42A, B, C, D, and E;".

4. In the same column, under **"Black Canyon Site"**, T. 50 N., R. 8 W., in "Sec. 11", "NW¼" should read "NE¼".

5. On page 45610, the third column, under **"Idaho Springs Site"** T. 3 S., R. 72 W., in Sec. 34, the second line should read "SW¼SW¼, and SE¼SW¼."

BILLING CODE 1505-01-M

Minerals Management Service

Mid-Atlantic Lease Offering (June 1985); Call for Information

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and regulations appearing at 30 CFR 256.23. Potential bidders are requested to outline areas where they believe hydrocarbon potential is sufficient to warrant offering there areas in the Mid-Atlantic planning area. The Secretary is also requesting comments from all interested parties—Federal, State, and local governments, environmental groups, the general public, and potential bidders—on possible environmental effects and use conflicts in the Call area.

Use of Information From Call

Information submitted in response to this Call will be considered in the area identification which selects the areas of hydrocarbon potential to be proposed for leasing and analyzed in the environmental impact statement as the proposed Federal action. This information will also be used to identify alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects of oil and gas exploration and development, other than the benefits accruing to the Nation as a result of inventorying and producing oil and gas, can be assessed. These comments may also be useful in developing special lease terms and conditions designed to assure safe offshore operations.

Description of Area

The general area of this Call is offshore the States of Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina. It lies approximately between 35° and 41° N Latitude and extends from approximately 76° to 66° W Longitude at the easternmost point. Indications of interest and comments may be considered for all Federal acreage within the boundaries of the Call. The Call area is shown on the map at the end of this Call. The Call area is depicted in detail on the standard Call for Information Map available free from the Regional Manager, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

The following list identifies the Official Protraction Diagrams in this Call. The diagrams may be purchased for $2.00 each from the Regional Manager, Atlantic OCS Region.

NI 18-2 Manteo (Approved Oct. 31, 1974) All Federal Blocks.

NI 18-3 (Approved Oct. 31, 1974) All Federal Blocks.

NI 19-1 (Approved June 4, 1981) All Federal Blocks.

NJ 18-11 Currituck Sound (Approved April 25, 1978) All Federal Blocks.

NJ 18-12 (Approved April 18, 1979) All Federal Blocks.

NJ 19-10 (Approved May 21, 1980) All Federal Blocks.

NJ 18-8 Chincoteague (Approved Dec. 2, 1976) All Federal Blocks.

NJ 18-9 Baltimore Rise (Approved Dec. 6, 1976) All Federal Blocks.

NJ 19-7 (Approved May 21, 1980) All Federal Blocks.

NJ 19-8 (Approved May 21, 1980) All Federal Blocks.

NJ 18-5 Salisbury (Approved Oct. 31, 1974) All Federal Blocks.

NJ 18-6 Wilmington Canyon (Approved Oct. 31, 1974) All Federal Blocks.

NJ 19-4 (Approved Oct. 31, 1974) All Federal Blocks.

NJ 19-5 (Approved June 2, 1980) All Federal Blocks.

NJ 19-6 (Approved May 21, 1980) All Federal Blocks.

NJ 18-2 Wilmington (Approved Oct. 31, 1974) All Federal Blocks.

NJ 18-3 Hudson Canyon (Approved Oct. 31, 1974) All Federal Blocks.

NJ 19-1 Block Canyon (Approved June 22, 1977) The following Federal Blocks: 10-28, 54-72, 98-116, 142-160, 186-204, 230-248, 274-292, 318-336, 362-380, 406-424, 450-468, 494-512, 538-556, 582-600, 626-644, 670-688, 714-732, 757-776, 801-820, 845-864, 889-908, 933-952, 977-996.

NKK 18-12 New York (Approved Oct. 31, 1974) All Federal Blocks.

NK 19-10 Block Island Shelf (Approved June 22, 1977) The following Federal Blocks: 10-27, 54-71, 98-115, 142-159, 186-203, 230-247, 274-291, 318-335, 362-379, 406-423, 450-467, 493-511, 537-555, 581-599, 625-643, 669-687, 713-731, 757-775, 801-819, 845-863, 889-907, 933-951, 977-995.

NK 18-9 Hartford (Approved Oct. 31, 1974) All Federal Blocks.

NK 19-7 Providence (Approved Oct. 31, 1974) The following Federal Blocks: 504, 546-549, 587-593, 626-637, 666-681, 708-714, 717-725, 752-758, 761-769, 796-802, 805-813, 843-857, 887-901, 929-945, 972-989.

Instructions on Call

Indictions of interest from potential bidders should be limited to the Federal acreage included in the Call area described above. Respondents are requested to indicate areas within the Call area that they are interested in having included in the lease offering. Those indicating interest are requested to do so on the standard Call for Information Map, available free from the Regional Manager, Atlantic OCS Region, at the address stated in the first paragraph under "Description of Area," telephone (703) 285–2165. Interest should be shown by outlining the area(s) along block lines.

The standard Call map shows the Call area and highlights the area identified by the Minerals Management Service (MMS) as having potential for the discovery of oil and gas. Although individual indications of interest are considered to be privileged and confidential information, the names of persons or entities indicating interest or submitting comments will be of public record.

Respondents are encouraged to broadly rank areas according to priority of interest (e.g., priority 1 (high), 2, or 3). Priority information submitted by companies will be held confidential and may be used as a criterion in determining the area to be analyzed in the environmental impact statement.

In addition to indications of interest, we are seeking comments from all interested parties about particular geological, environmental, biological, archeological, or socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas. Comments should preferably address broad areas but may be restricted to designated blocks of particular concern. Those submitting comments are requested to outline the subject area on the standard Call map.

Indications of interest and comments must be submitted no later than 30 days following publication of this document in the **Federal Register** in envelopes labeled "Indications of Interest for Leasing in the Outer Continental Shelf, MidAtlantic" or "Comments on Leasing in the Outer Continental Shelf, Mid-Altantic" as appropriate. The map (original) and indications of interest or comments must be submitted to the Regional Supervisor for Leasing and Environment, Atlantic OCS Region, at the address stated in the first paragraph under "Description of Area". One copy of the map and indications of interest or comments are also to be sent to the Chief, Offshore Resource Evaluation Division, Minerals Management Service, Mail Stop 643, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

Final delineation of the area for competitive bidding will be made only at a later date after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the OCS Lands Act, as amended. A final Notice of Lease Offering, detailing areas to be offered for competitive bidding, will be published in the **Federal Register** stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Dated: October 7, 1983.

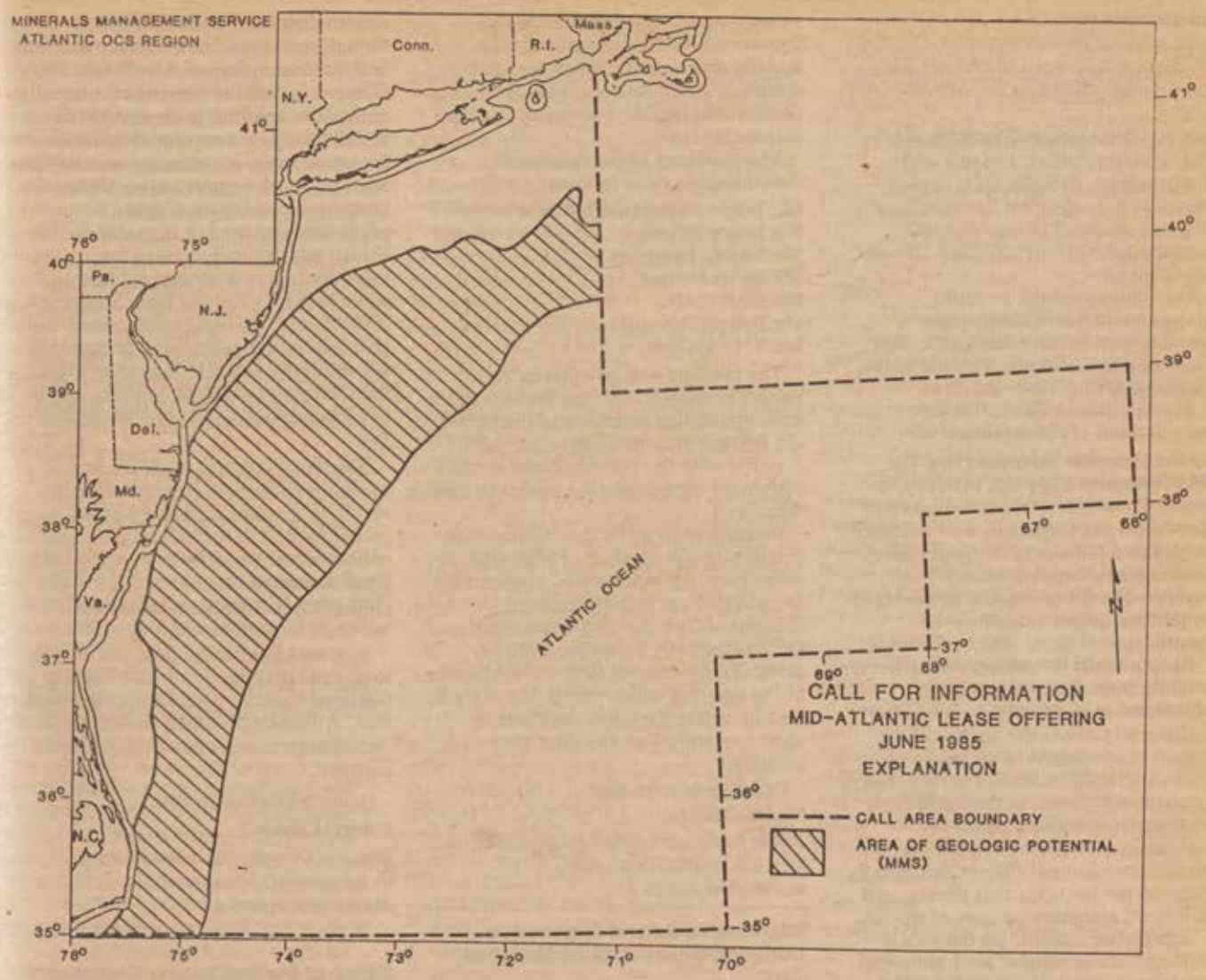
David C. Russell,

Acting Director, Minerals Management Service.

Approved October 12, 1983.

William P. Pendley,

Deputy Assistant Secretary of the Interior.



[FR Doc. 83-28565 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Atlantic OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and Findings Of No Significant Impact (FONSI's) prepared by the MMS for the following oil and gas exploration activities proposed on the Atlantic OCS. This listing includes all proposals for lease operations for which environmental documents were prepared by the Atlantic OCS Region in the 3-month period preceding this Notice.

Operator/activity	Location	FONSI date
Shell Offshore Incorporated/ Exploration Plan.	OCS Block 586 (NJ 18-6) (95 statute miles Southeast of Atlantic City, N.J./ Wilmington Canyon area).	7/22/83
Shell Offshore Incorporated/ Exploration Plan.	OCS Block 372 (NJ 18-6) (98 statute miles Southeast of Atlantic City, N.J./ Wilmington Canyon area).	7/22/83

Persons interested in reviewing environmental documents for the proposal listed above or obtaining

information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the appropriate offices in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Leasing and Environment, Atlantic OCS Region, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285–2165, FTS–8–285–2165.

For copies contact: Records Management Section, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285–2191, FTS–8–285–2191.

There will be a charge for the reproduction of these documents.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activites described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Bruce G. Weetman,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83-28644 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Canaveral National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 2:00 p.m. on Thursday, November 17, 1983, in the Southeast Bank Building, DeBerry Room, 200 Canal Street, New Smyrna Beach, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult an advise with the Secretary of the Interior or his designee on matters of planning, development and operation of the Canaveral National Seashore. The agenda will include: North Access Road contract; alternate access study (Playalinda Beach); preservation of the ElDora House.

The members of the Advisory Commission are as follows:

Mr. James Reinman, Chairman
Mr. James Powell
Mr. Ney C. Landrum
Ms. Doris Leeper
Mr. Sion Faulk
Mr. Peter E. Cardiff
Mr. T. C. Wilder

The meeting will be open to the public: however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matter to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Donald Guiton, Superintendent, Canaveral National Seashore, Post Office Box 6447, Titusville, Florida 32782. Telephone 305/867–4675. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 11, 1983.

Neal G. Cuse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 83-28623 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-70-M

Intention To Extend Concession Contract; Moses H. Cone Memorial Park

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to extend a concession contract with Crafts of Nine States, Inc., authorizing it to continue the operation of a crafts center within the Moses H. Cone Memorial Park on the Blue Ridge Parkway for a period of one year from January 1, 1984, through December 31, 1984.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1983, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the negotiation of a new contract. This provision, in effect, grants Crafts of Nine States, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Crafts of Nine States, Inc. If Crafts of Nine States, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Crafts of Nine States, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, GA 30303, for information as to the requirements of the proposed contract.

Dated: September 27, 1983.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 83-28622 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Availability of Draft Combined Petition Evaluation Document/Environmental Impact Statement and Notice of Public Hearing for National Wildlife Federation/Wyoming Wildlife Federation's Petition To Designate Certain Lands, Known as the Red Rim Area, in Carbon and Sweetwater Counties, Wyoming, as Unsuitable for Surface Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of the draft combined petition evaluation document/environmental impact statement that evaluates whether certain lands on Red Rim should be designated as unsuitable for surface coal mining operations and notice of public hearing to receive comments on the petition and draft document.

SUMMARY: OSM and the Wyoming Department of Environmental Quality (DEQ) have jointly prepared an evaluation of National Wildlife Federation/Wyoming Wildlife Federation's petition to designate certain lands in Carbon and Sweetwater Counties, Wyoming, as unsuitable for all or certain types of surface coal mining operations. The petition alleges that the mining of lands on the area known as Red Rim would adversely affect fragile land which is valuable habitat for pronghorn antelope and that reclamation of this land is not technologically and economically feasible under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Copies of the draft combined petition evaluation document/environmental impact statement are being made available today. OSM and Wyoming DEQ have arranged delivery to assure that known interested parties have a full 60 days for review and comment. A joint OSM and Wyoming Environmental Quality Council public hearing to receive comments on the petition and draft document will be held starting at 9 a.m. on December 6, 1983, and will continue, if necessary, on subsequent days until all who desire to speak have been heard. Parties to the proceeding will be allowed to cross examine expert witnesses. General comments from the public, which will not be subject to cross examination, will be heard beginning at 10:30 a.m., 3:30 p.m., and 7:00 p.m. on December 6, 1983, and at 10:30 a.m. and 3:30 p.m. on subsequent days until the hearing is concluded. Additional information on the mailing addresses for comments and the location of the public hearing is given below.

DATES: Written comments on the draft document must be received by 5:00 p.m., December 23, 1983, at the addresses given below. A public hearing will be held starting at 9 a.m. on December 6, 1983, at the address given below, and will continue, if necessary, on subsequent days until all who desire to speak have been heard.

ADDRESSES: Written comments on the draft document may be mailed or hand-carried, and must be received by the date and time given above, to Mr. Allen Klein, Administrator, Western Technical Center, Office of Surface Mining, 1020 15th Street, Denver, Colorado 80202 or Mr. Patrick Boles, Wyoming Department of Environmental Quality, Equality State Bank Building, 401 West 19th Street, Cheyenne, Wyoming 82002.

Copies of the draft document are available at OSM and Wyoming DEQ at the addresses listed above and at the following two locations:

Bureau of Land Management, 1300 North 3rd Street, Rawlins, Wyoming 82301, Telephone: (307) 343-7171

Office of the County Clerk, Carbon County Courthouse, Fifth and Spruce Streets, Rawlins, Wyoming 82301, Telephone: (307) 328-2668

The public hearing will be held at the Jeffrey Memorial Community Center, East Room, Third and Spruce, Rawlins, Wyoming.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, OSM, Western Technical Center, 1020 15th Street, Denver, Colorado 80202 (telephone [303] 837-5421) or Patrick Boles, Wyoming DEQ (telephone [307] 777-7756) at the addresses listed above.

SUPPLEMENTARY INFORMATION: The draft combined petition evaluation document/environmental impact statement was prepared jointly by OSM and Wyoming DEQ; it presents their analyses of the potential coal resources of the petition area, of the demand for coal resources, and of the impact of an unsuitability designation on the economy and the supply of coal; of the impact of mining on the critical winter habitats of pronghorn; of the impact of mining on other resources; of the reclaimability of the site should it be mined; and of the impacts of adopting the various State and Federal alternatives.

A public hearing is scheduled at the time and place indicated under **"DATES"** and **"ADDRESS"** above. Parties to the proceeding will be allowed to cross examine expert witnesses. General comments from the public, which will not be subject to cross examination, will be heard beginning at 10:30 a.m., 3:30 p.m., and 7:00 p.m. on December 6, 1983, and at 10:30 a.m. and 3:30 p.m. on subsequent days until the hearing is concluded. These general public comments will be limited to 10 minutes of oral testimony. Anyone who wishes to comment will be given the opportunity to do so. Persons wishing to present testimony should contact OSM, Western Technical Center, or Wyoming DEQ at the addresses given above, and should register to speak at the hearing. All persons giving oral testimony at the hearing are strongly encouraged to bring three copies of written statements for presentation to the hearing panel. Submission of written statements to the OSM and Wyoming DEQ addresses given above, in advance of the hearing date, would be helpful by giving OMS and Wyoming Environmental Quality Council officials an opportunity to consider appropriate questions, which could be asked to clarify or to elicit more specific information from the person commenting.

All written comments may be mailed or hand-carried to OSM, Western Technical Center, or to Wyoming DEQ at the addresses listed above, but must be received no later than the time indicated under **"DATES"** in order to be considered.

Until December 2, 1983, at 5:00 p.m., any person may file an application for intervention in the proceedings at the above OSM and Wyoming DEQ addresses. Such application must contain allegations of fact, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the invervenor's name, address, and telephone number.

For further information on the petition allegations, petition events, location of the petition area, and locations of the public record on the petition, see the notice of complete petition in the **Federal Register** on January 5, 1983 (48 FR 523). For further information on the draft combined petition evaluation document/environmental impact statement's compliance with Section 522 of SMCRA and Section 102(2)(C) of the National Environmental Policy Act, see the notice of intent to prepare a combined unsuitability petition evaluation document/environmental impact statement in the **Federal Register** on June 29, 1983 (48 FR 29961).

Dated: October 14, 1983.

Dean Hunt,

Assistant Director, Technical Services and Research.

[FR Doc. 83-28624 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Meeting Cancellation

Notice is hereby given in accordance with the Federal Advisory Committee Act that the A.I.D. Research Advisory Committee meeting scheduled for October 27-28, 1983 at the Pan American Health Organization Building, 525-23rd Street, NW., Washington, D.C., Conference Room 'C' has been cancelled. Notice of alternate meeting dates will be published in the **Federal Register.** It is suggested that those desiring more specific information contact Mr. Floyd O'Quinn, 1601 N. Kent St., Arlington, Va. 22209 or call area code (703) 235-8929.

Dated: October 18, 1983.

Erven J. Long,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 83-28771 Filed 10-19-83; 8:45 am]

BILLING CODE 5116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30300]

CSX Corp., Control, Purchase, and Tariff Filing Exemptions; Control, American Commercial Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Decision to waive or to clarify certain filing requirements and to require applicants to file additional information.

SUMMARY: The Commission grants substantially all of applicants' requests for waivers and clarifications of certain filing requirements under railroad consolidation regulations, 49 CFR Part 1180 and environmental and energy regulations, 49 CFR Parts 1105 and 1106. The Commission also requires applicants to submit additional information regarding their operations and the competitive impacts of the proposed transaction.

DATES: The supplemental information must either be included in the application or be filed separately no later than 21 days after the filing date of the application. The application will not be accepted as complete until the supplemental information is received. All statutory deadlines under 49 U.S.C. 11345 shall, however, be computed with reference to the filing date of the application, not the date of submission of the supplemental information.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

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, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28561 Filed 10-19-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-33]

Joseph D. Lehmberg d.b.a. Ridgefield Pharmacy; Denial of Application

On October 14, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Joseph D. Lehmberg, d.b.a. Ridgefield Pharmacy (Respondent), an Order to Show Cause proposing to deny the Respondent's application for registration. By letter dated November 8, 1982, the Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. Respondent was represented by counsel throughout the prehearing stages of the proceeding, which included two telephone conferences.

The hearing was held in Portland, Oregon on May 12, 1983. Administrative Law Judge Francis L. Young presided. At the hearing, Respondent appeared without counsel and represented himself. After the hearing, proposed findings and conclusions and a supporting brief were filed on Respondent's behalf by an attorney other than the one who had previously represented him. The Government also filed proposed findings of fact, conclusions of law and a supporting argument. On July 26, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and on Government counsel. No exceptions were filed and, on August 23, 1983, Judge Young transmitted the record of these proceedings to the Acting Administrator. The Acting Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

An investigation of Respondent by Trooper James Gleason of the Washington State Patrol commenced on August 9, 1981. Respondent is the owner of Ridgefield Pharmacy in Ridgefield, Washington, a town of about 1,000 people. At the time of the investigation, Respondent was also Ridgefield Pharmacy's managing pharmacist.

Trooper Gleason, acting in an undercover capacity, went to Respondent's pharmacy on many occasions between April 9, 1981 and June 11, 1981. On several occasions, Gleason asked for Terpin Hydrate, an over-the-counter Schedule V cough suppressant. Each time, an employee at the pharmacy entered information about Trooper Gleason in the Schedule V register book that Washington law required the pharmacy to maintain. However, Trooper Gleason observed that the space for the pharmacist's initials was left blank regarding numerous purchases. Washingon, law required the pharmacist to initial this space.

On other visits to the pharmacy, Trooper Gleason brought prescriptions from a cooperating physician for various quantities of Tussionex, Valium and Percodan. Each prescription was marked nonrefillable and stated that it required a label. Respondent would fill these prescriptions. When Trooper Gleason would return and ask for a refill without bringing a new prescription, Respondent would give him more of the controlled substances even though the prescriptions had been marked nonrefillable. Respondent, however, would not give Trooper Gleason a refill of the Percodan prescription, feeling that is was "to risky" since Percodan is a Schedule II controlled substance. It is a known fact though, that Tussionex is a heavily abused controlled substance in Washington State that is valued by drug users. At no point did Respondent call the cooperating physician who issued the prescriptions for a refill authorization.

On June 1, 1981, Respondent sold to Trooper Gleason and 8-ounce bottle of Tussionex, a vial of Valium, and 25 tablets of diethylpropion or Tepanil Tentabs. Trooper Gleason did not give Respondent a prescription for any of these controlled substances.

On January 27, 1982, Respondent was convicted of three counts of a nine-count Information following his plea of guilty to each of those three counts. The instances of unlawful distribution of controlled substances of which Respondent was convicted were the three deliveries to Trooper Gleason on June 1, 1981. Therefore, a lawful or statutory basis exists to deny Respondent's application for registration. *Serling Drug Company*, Docket No. 74-12, 40 FR 11918 (1975); *Raphael C. Cilento, M.D.*, Docket No. 79-2, 44 FR 30466 (1979); and *Thomas W. Moore, Jr., M.D.*, Docket No. 79-13, 45 FR 40743 (1980).

The Administrative Law Judge's opinion illustrates other indications of Respondent's disregard of his professional duty as a pharmacist to protect the public health. On June 10 and 11, 1981, Trooper Gleason had a series

of conversations with Respondent in which Gleason led Respondent to understand that Gleason wanted to purchase large quantities of controlled substances without prescriptions and for no legitimate medical purpose. Gleason told Respondent that he had a connection in Mexico willing to trade marijuana and cocaine for good pharmaceutical drugs. Respondent expressed a willingness to participate in such activities.

On June 15, 1981, Investigator Richard D. Morrison of the Washington State Board of Pharmacy along with other officers began an audit of Ridgefield Pharmacy's controlled substances. Respondent was unable to produce a controlled substance inventory. Prescriptions and patient profile cards were the pharmacy's sole source of distribution records of controlled substances.

During the audit, it was observed that Respondent refilled controlled substance prescriptions from his patient profile cards, not from the prescription itself. This is unacceptable procedure since the patient profile cards do not include the prescribing physician's directions regarding refills.

The results of the audit showed that Respondent could not account for at least 895 ounces of Tussionex suspension; 1,987 Valium 5 mg. tablets; 800 Valium 10 mg. tablets; and 2,102 Vicodin tablets. The only reasonable inference regarding these shortages is that these quantities were sold illegally by Respondent.

Judge Young, in his opinion, stated that, "this is one of the most difficult cases to come before this administrative tribunal." Respondent is highly respected as a citizen and as a professional by members of the two communities in which he has owned pharmacies. The fact is evidenced by witness testimony and by the numerous letters submitted in Respondent's behalf but that is not at issue here. Instead, the Acting Administrator must determine Respondent's ability to effectively and legally dispense controlled substances.

It is true that while this investigation was underway, Respondent notified the police of several attempts to obtain Schedule II drugs with forged prescriptions. However, Respondent never reported to local police or to any law enforcement or regulatory authority any of Trooper Gleason's actions or suggestions or proposals.

Judge Young observed that the Respondent seemed unaware of the harm that his indifferent attitude towards controlled substances could create. Without a real awareness of the importance of pharmacists adhering closely to the laws and regulations, Judge Young concluded that Mr. Lehmberg could not be entrusted to retain a registration and carry out the responsibilities of such registration. In a postscript to the opinion directed to Respondent's many character witnesses, Judge Young cited a recent ABC radio network broadcast. It included statistics regarding the abuse of "soft" (prescription) drugs:

> 75% of all drug overdose deaths are from prescription drugs; 15 out of 20 drugs combatted in emergency room crises by abusers come from prescription drugs; three out of four drugs involved in death or emergency treatment are prescription drugs. "Perspective," July 3, 1983.

Not only was Respondent involved in the diversion of these legitimate drugs into the illegitimate market, but he was also willing to participate in a scheme to market cocaine and marijuana. The facts clearly show that Respondent is willing to ignore his professional responsibility to protect the public health in order to attempt to rectify his personal financial difficulties. The Administrative Law Judge has recommended that the Respondent's application for registration be denied. The Acting Administrator adopts the recommended ruling, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The application must be denied.

Therefore, having concluded that there is a lawful basis for the denial of the Respondent's application for registration, and having further concluded that under the facts and circumstances presented in this case, the application should be denied, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. sections 823 and 824 and 28 CFR 0.100(b), hereby orders that the application of Joseph D. Lehmberg, for the registration of Ridgefield Pharmacy under the Controlled Substances Act, be and it hereby is, denied effective November 21, 1983.

Dated: October 12, 1983.

Frank V. Manastero,

Acting Administrator.

[FR Doc. 83-28597 Filed 10-19-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-32]

Raymond H. Wood, Jr., D.D.S., Revocation of Registration; Denial of Application

October 14, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued to Raymond H. Wood, Jr., D.D.S. (Respondent), of Ocala, Florida, and Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration, AW0106535, and to deny the Respondent's application, dated April 15, 1982, for renewal of that registration.

On November 12, 1982, Respondent, through his counsel, requested a hearing on the issues raised by the Order to Show Cause, this matter was placed on the docket of Administrative Law Judge Francis L. Young. Judge Young ordered that counsel for the Government and for the Respondent file and exchange written prehearing statements. On January 5, 1983, the Administrative Law Judge issued his Prehearing Ruling and the case was set for hearing.

The hearing is this matter was held in Tampa, Florida, on February 16, 1983. Both the Government and the Respondent were represented by counsel. Respondent, himself, was not present as he was at the time of the hearing incarcerated at Eglin Air Force Base, Florida. On June 3, 1983, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the administrative Law Judge's opinion were served on both the counsel for the Government and for the Respondent. No exceptions were filed, and on June 29, 1983, Judge Young transmitted the record of these proceedings to the Acting Administrator. The Acting Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

Based on an investigation conducted prior to October 1980, norcotic agents had grounds to believe that Respondent was predisposed to participate in schemes for the unlawful importation and distribution of marijuana. Subsequently, an investigation began in late October 1980.

During the hearing regarding the

instant proceeding. DEA Special Agent Allen Lively, who participated in the investigation of Respondent testified. Agent Lively stated that Respondent lined up buyers for marijuana that was available for purchase in Florida; made a downpayment of $55,000 for marijuana that was to be purchased in Columbia; secured an airstrip in Columbia on two separate occasions to be used in the deal; obtained "front money," approximately $3,500, for gasoline and expenses for the flight; and attempted to secure legal fees for co-conspriators who had been arrested, to ensure that they would not talk.

On February 17, 1982, Respondent was arrested. Dr. Wood pled guilty to one count of a ten-count indictment. On March 22, 1982, Respondent was adjudged convicted of unlawfully, intentionally and knowingly combining, conspiring, confederating and agreeing with others unlawfully to possess with intent to distribute more than 1,000 pounds of marijuana, a Schedule I controlled substance, which is a felony offense. He was sentenced to six years imprisonment.

There is, therefore, lawful or statutory grounds for the revocation of Respondent's DEA Certification of Registration, and for the denial of his application for renewal of such registration under 21 U.S.C. 824(a)(2). Respondent, however, argues that his conviction arose out of dealings involving marijuana, and had nothing to do with his manner of administering or dispensing controlled substances used in the course of his dental practice. Judge Young agreed with Respondent's assertion, but noted that this does not necessarily mean that Respondent must be permitted to retain that registration. Section 824(a) of Title 21 provides that a registration may be revoked upon a finding that the registrant has been convicted of a felony relating to *any* controlled substance. Marijuana is a Schedule I controlled substance.

Respondent's conviction illustrates that he is willing to disregard not only the law, but also his professional responsibility to preserve the public health in exchange for large amounts of money. The Administrative Law Judge has recommended that the Respondent's Certificate of Registration, AW0106535, be revoked and his pending application for renewal of said Certificate of Registration be denied. Judge Young cites as precedent for revocation, *In re Aaron Moss, D.D.S.*, Docket No. 80-2, 45 F.R. 72850 (1980), where a dentist was denied DEA registration after acting as a courier to smuggle cocaine into the country posing as a tourist returning home from pleasure trips.

The Acting Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. Having concluded that there is a lawful basis for revocation of Respondent's Certificate of Registration and for denial of his pending application for renewal thereof, and having further concluded that under the facts presented in this case, the Certificate of Registration should be denied, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AW0106535, previously issued to Raymond H. Wood, Jr., D.D.S., be, and it hereby is, revoked. Respondent's pending application for renewal of DEA Certificate of Registration AW0106535 must be, and it hereby is denied.

Dated: October 14, 1983.

Frank V. Monastero,

Acting Administrator.

[FR Doc. 83-28589 Filed 10-19-83; 8:45 am]

BILLING CODE 4410-09-M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on November 21, 1983, starting at 9:00 a.m., at the Concord Hilton, 1970 Diamond Boulevard, Concord, California, 94520. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Larry Solomon

Acting Director.

[FR Doc. 83-28545 Filed 10-19-83; 8:45 am]

BILLING CODE 4410-05-M

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

1. Date: November 7, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Romance Panel, Division of Research Programs, for projects beginning after April 1, 1984.

2. Date: November 7, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted to Research Resources: History and Criticism of Art & Architecture Panel, Division of Research Programs, for projects beginning after April 1, 1984.

3. Date: November 14, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Near Eastern Panel, Division of Research Programs, for projects beginning after April 1, 1984.

4. Date: November 14–15, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted to Research Resources: American Studies Panel II, Division of Research Programs, for projects beginning after April 1, 1984.

5. Date: November 21, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Asian Panel, Division of Research Programs, for projects beginning after April 1, 1984.

6. Date: November 21–22, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted to Research Resources: World Studies Panel, Division of Research Programs, for projects beginning after April 1, 1984.

7. Date: November 28, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Germanic Panel, Division of Research Programs, for projects beginning after April 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider

information that is likely to disclose: (1) Trade secrets and commercial of financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6)(9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 83-28573 Filed 10-19-83; 8:45 am]

BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Proposed Revised Supplemental Guidance on Implementation of the Privacy Act of 1974

AGENCY: Office of Management and Budget.

ACTION: Request for comments on proposal to revise guidance on implementation of the Privacy Act of 1974.

SUMMARY: This document extends the period for public comment on a proposal to revise certain Privacy Act implementation guidance. The proposal was published in the **Federal Register** on August 11, 1983 (48 FR 36359).

FOR FURTHER INFORMATION CONTACT: Robert N. Veeder, Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3235, New Executive Office Building, Washington, D.C. 20503; telephone (202) 395-4814.

SUPPLEMENTARY INFORMATION: On August 11, 1983, OMB published a notice in the **Federal Register** soliciting public comment on a proposal to revise guidance on the relationship of the Freedom of Information Act and the Privacy Act of 1974. Interested parties were invited to provide comments on or before October 1, 1983. Because of recent judicial activity in this area, OMB is extending the comment period until December 1, 1983. Comments should be sent to the Office of Information and Regulatory Affairs, Washington, D.C. 20503. For the convenience of those who may wish to comment or to revise comments already provided, the text of the proposal is reproduced below.

The Office of Management and Budget proposes to revise its "Inplementation of the Privacy Act of 1974 Supplementary Guidance" **Federal Register**, Volume 40, No. 234, dated December 4, 1975, 56741) as follows:

"The first and last paragraphs of section 8, 'Relationship to the Freedom of Information Act (subsection (q)' are deleted. The following is added to the end of the section 8:

The Privacy Act and the FOIA should be read together to permit an agency to deny access to records sought by the subject individual under the FOIA on the basis of exemption (b)(3) if those records are exempted from release to the individual under the Privacy Act. This interpretation is supported by the majority of courts that have reviewed the question of the relationship between the two laws. They have held that the Privacy Act is a (b)(3) statute for purposes of the FOIA. (Note that the D.C. Circuit created a split in the circuits when it held that the two laws must be read independently.)

FOIA exemption (b)(3) provides that access under the FOIA is not required if the material sought is specifically barred from disclosure by statute (other than by the FOIA itself), provided that such statute (a) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (b) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Records may be withheld from the individual under the Privacy Act if they are maintained in exempt systems of records as provided by sections (j) or (k) of the Act or if the records were compiled in reasonable anticipation of civil action or proceedings as provided in subsection (d)(5). (Note, however, that for certain exempt systems, substantial portions of the covered records may be required to be released. For example, see the requirements of (k)(5).)"

Christopher DeMuth,

Administrator for Information and Regulatory Affairs.

[FR Doc. 83-28585 Filed 10-19-83; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, November 3, 1983
Thursday, November 10, 1983
Thursday, November 17, 1983

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public.

upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415, (202) 632-9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

October 12, 1983.

[FR Doc. 83-28554 Filed 10-19-83; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 14, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Newport Electric Corporation
Common Stock, No Par Value (File No. 7-7163)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 7, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28633 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[SR-CBOE-83-29; Rel. No. 20284]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

October 14, 1983.

On September 2, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, IL 60604, filed with the Securities and Exchange Commission (the "Commission") a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 under the Act. The proposed rule change would amend CBOE Rule 24.9 to provide that CBOE broad-based stock index options [1] may expire either at three-month intervals or in consecutive months. Currently, CBOE's individual stock, debt and index options expire at three-month intervals only. The proposal would allow CBOE to maintain no more than four different expirations when an index option expires in consecutive months. CBOE is also proposing to permit the opening of a new series of stock index options that have 30 days or more remaining to expiration on their first day of trading; currently CBOE does not allow a new series of options to open if there is less than 45 days remaining to expiration on their first day of trading.

The CBOE proposal is virtually identical to an American stock Exchange, Inc. ("Amex") proposal approved by the Commission on September 20, 1983.[2] The only difference between the Amex and CBOE proposals is that Amex provided that all Amex's broad-based index options would expire in consecutive months, while under CBOE's proposal CBOE may choose whether each of its broad-based index options will expire in three-month intervals or in consecutive months.[3]

Notice of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20156, September 9, 1983) and by publication in the Federal Register (48 FR 41123, September 13, 1983). No comments were received with respect to the proposed rule filing.[4]

The Commission finds that the CBOE proposal is in all material respects identical to the Amex proposal regarding monthly expiration that we recently approved.[5] For the reasons set forth in the Amex Release, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the act, that the proposed rule change is approved, effective as of December 1, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28636 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[SR-CBOE-83-36; Re. No. 20285]

Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change

October 14, 1983.

On October 7, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604, filed with the Securities and Exchange Commission (the "Commission") a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and

[1] In its initial filing CBOE proposed allowing all its index options—broad or narrow-based—to expire in consecutive months. CBOE subsequently amended the proposed rule change to limit its applicaiton to broad-based index options. *See* Amendment No. 2, filed with the Commission on October 7, 1983. CBOE currently lists and trades two broad-based index options—The standard and Poor's 100 Index ("SP 100") Option and the Standard and Poor's 500 Index ("S&P 500") Option.

[2] Securities Exchange Act Release No. 20201, September 20, 1983; 48 FR 43747, September 26, 1983 (the "Amex Release"). The Amex proposal was approved effective as of December 1, 1983.

[3] The Commission notes that, because of the choice CBOE leaves itself under its proposal, it is required to submit a separate filing under Rule 19b-4 designating which of its broad-based index options it wishes to trade with expirations in consecutive months. The CBOE has submitted and the Commission has approved a CBOE proposal to trade its S&P 100 option contract with monthly expirations; this leaves the CBOE's S&P 500 option contract on its current March quarterly expiration cycle. Securities Exchange Act Release No. 20285, October 14, 1983.

[4] The Commission has previously received and considered substantial comment on monthly expirations. *See* the Amex Release.

[5] *See* note 2, *supra*.

Rule 19b–4 under the Act. We are publishing this notice to solicit your comments on this proposed rule change, which is described below.

CBOE proposes to list option contracts which expire in consecutive months on CBOE's Standard and Poor's ("S&P") 100 index options contract. In a parallel proposal approved by the Commission today, CBOE changed its rules to allow the listing and trading of broad-based index options which expire either in three-month intervals or in consecutive months, such approval will be effective on December 1, 1983.[1] By this filing, CBOE would trade S&P 100 Index Options with monthly expirations; the other CBOE broad-based index option, the S&P 500 Index Option, would continue to expire at three-month intervals. The CBOE states that the statutory basis of the proposed rule change is Section 6(b)(5) of the Act.

You are invited to submit written data and views concerning the submission within 21 days from the date of publication in the **Federal Register**. If you desire to submit written data and views, please file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Please refer to File No. SR–CBOE–83–36.

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 at the principal office of the CBOE.

Because the Commission's approval of CBOE's rule change alowing either quarterly or monthly expirations does not become effective until December 1, 1983, the effective date of approval of this proposal also will be December 1, 1983. Subject to that condition, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

[1] Securities Exchange Act Release No. 20284, October 14, 1983.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date notice of the filing was published. As noted above, notice of the possibility that CBOE might seek to trade one or more broad-based index options contracts on a monthly expiration cycle previously was published. Hence, this proposal, which simply implements the authority CBOE already has sought, is largely technical and administrative in nature. Prior notice of the proposed rule change is, therefore, unnecessary to provide the public an adequate opportunity to comment or to protect investors and the public interest. Furthermore, approval of the proposed rule change at this time will provide broker-dealers and the public the maximum amount of time possible to prepare for the establishment of monthly expirations in the S&P 100 Index Options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change is approved, effective as of December 1, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28837 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[File. No. SR-DTC-83-7; Rel. No. 20291]

Depository Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change

October 14, 1983.

On September 23, 1983, the Depository Trust Company (DTC) filed with the Securities and Exchange Commission a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends DTC's fee to participants for DTC's Payment Order Service to a charge of $0.45 for paper instructions and $0.34 for instructions via the Participant Terminal System ("PTS"). DTC's Payment Order Service provides participants with a convenient method for setting certain money payments related to securities transactions. DTC asserts that efficiencies and other benefits associated with the use of PTS, as well as DTC's policy of encouraging such use, warrant the reduced fees for payment orders processed through PTS. DTC believes the proposed rule change is consistent with section 17A(b)(3)(D) of the Act which authorizes DTC to adopt reasonable fees for the services which it provides to participants.

This rule change has become effecitve, under Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days after September 23, 1983, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You are invited to submit written data and views concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. If you decide to comment on this rule change, please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Please refer to File No. SR–DTC–83–7.

DTC's proposed rule change and all related documents (other than those which may be withheld form 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, 450 Fifth Street, NW., Washington, D.C. Copies of DTC's submission and any subsequent amendments also will be available for inspection and copying at the principal office of DTC.

For the Commission, by the Division of Market Regulation Pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28834 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[SR-NASD-83-8; Release No. 20288]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

October 14, 1983.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, submitted on May 31, 1983, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend the NASD Uniform Practice Code ("Code"). The principal modification made by the proposed rule change is the application of the Code to unit investment trust ("UIT") securities. A number of

amendments to the existing language of the Code also are proposed which conform various sections with the inclusion of UIT's in the Code's coverage. A new Section 50(c)(ii) is added to provide a buy-in procedure for UIT's similar to the provisions of the Municipal Securities Rulemaking Board's Rule G–12.

The NASD states that the inclusion of UIT's under the Code will provide industry-wide uniformity for the trading and trade-processing of UIT's. In addition, the proposed rule change clarifies that the Code applies only to secondary market transactions and excludes both redeemable securities registered under the Investment Company Act of 1940 other than UIT's and direct participation program securities from the Code's coverage. These provisions will codify current NASD practice.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 20060, August 5, 1983) and by publication in the **Federal Register** (48 FR 36718, August 12, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A 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 change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28635 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. SR-PCC-82-7, SR-PCC-83-3 and SR-PCC-83-4; Release No. 20286]

Pacific Clearing Corp.; Order Approving Proposed Rule Changes

October 14, 1983.

On September 27, 1982, July 14, 1983, and August 16, 1983, Pacific Clearing Corporation ("PCC") submitted to the Commission proposed rule changes [1] pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b–4 thereunder. The proposals were filed to update and to conform PCC's rules to the Act and the Division of Market Regulation's Standards concerning full registration of clearing agencies.[2] No comments were received by the Commission.

File No. SR–PCC–82–7 consolidates into a single rule: (i) Minimum standards for admission to PCC and continuing participation in PCC; (ii) PCC's authority to discipline participants; and (iii) the rights and obligations of PCC and its applicants and participants if PCC limits, denies or conditions their access to PCC. The filing also sets forth PCC's Standards of Financial Responsibility and Operational Capability ("Standards"), which PCC would apply to its members and applicants for membership. These largely separate Standards for broker-dealers and banks provide: (i) Minimum financial and operational requirements for members and applicants; (ii) criteria for closer surveillance of certain securities issues and financially or operationally troubled members; (iii) guidelines for requiring members to provide PCC specified further assurances of financial responsibility and operational capability; and (iv) requirements for members to report to PCC capability; and (iv) requirements for members to report to PCC on a regular basis and upon the occurrence of specified events.

File No. SR–PCC–83–3 modifies existing rules or adds new rules regarding: (a) The operation of PCC's continuous net settlement ("CNS") system; (b) members' payment of daily money settlement obligations; (c) "good delivery" requirements for physical securities deliveries into the CNS system; (d) calculation and collection of members' mark-to-the-market requirements; (e) PCC's buy-in procedures; (f) PCC's reclamation procedures; and (g) PCC's dividend and interest payment procedures. The filing also includes significant enhancements to PCC's safeguarding systems by modifying existing rules or adding new rules regarding: (a) PCC's liens on members' valued positions; (b) PCC's authority to levy and collect from members further assurances of financial responsibility and operational capacity; (c) PCC's rights to suspend summarily members in certain circumstances and to close out their securities positions; (d) PCC's insolvency procedures, including authority to reverse certain securities deliveries and to buy-in and sell-out the insolvent's securities positions; (e) PCC's rights to decline to act for financially solvent members; (f) PCC's authority to institute financial responsibility and operational capability standards for applicants and members; (g) PCC's rights to discipline members; and (h) PCC's hearing and appeal rights and procedures for aggrieved applicants and members. The proposal also includes a new rule requiring PCC to have an audit of its system of internal accounting controls by an independent public accountant and to furnish to members copies of the accountant's report. In addition, the filing adds new procedures for nominating and electing individuals to PCC's board of directors.

Finally, File No. SR–PCC–83–4 would amend both PCC's authority regarding its clearing fund and the clearing fund's structure. First, PCC would maintain a clearing fund separate from the participants fund of its affiliated registered securities depository, Pacific Securities Depository Trust Company ("PSDTC"). Second, PCC would be authorized to invest clearing fund cash in United States Government securities. Third, PCC's authority to use clearing fund assets would be narrowed. PCC would use clearing fund assets to meet losses or liabilities incident to clearance and settlement activities.

The proposal also would change individual member and aggregate clearing fund contribution levels. First, a member's minimum contribution would be increased to $5,000. Second, PCC would calculate a member's required clearing fund contribution on the basis of the member's aggregate clearance activity in all of its accounts at PCC (the $5,000 minimum contribution also would be applied to the member once and not to each of its accounts). Third, PCC's formula by which individual member's clearing fund requirements are calculated (other than the minimum deposit requirement) would be changed substantially. PCC would calculate a member's contribution requirement by: (a) Totalling all of the member's net debits and credits settling through PCC's and CNS system during each calendar quarter (or lesser period of time, as PCC determines in its discretion), (b) dividing that total by the number of business days in the quarter (or such lesser

---

[1] File No. SR–PCC–82–7, notice of which was given in Securities Exchange Act Release No. 19198 (November 1, 1982), 47 FR 50792 (November 9, 1982); File No. SR–PCC–83–3, notice of which was given in Securities Exchange Act Release No. 20128 (August 29, 1983), 48 FR 40335 (September 6, 1983); and File No. SR–PCC–83–4, notice of which was given in Securities Exchange Act Release No. 20115 (August 25, 1983), 48 FR 39550 (August 31, 1983). An amendment to File No. SR–PSDTC–82–7 was filed on August 16, 1983, and was published for notice in Securities Exchange Act Release No. 20149 (September 2, 1983), 48 FR 40590 (September 8, 1983).

[2] See Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

period) to arrive at the member's average daily CNS debits and credits, and (c) multiplying the member's average daily CNS debits and credits by 2½ percent.[3]

The proposal makes additional changes in the types of collateral that members can use to secure their clearing fund "open account indebtedness," *i.e.*, clearing fund assets over and above the member's minimum cash deposit. PCC members would be able to secure their open account indebtedness with irrevocable letters of credit issued in favor of PCC by PCC-approved financial institutions.[4] PCC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PCC's approval of financial institutions as letter of credit issuers and PCC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. The proposal contains no specific concentration requirements other than the stated limitation that no single letter of credit issuer can issue letters of credit aggregating more than 25 percent of the total participants fund (or such other percentage as determined by PCC's board of directors). PCC has undertaken, however, to design and receive Commission approval of all appropriate concentration requirements prior to implementing its letter of credit program. Also, members no longer could secure their open account indebtedness with high-grade bearer municipal bonds. Finally, the proposed rule changes contain technical or non-substantive revisions to PCC's rules and by-laws.

During the course of the full registration review process, these proposed rule changes were specifically considered by the Commission and were found to be consistent with the provisions of the Act and the Standards. For the reasons discussed in the Full Registration Order,[5] the Commission finds that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies and, in particular, Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28632 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[3] To ease implementation of the larger clearing fund requirements, PCC will calculate and will advise each member of its new clearing fund requirement based on its fourth calendar quarter activity. At year end, the new requirements will become effective, and members will be required to meet the new, increased clearing fund levels.

[4] PCC has undertaken not to implement its letter of credit program until the clearing fund increases become effective. *See* note 3 *supra*. PCC also has undertaken to receive Commission approval of appropriate criteria for qualifying financial institutions as letter of credit issuers prior to the program's implementation.

[5] *See* Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 3, 1983).

[File Nos. SR-PSDTC-83-7 and SR-PSDTC-83-8]

Pacific Securities Depository Trust Co.; Order Approving Proposed Rule Changes

October 14, 1983.

On August 16, 1983, Pacific Securities Depository Trust Company ("PSDTC") filed with the Commission proposed rule changes,[1] pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b-4 thereunder. The proposals were filed to improve generally various portions of PSDTC's rules and to conform them to the Division of Market Regulation's Standards for the Registration of Clearing Agencies that concern Sections 17A(b)(3)(A)-(I) of the Act.[2] No comments were received by the Commission.

File No. SR-PSDTC-83-7 would, among other things, modify existing rules or add new rules regarding: (i) The types of entities that are eligible to participate in PSDTC; (ii) the standards that applicants must satisfy to participate in PSDTC; (iii) background information that applicants must furnish PSDTC; (iv) standards of financial responsibility and operational capacity that participants must satisfy continuously; (v) PSDTC's rights to discipline participants; (vi) PSDTC's rights to suspend summarily participants in certain circumstances and to close-out their positions; (vii) PSDTC's liens on deposited funds and securities; (viii) PSDTC's insolvency procedures, including rights to reverse certain securities deliveries or payments for securities; (ix) hearing and appeal rights and procedures for aggrieved applicants and participants; (x) PSDTC's obligation to provide periodically to its participants copies of internal accounting control reports prepared by PSDTC's independent public accounts; (xi) procedures for nominating and electing individuals to PSDTC's board of directors; and (xii) additional non-substantive or technical amendments to PSDTC's rules.

File No. SR-PSDTC-83-8 would amend both PSDTC's authority regarding the participants fund and the participants fund's structure. First, PSDTC would maintain a participants fund separate from the participants fund of its affiliated registered clearing corporation, Pacific Clearing Corporation ("PCC"). Second, PSDTC would be authorized to invest participants fund cash in United States Government securities. Third, PSDCT's authority to use participants fund assets would be narrowed. PSDTC would use those assets to meet losses or liabilities incident to the operation of a securities depository which holds and transfers securities on behalf of members and on behalf of banks to whom securities have been pledged by members. Fourth, members using PSDTC's soon-to-be-implemented Municipal Bearer Bond Service would be required to contribute to a new, separate participants fund (the "municipal fund contribution") related to that service.[3]

In addition, File No. SR-PSDTC-83-8 would change individual member and aggregate participants fund contribution levels. First, a member's minimum contribution would be increased to $5000. A member's minimum municipal fund contribution also would be $5000. Second, PSDTC's formula by which individual member's participants fund requirements are calculated (other than the minimum deposit requirement) would be changed substantially. PSDTC would calculate a member's contribution requirement by: (a) Totalling all of the member's valued securities deliveries (both physical and book-entry deliveries) during each calendar quarter (or lesser period of time, as PSDTC determines in its discretion), (b) dividing that total by the number of business days in the quarter (or such lesser period) to arrive at the member's average daily valued deliveries, and (c)

[1] File No. SR-PSDTC-83-7, notice of which was given in Securities Exchange Act Release No. 20113 (August 25, 1983), 48 FR 39551 (August 31, 1983); File No. SR-PSDTC-83-8, notice of which was given in Securities Exchange Act Release No. 20129 (August 29, 1983), 48 FR 40331 (September 6, 1983).

[2] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[3] PSDTC recently filed with the Commission a proposed rule change designed to implement PSDTC's Municipal Bearer Bond Service. PSDTC has not yet proposed a formula for calculating a member's municipal fund contribution. PSDTC stated that the formula will be based upon the member's use of the Municipal Bearer Bond Service and PSDTC's analysis of the Service's potential financial risks. The Commission expects that PSDTC will file that formula with the Commission in accordance with Section 19(b) of the Act.

multiplying the member's average daily valued deliveries by one percent. Third, the ceiling for each member's participants fund contribution would be raised significantly. The maximum contribution now would be $100,000.[4]

Finally, File No. SR-PSDTC-83-8 would change the types of collateral that members can use to secure their participants fund "open account indebtedness," *i.e.*, participants fund assets over and above the member's minimum cash deposit. The proposal would enable PSDTC members to secure their open account indebtedness with irrevocable letters of credit issued in favor of PSDTC by PSDTC-approved financial institutions.[5] The proposal contemplates that PSDTC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PSDTC's approval of financial institutions as letter of credit issuers and PSDTC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. The proposals contain no specific concentration requirements other than the stated limitation that no single letter of credit issuer can issue letters of credit aggregating more than 25% of the total participants fund (or such other percentage as determined by PSDTC's board of directors). PSDTC has undertaken, however, to design and receive Commission approval of all appropriate concentration requirements prior to implementing its letter of credit program. In addition, members no longer could secure their open account indebtedness with high-grade bearer municipal bonds.

During the course of the full registration review process, these rule changes specifically were considered by the Commission and were found to be consistent with the provisions of the Act and the Division's Standards concerning full registration of clearing agencies. For the reasons discussed in the Full Registration Order,[6] the Commission believes that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28638 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[4] To ease implementation of the larger participants fund requirements, PSDTC will calculate and advise each member of its new participants fund requirement based on its fourth calendar quarter activity. At year end, the new requirements wil become effective, and members will be required to meet the new, increased participants fund levels.

[5] PSDTC has undertaken not to implement its letter of credit program until the participants fund increases become effective. *See* note 4 *supra*. PSDTC also has undertaken to receive Commission approval of appropriate criteria for qualifying financial institutions as letter of credit issuers prior to the program's implementation.

[6] *See* Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 3, 1983).

[Release No. 34-20283; File No. SR-AMEX-83-23]

Self-Regulatory Organizations; Proposed Rule Change; American Stock Exchange, Inc., Requirement To Deliver Stock Index Options Disclosure Documents

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 October 6, 1983 the American 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 American Stock Exchange, Inc. ("AMEX" or the "Exchange") proposes to amend Rule 926, as set forth below. *Italics* indicates material proposed to be added; brackets [ ] indicate material proposed to be deleted.

Rule 926 Delivery of Options Disclosure Document and Prospectus

(a) Options Disclosure Document. Every member and member organization shall deliver [a current Options Disclosure Document] to each customer: [at or prior to the time such customer's account is approved for options trading, relating to options on the category or categories of underlying securities covered by such approval.]

(i) a current Options Disclosure Document relating to stock options at or prior to the time such customer's account is approved for any category or categories of options trading;

(ii) a current Options Disclosure Document relating to stock index options at or prior to the time a customer's account engages in a stock index option transaction;

(iii) a current Options Disclosure Document relating to options on any other category or categories of underlying securities (e.g., interest rate securities) at or prior to the time a customer's account is approved for such category or categories of options trading.

Thereafter, each amended Options Disclosure Document shall be distributed to every customer having an account approved for options trading, or, in the alternative, shall be distributed not later than the time a confirmation of a transaction is delivered to each customer who enters into an option transaction. The term "current Options Disclosure Document" means, as to any category of underlying security, the most recent edition of such Document which meets the requirements of Rule 9b-1 promulgated under the Securities Exchange Act of 1934.

(b)—No change

. . . Commentary—No change

II. Self-Regulatory Organization's Statement of the Burden of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has in 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

In November 1982, the SEC approved proposed rule changes by the AMEX to accommodate the listing and trading of standardized put and call option contracts on various stock indices (see SR-AMEX-82-8; approved SEC Release No. 19264). A supplement to the basic disclosure document was developed dealing with stock index options. It was intended by the Exchange (see SR-AMEX-82-8, Amendment No. 1) and the SEC (see approval order SEC Release No. 19264) that a stock index disclosure document be furnished to a customer at or prior to the time a customer engages in a stock index option transaction.

However, Exchange Rule 926 (Delivery of Options Disclosure Document and Prospectus) only requires member organizations to furnish customers with a current Options Disclosure Document(s) at or prior to the time a customer's account is approved for a particular category of options trading. Since Exchange rules do not require any separate approval for stock index options beyond the initial approval for stock option transactions, there is a gap between Rule 926 and the intent of the Exchange and the SEC. Under the current rule, a customer may not receive a disclosure document pertaining to stock index options at or prior to commencement of trading in such options.

Therefore, it is proposed that Rule 926 be amended to require member organizations to furnish customers with the disclosure document pertaining to stock index options (*Listed Options on Stock Indices*) at, or prior to the time a customer engages in a stock index option transaction. The proposed change clarifies Exchange rules to reflect its intent as expressed in previous filings relating to stock index options which is in keeping with the Commission's approval order.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that it will insure that stock index option customers receive the stock index options disclosure document which should assist in their understanding of the unique risks and uses of stock index options.

Therefore, the proposed rule change is consistent with Section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, 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 persons, 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 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: October 13, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28639 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20282; File No. SR-AMEX-83-24]

Self-Regulatory Organizations; Proposed Rule Change; American Stock Exchange, Inc., Stock Index Option Expiration Months

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 October 7, 1983, the American 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 American Stock Exchange, Inc. ("Amex" or the "Exchange") proposes to amend Exchange Rule 903C as set forth below. *Italics* indicates words proposed to be added, and brackets [ ] indicate words proposed to be deleted.

Rule 903C. Series of Stock Index Options

(a) After a particular class of stock index options has been approved for listing and trading on the Exchange, the Exchange shall from time to time open for trading series of options therein. *Within each approved class of stock index options, the Exchange may open for trading series of options expiring in consecutive calendar months ("consecutive month series"), as provided in subparagraph (i) of this paragraph (a), and/or series of options expiring at three-month intervals ("cycle month series"), as provided in subparagraph (ii) of this paragraph (a).* Prior to the opening of trading in any series of stock index options, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series.

[(b) If a class of options relates to a broad stock index group,]

(i) Consecutive Month Series

With respect to each class of stock index options, series of options [therein] having up to four [different] *consecutive* expiration months [will] *may* be opened for trading [initially] *simultaneously,* with the shortest-term series *initially* having no more than two months to expiration [and all of the expiration months being consecutive calendar months]. Additional *consecutive month* series [of options] of the same class may be opened for trading on the Exchange at or about the time a prior *consecutive month* series expires, and the expiration month of each such new series shall normally be the month immediately succeeding the expiration month of the then outstanding [option] *consecutive month* series of the same class of options having the longest remaining time to expiration.

(ii) Cycle Month Series

The Exchange may designate one expiration cycle for each class of stock index options. An expiration cycle shall consist of four calendar months ("cycle

months") occurring at three-month intervals.

With respect to any particular class of stock index options, series of options expiring in up to three of the four cycle months designated by the Exchange for that class may be opened for trading simultaneously, with the shortest-term series initially having approximately three months to expiration. Additional cycle month series of the same class may be opened for trading on the Exchange at or about the time a prior cycle month series expires, and the expiration month of each such new series shall normally be approximately three months after the expiration month of the then outstanding cycle month series of the same class of options having the longest remaining time to expiration.

[If a class of options relates to a stock index industry group, the expiration months of series of options therein shall be fixed in accordance with the provisions of Rule 903.]

(Paragraphs (c) and (d) are proposed to be redesignated as paragraphs (b) and (c), respectively.)

* * * * *

In connection with the proposed amendment of Rule 903C the Exchange is also proposing to reduce, from 45 to 30, the minimum number of days to expiration which a new industry-based index option must have on its first day of trading.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections (A), (B), and (C), below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed change of paragraph (b) of Rule 903C (which is proposed to be redesignated as subparagraph (i) of paragraph (a) of the same rule) is to permit the Exchange to establish monthly expirations for industry-based stock index options. The Exchange's proposal to adopt a policy under which it would be authorized to open new series of industry-based index options which have at least 30 days to expiration on their first day of trading (in lieu of the current policy calling for a minimum of 45 days) corresponds with the proposal to establish monthly expirations for such options.

The monthly expiration system proposed for industry-based index options, including the application of a so-called "30-day rule" to the opening of new series of options, would be identical to the system which the Commission has approved for broad-based index options (Securities Exchange Act Release No. 20201; September 20, 1983). The Exchange believes that the reasons supporting the establishment of consecutive expiration months for broad-based index options also support the establishment of consecutive expiration months for industry-based index options.

The purpose of proposed new subparagraph (ii) of paragraph (a) of Rule 903C is to permit the Exchange to establish expiration months for its stock index options in accordance with the existing pattern of expiration cycles. That is, with respect to each class of stock index options, the Exchange would select one of the three available expiration cycles (*e.g.*, the "January cycle", consisting of the months of January, April, July, and October), and it would be authorized to conduct trading in options expiring in up to three of the cycle months at a time. Option series of a particular class expiring in a new cycle month would be opened for trading as older option series of the same class expired in an earlier cycle month.

This new subparagraph would apply to both broad-based and industry-based index options. The Exchange is proposing it in order to retain flexibility to introduce six-month and nine-month index options in the event that customer demand for such options develops. The Exchange believes it is important to have the flexibility to introduce such option series in addition to the series expiring in nearer-term consecutive months so that it can be responsive to changing investor preferences should they occur. The exchange is aware of no regulatory concerns that are likely to arise from its retention of authority to list cycle month series as well as consecutive month series. It should be noted that the New York Stock Exchange has proposed to establish both consecutive expiration months and cycle expiration months for its stock index options (File No. SR-NYSE-83-43).

If the Exchange introduces cycle month expirations for its stock index options, it would use their existing cycles—the January cycle for Major Market Index options, and the March cycle for options on the Amex Market Value Index, the Computer Technology Index and the Oil and Gas Index.

In order to maintain maximum flexibility to respond to investors' preferences, the Exchange is proposing to amend paragraph (a) of Rule 903C to permit it to establish either consecutive expiration months, or cycle expiration months, or both, with respect to each class of stock index options. Although the proposed rule would, on its face, authorize the Exchange to maintain option series having up to six different expiration months open at a time with respect to each class of index options (four consecutive months and three cycle months, with at least one of the consecutive months and one of the cycle months being the same month), it is unlikely that the Exchange would do so. The Exchange is aware that adding series of options in which there is little investor interest could possibly produce operational burdens for member firms and market markers without resulting in any corresponding benefits. It therefore intends to make judgements as to the number of expiration months to maintain for trading with respect to each class of options on the basis of the trading characteristics of each individual class. At the present time, the Exchange does not foresee the likelihood of establishing more than four expiration months for any class of stock index options, and it believes that investor interest will continue to be centered on the near-term expirations.

The Exchange believes that the rule changes proposed herein are consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange, and, in particular, Section 6(b)(5) of the Act, in that they would help to increase the utility of stock index options to market participants and would promote fair competition among exchanges, thereby serving to protect investors and to further the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others.

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if its 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 St., N.W., Judiciary Plaza, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of such filing will also be 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: October 13, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28640 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. NY-5518]

Supplemental Order Designating Additional Officer(s); National Video Centers, Inc.

October 13, 1983.

IT IS ORDERED that the order of the Commission adopted on August 17, 1983, authorizing a private investigation of the above-captioned matter, based upon possible violations of the provisions of the Federal securities laws, be and it is hereby amended by designating as additional officer(s) of the Commission Joel A. Crepea.

For the Commission (pursuant to delegate authority), by the Division of Enforcement.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28641 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5176]

Space Ventures Inc.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1983)), to transfer control of Space Ventures Incorporated, (Space) 3931 MacArthur Boulevard, Suite 212, Newport Beach, California 92660, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act).

Space was licensed on November 1, 1974, and has private capital of $1,010,000. The proposed transfer of control will be accomplished by the purchase of 51 percent of the then outstanding stock of First California Business Industrial Development Corporation, First Cal (Bidco), owner of all the outstanding stock of Space Ventures, Inc. (SVI) by UF Service Corporation (UFSC). UFSC is the wholly owned subsidiary of United Federal Savings and Loan Association.

The proposed officers, directors and stockholders will be:

James Roosevelt, 1901 Yacht Resolute, Newport Beach, Ca 92660—Chairman of The Board

Leslie R. Brewer, 10072 Merrimac Drive, Huntington Beach, Ca 92646—President, Director

Claire Faller, 7562 Ellis Avenue, #E-17, Huntington Beach, Ca 92648—Secretary

C. Dean Olson, 521 North Arden Drive, Beverly Hills, Ca 90210—Director—More than 10% indirectly

John J. Tuttle, 200 Via Lido Nord, Newport Beach, Ca 92660—Director

First Cal BIDCO—100% Direct

U.F. Service Corporation, 130 Montgomery Street, San Francisco, Ca 94104—More than 51% indirectly

United Federal Savings and Loan Association, 130 Montgomery Street, San Francisco, Ca 94104—More than 51% indirectly

Ben L. Hom, 1 Villa Terrace, San Francisco, Ca 94114—Director—More than 10% indirectly

Harold S. Charney, 1436 Vallejo Street, San Francisco, Ca 94109—Director

Winfred Tom, 2632 La Honda Avenue, El Cerrito, Ca 94530—Director

Kin-Wai M. Ngai, 580 Crestlake Drive, San Francisco, Ca 94132—Director

Jeffery L. Green, 43 Cameron Court, Danville, Ca 94526—Director

Joseph R. Marcinczyk, 306 Second Avenue, San Francisco, Ca 94118—Director

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in Newport Beach, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-28630 Filed 10-19-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-0337]

VNB Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: VNB Capital Corporation
Address: 241 North Central Avenue, Phoenix, Arizona 85073

The proposed officers, directors and stockholder of the Applicant are as follows:

James G. Gardner, President and Director, 725 East Eric Drive, Temple, Arizona 85282
Ronald C. McLaughlin, Vice President and Director, 12207 N 59 Street, Scottsdale, Arizona 85245
J. Wilson Barrett, Director, 122 E San Miguel, Phoenix, Arizona 85012
Howard C. McCrady, Director, 8201 Gold Drive, Paradise Valley, Arizona 85306
Leonard W. Huck, Director, 4854 Calle Del Medio, Phoenix, Arizona 85018
The Valley National Bank, 214 N. Central Avenue, Phoenix, Arizona 85073

The Applicant, a Arizona corporation, with its principal place of business at 241 North Central Avenue, Phoenix, Arizona 85073, will begin operations with $15,000,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Arizona.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Phoenix, Arizona area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-28629 Filed 10-19-83; 8:45 am]

BILLING CODE 8025-01-M

Region VI—Advisory Council; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Corpus Christi, will hold a public meeting at 2:00 p.m. on Tuesday, October 25, 1983, at the Republic Building, First Floor, 3105 Leopard Street, Corpus Christi, 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 Miguel A. Cavazos, Jr., Branch Manager, U.S. Small Business Administration, Republic Building, 3105 Leopard Street, Corpus Christi, Texas 78408 (512) 888-3301.

Dated: October 17, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83-28631 Filed 10-19-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/675]

Study Group C of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 17, 1983 at 9:30 a.m. in Room 1205 of the Department of State, 2201 C Street, NW., Washington, D.C.

The Study Group meeting will discuss the status of the international agreement concerning 32 kilobits-per-second voice coding and CCITT Study Group XVIII and its international team of experts.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to the meeting, all persons planning to attend the meeting should contact Mr. Dexter Anderson, Department of State, Washington, D.C. 20520, telephone 202 632-6583. All attendees must use the C Street entrance to the building. Entrance will be facilitated 15 minutes before and after the meeting begins.

Dated: October 11, 1983.

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 83-28608 Filed 10-19-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 152—Digital Avionics Software; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 152 on Digital Avionics Software to be held on November 7-9, 1983, in Conference Rooms 7A-B-C, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. commencing at 1:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on August 3-5, 1983; (3) Report of the System Design Working Group; (4) Report of the Software Design and Testing Working Group; (5) Report of the Full Flight Regime Systems Working Group; (6) Report of the Configuration Management and Documentation Working Group; (7) Working Groups Meet in Separate Sessions; (8) Special Committee Plenary Session; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 12, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-28513 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 204
Thursday, October 20, 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).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, October 25, 1983, 9:30 AM (Eastern Time).

PLACE: Commission Conference Room No. 200 on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-8-FOIA-1-AT, concerning a request for a copy of Title VII case file.
4. Freedom of Information Act Appeal No. 83-8-FOIA-118-SL, concerning a request for Title VII investigative files.
5. Freedom of Information Act Appeal No. 83-8-FOIA-165-NY, concerning a request for a closed ADEA file.
6. Freedom of Information Act Appeal No. 83-8-FOIA-143-HQ, concerning a request for a copy of part of a memorandum from an attorney on the General Counsel's staff to the General Counsel re the Pregnancy Discrimination Act.
7. Proposed Sec. 631, Employment Agencies, Vol. II of the Compliance Manual.
8. Proposed Sec. 618, Segregating, Limiting and Classifying Employees, Vol. II of the Compliance Manual.

Closed

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued October 18, 1983.

[S-1479-83 Filed 10-18-83; 3:25 pm]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Monday, October 24, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

First State Bank, Gulfport, Mississippi, an insured State nonmember bank, for consent to merge, under its charter and title, with The Metropolitan National Bank, Biloxi, Mississippi, and for consent to establish the three offices of The Metropolitan National Bank as branches of the resultant bank.

Applications for consent to purchase assets and assume liabilities and establish branches:

The Chancellor State Bank, Chancellor, South Dakota, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Brandon Branch, Brandon, South Dakota, and the Vally Springs Branch, Valley Springs, South Dakota of United National Bank, Sioux Falls, South Dakota, and to establish those two offices as branch as of The Chancellor State Bank.

Farmers and Merchants Bank and Trust of Watertown, Watertown, South Dakota, for consent to purchase the assets of and assume the liability to pay deposits made in the Rosholt Branch of United National Bank, Sioux Falls, South Dakota, and to establish that office as a branch of Farmers and Merchants Bank and Trust of Watertown.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1476-83 Filed 10-18-83; 11:39 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Monday October 24, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to establish a branch:

Woonsocket Institution for Savings, Woonsocket, Rhode Island, and Woonsocket Institution Trust Company, Woonsocket, Rhode Island, for consent to establish a branch to be jointly occupied at 1000 Park Avenue, Cranston, Rhode Island.

Application for consent to establish two remote service facilities:

Cheshire County Savings Bank, Keene, New Hampshire, for consent to establish two remote service facilities at PAKS Convenience Store, 152 Winchester Street, and at Greens and Things, Colony Mill Marketplace, West Street, both locations in Keene, New Hampshire.

Application for consent to relocate the main office:

Jeffrey City State Bank, Jeffrey City, Wyoming, for consent to relocate its main office from Jeffrey City, Wyoming, to 40 South Curtis Street, Evansville, Wyoming.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The Des Plaines Bank, Des Plaines, Illinois
Memorandum and Resolution re: Fidelity Bank, Utica, Mississippi

Reports of committees and officers:

Minutes of action approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Report of the Directors, Office of Corporate Audits and Internal Investigations:
Audit Report re: Post-Implementation Audit of the Remote Entry Examination Processing System, dated September 26, 1983.

Discussion Agenda:

Memorandum and Resolution re: Semiannual Agenda of Regulations.

Memorandum and resolution re: Advance notice of proposed rulemaking in connection with Parts 330 and 337 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage" and "Unsafe and Unsound Banking Practices," respectively, to solicit comment on (1) the extent to which brokered or brokered-type deposits are being placed with FDIC-insured banks without adequate analysis of the managerial practices and financial stability of the banks; (2) whether the Corporation, in order to encourage market and bank analysis in the placement of such deposits, should limit the insurance coverage of, or restrict the receipt of, such funds by insured banks; and (3) whether the current "multiple" insurance coverage afforded to pension funds and other custodial-type deposits, under which each beneficial owner of such deposits is insured to $100,000, should be limited.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1475-83 Filed 10-18-83; 11:39 am]

BILLING CODE 6714-01-M

4

MERIT SYSTEMS PROTECTION BOARD

Sunshine Act Meeting

TIME AND DATE: 10:30 a.m., Monday, October 31, 1983.

PLACE: Eighth Floor, 1120 Vermont Avenue, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Barbara Abbott, et al.* v. *Department of Commerce, Bureau of the Census,* MSPB Docket No. DC03518210884.
2. *Stanley Wilson* v. *Defense Contract Audit Agency,* MSPB Docket No. DC07528310367.
3. *Gaston Powell, Jr., et al.* v. *Treasury,* MSPB Docket No. DC07527990039 ADD.
4. *Alfred T. Payer* v. *Army,* MSPB Docket No. NY04328110344.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Secretary, (202) 653–7200.

For the Board.

Dated: October 17, 1983, Washington, D.C.

Herbert E. Ellingwood,

Chairman.

[S-1474-83 Filed 10-18-83; 9:19 am]

BILLING CODE 7400-01-M

5

PAROLE COMMISSION

[4P0401]

Public Announcement Pursuant To The Government In The Sunshine Act Pub. L. 94–409 (5 U.S.C. Section 552b)

AGENCY HOLDING MEETING: U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

TIME AND DATE: 10 a.m., Monday, October 24, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 6 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S-1477-83 Filed 10-18-83; 2:25 pm]

BILLING CODE 4410-01-M

6

POSTAL SERVICE (BOARD OF GOVERNORS)

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m. on Monday, October 31, 1983, in Washington, D.C., and at 8:30 a.m. on Tuesday, November 1, 1983, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, D.C. As indicated in the following paragraph, the October 31 meeting is closed to public observation. The November 1 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245–3734.

At its meetings on October 3–4, 1983, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for October 31. (See 48 FR 46469, October 12, 1983.)

Note.—Place of meeting changed from New York). The agenda items of the meeting to be closed concern 1) consideration of the Postal Rate Commission Recommended Decision on third-class bulk rates for nonprofit mail (Docket R80–1); and 2) strategic planning in connection with future rate adjustments.

Agenda

Monday Session, October 31 (Closed)

1:00 p.m.:

1. Consideration of Postal Rate Commission Recommended Decision of August 26, 1983, on Third-Class Bulk Rates for Nonprofit Mail (Docket R80–1).
2. Strategic Planning—Future Rate Adjustments.

Tuesday Session, November 1 (Open)

8:30 a.m.:

1. Minutes of the Previous Meeting, October 3–4, 1983.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly Report on Operations:

a. Service Performance.
b. Automation.

(Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary on service performance and report on automation.)

4. Report on Employee and Labor Relations.

(Mr. Morris, Senior Assistant Postmaster General, Employee and Labor Relations Group, will present the annual report to the Board on developments in the Employee and Labor Relations area.)

5. Policy on *Ex-Parte* Communications.

(The Governors will consider proposed guidelines on *ex-parte* communications to the Governors on issues in rate and classification proceedings that are subject to Chapter 36 of title 39, United States Code.)

6. Capital Investment Projects:

a. Construction of a New General Mail Facility and Vehicle Maintenance Facility at Las Vegas, NV
b. Mechanization Modifications at Bulk Mail Centers in:

1. Dallas, TX
2. Los Angeles, CA
3. Springfield, MA
4. Washington, DC

(Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present the proposal for the Las Vegas General Mail Facility/Vehicle Maintenance Facility and Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will present the proposal for the Bulk Mail Centers' mechanization modifications.)

7. Consideration of a Tentative Agenda for the December 5–6, 1983, Meetings of the Board in Washington, D.C.

David F. Harris,

Secretary.

S-1478-83 Filing 10-18-83; 3:03 pm]

BILLING CODE 7710-12-M

federal register

Thursday
October 20, 1983

Part II

Department of Labor

Employment and Training Administration

Implementing Regulations for Title IV-A, B and E of the Job Training Partnership Act

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 632, 633, 634, 636 and 684

Implementing Regulations for Title IV-A, B and E of the Job Training Partnership Act (Pub. L. 97-300)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement programs under Titles IV-A, IV-B and IV-E of the Job Training Partnership Act (JTPA) relating to Indian and Native American Programs, Migrant and Seasonal Farmworker Programs, Job Corps, and Labor Market Information. These regulations provide the necessary guidance and direction to fully implement the programs. The information and authority needed by program operators and others affected by these parts are contained in these regulations.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone: (202) 376-6600.

SUPPLEMENTARY INFORMATION: Proposed rulemaking governing Title IV-A, B and E of the Job Training Partnership Act was published in the **Federal Register** on July 20, 1983 (48 FR 33182) for the purpose of soliciting public comment. The Department received more than 370 written comments on the proposal. Following is a summary by part of the comments received on each of the major issues and the Department's response. In addition to the identification of comments and changes by part, various organizational, technical and editorial changes were made througout the regulations for purposes of clarity and consistency in the final rules.

A comprehensive reading of the Act, and in particular the provisions of Section 181 (f)(4) shows that Congress intended that the regulations implementing these programs take effect no later than October 1, 1983. The Indian and Native American, Migrant and Seasonal Farmworker, and Job Corps programs are "ongoing" programs which have been affected by statutory changes which repeal the old statutory authority and provide new statutory authority for their continued operation. The Fiscal 1984 grantees for these programs have been selected and the grants were executed and funded on or about October 1, 1983. A time difference between the September 30, 1983, effective repeal of CETA authority and the date of the regulations implementing the commencement of the JTPA funded programs will result in operating confusion with possible disruption of services to the public. Therefore, for good cause found, the effective date of these final regulations has been established as October 1, 1983.

A change affecting both Parts 632 and 633 has been made regarding "Complaints, Investigations and Hearings." To eliminate duplication and ensure consistency, the various proposed complaint, investigation and hearing provisions have been consolidated in a new Part 636 of the JTPA regulations, made applicable to the Title IV Indian and Native American and migrant and seasonal farmworker training programs. Part 636 describes procedures for local participant and subrecipient grievances, Federal level complaints and investigations, and hearings before the Administrative Law Judges. Sanction and audit resolution provisions are separately addressed in the administrative provisions for the various programs.

Several commentators suggested that local grievance procedures be simplified to save expense. The Department accepted this comment with respect to employer level grievance procedures relating to terms and conditions of employment and has therefore dropped from the final regulations the requirement for certain minimum procedures. Section 636.4 merely requires employers to establish or maintain such procedures and to extend to employed JTPA participants any procedures available to other employees. With respect to grantee grievance procedures, however, the Department believes the minimum requirements of § 636.3 are necessary to ensure the development of an adequate record for review.

A number of comments concerned discrepancies between the Federal complaints and hearings procedures for the basic JTPA programs and those for Title IV programs. The final regulations have been revised for greater consistency in the Federal level procedures for the various programs, bearing in mind the distinction that in Title IV programs the Department deals directly with program administrators whereas, under the basic JTPA programs this is the role of the Governors. The final complaint and hearing regulations also reflect a number of editorial and technical changes made for purposes of clarity and understandability. Unnecessary or repetitive provisions have been dropped, and the newly promulgated Rules of Practice and Procedure of the Office of Administrative Law Judges in 29 CFR Part 18 (48 FR 32538, July 15, 1983) are now cross-referenced in place of the detailed proposed procedures.

Part 632—Indian and Native American Employment and Training Programs

Definitions

The proposed regulation at § 632.4 contained numerous definitions which supplement those in the legislation. The definitions are needed to insure uniform application in the administration and management of a national program. A number of comments were received to alter certain definitions to take into consideration the special circumstances of Native American program operators. A number of these suggestions dealt with detailed procedures for eligibility determinations, an area which will be handled administratively. Changes have been made to several definitions to further clarify the original intent. Generally, changes which would have made the definition inconsistent with the Act or Congressional intent were not accepted.

Eligibility Requirements for Designation as a Grantee

Several commentators wanted language added to § 632.10 which would have given greater weight to previous experience and thereby avoid the possibility of competition. While the Department does not encourage competition for the Indian program, we believe a system should permit the possibility of new organizations entering the field. Therefore, language has been added to § 632.11 which specifically deals with instances where more than one organization applies for program responsibility for the same geographic area.

Numerous comments addressed the two factors at § 632.10(b)(4) which would preclude an organization from being designated as a grantee. The commentators felt that the two factors do not adequately consider positive corrective action by the grantee. The two factors are straight forward and clearly worded such that adequate positive corrective action would remove the risk of non-designation. Therefore, no change has been made to this section.

Several comments suggested that consortia grantees be allowed to submit their consortium agreement after designation. The Department will not finally designate any organization until full compliance with applicable

designation requirements is achieved. While no change has been made, conditional designation pending the receipt of consortium documents is clearly allowed.

The provisions at § 632.10(c)(5)(iii) requiring that signatories to a consortium agreement be liable jointly or separately for claims were the subject of several comments. As with provisions throughout these regulations, this provision is consistent with the overall priority on financial responsibility by grantees and has not been changed. When handling federal funds, organizations must be responsible and the Department must be able to recover established claims.

Commentators pointed out and objected to the fact that the § 632.10(e) requirement to establish a formal Native American Employment and Training Planning Council and comply with Section 7(b) of the Indian Self-Determination and Education Act was directed only to private nonprofit organizations and not public bodies such as governors. The intent of this provision is to inform organizations which may not be familiar with government grants and contracts of appropriate planning requirements and applicable laws. Public agencies operating JTPA programs are otherwise required to establish formal planning councils and are sufficiently familiar with other federal procurement requirements. Therefore, no change has been made to this section.

A comment as received objecting to the requirement that a new grantee have an Indian or Native American population of at least 1,000 within its service delivery area. This requirement is less restrictive than a similar CETA requirement but is intended to insure that any new grantees be of adequate size to realistically operate a comprehensive employment and training program and, therefore, no change has been made.

Designation of Native American Grantees

Numerous comments were received on the "Responsibility Review" contained at § 632.11(d). Objections were raised to both the opening description regarding application of the responsibility review and several of the individual responsibility factors. The commentators did not object to the concept of a responsibility review, but expressed concerns that it may be applied in such a manner as to deny a designation for inconsequential problems. Since the intent of this section is to establish overall responsibility for federal funds, the language has been altered to make it clear that the standard will be whether there is a substantial or persistent record of failures. A change has been made to the individual factors to clarify the existence of and use of performance standards.

Appeal to an Administrative Law Judge for Nondesignation

The proposed regulations at § 632.12 limited the remedy available to an ALJ in the event of a successful appeal of nondesignation. This limitation could have prevented a successful appellant from being designated as a grantee for up to two years. The limit is necessary to allow the Department to assure that services are provided to the client population as quickly and efficiently as possible. The Department agrees, however, that the waiting period for instatement as a grantee may cause undue harm and the language has been changed to make the remedy effective within 90 days, so long as there is sufficient time remaining in the designation period to make a new grantee's operation practical.

Employer Involvement in Planning

Numerous commentators objected to the last sentence at § 632.17(a) believing that it created the impression that only certain types of employer involvement would be acceptable. No such impression was intended and the sentence has been dropped.

Grant Application Content

Based on several comments requesting greater clarity, § 632.19 has been changed to delete any discussion of modifications which are discussed at § 632.22. The dates and procedures for implementation of the Master Plan and Comprehensive Annual Plan system have also been clarified.

Submission of Grant Applications

Commentators requested additional provisions at § 632.20 concerning the preparation, submission, review and approval of Master Plans. General clarifying language has been added to the section. Detailed instructions will be issued administratively.

Numerous comments requested a detailed timetable which the Department should follow for the funding process. Since any funding process is subject to factors beyond the Department's direct control, these regulations do not contain a fixed schedule. An annual schedule will be developed and released administratively which will assist the public in planning.

Application Disapproval

Commentators requested additional provisions at § 632.21 detailing application approval as well as disapproval. This section is intended to describe exceptions to the rule rather than a description of the normal process. Applications will be approved so long as consistent with these regulations, applicable law and formal administrative guidance.

Grant Modifications

The proposed regulations at § 632.22 simply referenced the requirements at 41 CFR Part 29–70 except as provided in special instructions issued by the Department. Commentators objected to the potential for cumbersome and confusing modification requirements which would result in an increased paperwork burden. This section has been rewritten to clarify the Department's general intent to reduce unnecessary administrative requirements particularly with respect to modifications. It is intended that full implementation of the Master Plan will result in substantially fewer modifications since the Master Plan will include approved administrative procedures for altering program activities, participant levels and internal funding levels.

Modifications to performance standards are not mentioned in the regulations. As a general rule, performance standards should not be modified during the program year. A grantee may request a performance standard modification but must be able to demonstrate a major change in either economic conditions or service population characteristics. During the trial period, performance standards modifications will be considered individually. Once the performance standard system is finalized, standardized modification procedures will be issued administratively.

Grant Termination

A number of concerns were raised by commentators regarding § 632.23. One thrust of these comments was a concern that there were inadequate provisions for notice and a hearing. In the instance of emergency termination, the authority, notice and hearing provisions are clearly defined in section 164(f) of the Act. Section 632.23 further amplifies instances of termination and the Department's action. No change has been made for "emergency terminations."

Commentators were also concerned that grants could be terminated for trivial problems with respect to

"termination for cause". It is intended that only serious problems result in termination. Language has been added to § 632.23(b) making the Department's intent more clear. No change has been made to the factors to be considered for termination for cause other than citing OMB Circular A–87 from which the factors are derived.

General Administrative Standards

The regulation at § 632.31(b) refers to 41 CFR Part 29–70 for general grant administrative requirements. Commentators have requested more specificity by including the relevant sections in Part 632. They further commented that whenever the provisions of Part 29–70 conflict with Part 632, the provisions of Part 632 should prevail. Any clarification needed to Part 29–70 for Indian grantees will be handled administratively. The regulation has been changed to address any conflicts between Part 29–70 and Part 632.

Financial Management Systems

Section 632.32 has been altered by eliminating (d) which required an auditor to submit a letter to the grant officer in cases where records were unauditable. This change is technical and reflects the increasing use of unified or single audits and the fact that the Department of Labor is usually not the cognizant agency for such audits.

Contracts Past the Expiration Date of the Grant

The regulations for Indian programs under CETA allowed grantees to enter into contracts or grants which extended 12 months beyond the expiration date of the grant. The proposed regulations limited such an extension to six months. Several commentators requested a return to the 12-month allowance. The Department's intent with this provision is to encourage obligations and expenditures during the period for which the funds were made available while still allowing adequate flexibility. The six month limit is retained consistent with this position.

Housing Improvement Costs

Based on comments received, § 632.37 has been revised to reflect the previously corrected definition of "low income housing."

Cost Classification

Based on comments received, language has been added to § 632.38 allowing unemployment compensation coverage for work experience when required by State law.

Administrative Cost Plan

Based on comments received, § 632.39 has been changed to allow either an administrative cost pool or direct charging.

Reporting Requirement

Commentators expressed concern that the data elements listed in § 632.41 would be mandated and could not be revised when information needs changed. This section has been rewritten simply to authorize quarterly financial and program reporting without identifying all the data elements. Once approved by the Office of Management and Budget, required planning and reporting forms will be issued administratively.

Carryover Funds

The proposed regulations allowed but did not guarantee retention of carryover funds. A number of commentators requested an addition to § 632.43 which would more clearly permit grantees to retain excess funds as carryover from one fiscal year to the next. No change has been made to this provision. While carryover is and will generally be permitted, it will be the result of an administrative decision following an annual review of each grant.

Participant Eligibility

The proposed regulations did not specifically address the issue of services to aliens legally able to work in the United States. Commentators requested a provision on this issue. In order to clarify alien eligibility, § 632.77 includes a new paragraph which clearly defines an alien's status with respect to eligibility for the Indian program and is consistent with past practice. Also based on comments, the allowability of transfers from one JTPA program to another has been clarified.

Training Activities

The proposed regulation at § 632.78 provides guidance on the basic types of training activities. This provision is not intended as an exhaustive inventory of every possible activity or every possible name given an activity. Many commentators requested that the description be expanded. Since this section is illustrative and is not intended as a glossary, no change has been made.

Dependents' Allowances

The proposed regulations at § 632.81 were silent on the issue of dependents' allowances. Commentators requested assurance that grantees could pay dependent allowances as an option in their allowance payment system. Although dependents' allowances are no longer required as in the past under CETA the final regulations state that they may be paid pursuant to an allowance payment system developed by a grantee. The system must clearly identify the use of dependents' allowances and must be approved by the Department as part of the Master Plan review.

Nondiscrimination

As a result of several comments, § 632.86 has been altered to state clearly that only Indians and Native Americans will be served by the JTPA, Title IV, Section 401 program.

General Departmental Responsibilities

Section 632.88 generally, with minor amplification, restates responsibilities contained in the Act. Comments on this section ranged from a recommendation to use the Act's exact language to suggestions for a great many additional responsibilities including a timetable for all Departmental actions. Since this section is consistent with the Act, no change has been made for the final regulations.

Performance Standards

Numerous comments were received objecting to the provision at § 632.89 which authorized the Department to use up to six percent of the section 401 allocation for performance bonuses. Commentators requested that any performance bonus set aside be deferred until performance standards are more fully developed. Since the Department did not intend this bonus pool to be used until 1987, at the earliest, the final regulation is silent on performance bonuses.

Complaints, Investigations and Sanctions

As described in another part of this preamble, this subpart has been replaced by a new Part 636. In addition a new § 632.44 regarding sanctions has been added to Part 632 and the Audit provisions at § 632.33 have been expanded.

Allocation of Funds

The proposed regulations at § 632.171 authorized the Department to reserve up to 6 percent of the Section 401 funds. This reserve account was to be used for incentive bonuses and other activities to improve grantee performance. Numerous commentators objected to a set-aside as harmful to the client since it results in fewer funds being available for direct services. Based on these comments the six percent has been reduced to one

percent and there is no mention of performance incentives.

Commentators also suggested adding a provision to this section authorizing a hold harmless factor for any formula allocation. Such a paragraph has been added.

Allowable Program Activities

The proposed regulations at § 632.173 limit "community service employment" to 10 percent or an official unemployment rate, whichever is higher, and establishes a guideline for "other activities" at 25 percent. These provisions were established to encourage as much activity as possible be directed to job training and placement. A comment was received that there be no limit on community service employment (CSE) and several on adding additional examples of official unemployment data. No change has been made to the CSE provision since it is consistent with the training thrust of JTPA while providing adequate flexibility for special circumstances. The CSE provision is also sufficiently broad in describing unemployment data which may be used.

Numerous other comments on § 632.173 dealt in a variety of ways with the 25 percent guideline on other activities. A number of commentators agreed in principle to limiting other activities but wanted an expanded waiver description and elimination of Tribal Employment Rights Office activities from the guideline. Other commentators recommended complete elimination of the guideline. Since this is a guideline as opposed to an absolute ceiling and waivers are clearly allowed, no change has been made to this section other than expanding the waiver description. The Department agreed in principle with many of the examples provided in the comments which would support a waiver. Extensive Tribal Employment Rights Office activity was mentioned often and, as stated in the final regulation, would be a good reason to support the granting of a waiver.

Administrative Costs

Numerous commentators proposed a flat 20 percent administrative cost allowance for both the Section 401 and summer programs rather than the 15 percent with a waiver to 20 percent. Based on the comments, it was apparent that waivers would be given in nearly all cases. Sections 632.174 and 632.263 have therefore been changed to authorize a flat 20 percent for administrative costs.

Regulatory Changes by Section

In § 632.4 the following changes have been made to definitions: "Economically Disadvantaged" the words "(e) in cases permitted by regulations of the Secretary, is an adult handicapped" have been eliminated, the words "(e) is a handicapped" have been inserted.

"Family" the word "adult" in paragraph (b)(2) has been eliminated, the word "individual" has been inserted. The words "an older worker as defined in this section whether living in residence or not, or" have been added to the beginning of paragraph (b)(3).

"Family Income" the words "Gross wages" in paragraph (a)(1) have been eliminated; the words "Gross wages paid from JTPA funds" have been inserted.

"Low Income Housing" the words "stablization, those" in paragraph (b) have been eliminated; the words "stabilization, housing built or improved with the assistance of Federal, State or Tribal programs, and those" have been inserted.

"Program Year" the sentence "The first program year will begin July 1, 1984, and end June 30, 1985, to be followed by subsequent program years" has been eliminated.

"Subgrantee" the words "entity which" have been eliminated; the words "entity, excluding private for profit concerns, which" have been inserted.

In § 632.10 the words "shall specify" in paragraph (c)(5)(iii) have been eliminated; the words "shall be signed by an official or officials of each member of the consortium authorized to enter into a binding consortium and shall specify" have been inserted.

In § 632.11 the words "and the total square mileage" in paragraph (a)(2) have been eliminated. This is a technical correction because the information is not needed. The words "and a consortium agreement as specified in § 632.10(c)(5)(iii)." have been added at the end of the sentence in paragraph (a)(7).

The words "conditionally designated" have been added to the first sentence in paragraph (c). The sentence "With the exception of items (c)(1) and (c)(3) of this section, the failure to meet any one of the following responsibility factors would not establish that the organization is irresponsible unless the failure is substantial and persistent." has been added to § 632.11(c). The phrase "to meet performance standards requirements as provided for and developed pursuant to § 632.89." has been added to the end of § 632.11(c)(5). In addition a new paragraph has been added to this section which authorizes a special process when more than one organization submits a Notice of Intent for the same geographic area.

In §§ 632.12 the requirements at § 632.10 and 632.11 have been referenced. The words "in the succeeding designation periods." have been eliminated; the words "and fund the successful appellant within 90 days of the ALJ decision unless the end of the 90 day period is within six months of the end of the funding period. Any organization designated and/or funded for the area in question would be affected by this action and nondesignated. All parties must agree to this arrangement prior to funding." have been inserted.

In § 632.17 the last sentence in paragraph (a) has been eliminated.

In § 632.19 the second sentence has been eliminated and replaced with "The Master Plan and CAP system will be implemented for 1985 or the first designation period following FY 1984 designations."

Section 632.20 has been changed to describe more clearly the submission of both the Master Plan and Comprehensive Annual Plan.

Section 632.21 has been clarified to include the Master Plan as well as the CAP and to eliminate conditional approval from paragraph (c) since formal notice for appeal purposes is only appropriate for disapproval.

Section 632.22 has been substantially rewritten to clarify modification requirements rather than refer to 41 CFR 29–70.

In § 632.23 the opening phrase in paragraph (b) has been changed to read "termination for cause can occur whenever there is a substantial or persistent violation of the governing rules and regulations and failure to comply with the grant terms and conditions. The following factors will be considered for termination." In addition a citation to OMB Circular A–87 is added for clarification.

In § 632.31 a sentence has been added to paragraph (b) stating "Whenever the provisions of 41 CFR Part 29–70 conflict with the provisions of Part 632, the provisions of Part 632 shall prevail."

In § 632.32 paragraph (d) has been eliminated.

In § 632.33 language has been added clarifying the difference between grantees under unified or single audit requirements and those not. This is a technical clarification.

In § 632.37 a technical reference to 41 CFR 1–15.7 has been inserted. Paragraphs (c)(1), (c)(2), and (c)(3) have been eliminated; the words "on low

income housing as defined in § 632.4" have been inserted.

In § 632.38(c) the words "unemployment compensation costs are allowed for work experience only where required by State law." have been inserted.

Section 632.39 has been altered to give grantees the option of using an administrative cost pool.

Section 632.41 has been substantially modified by eliminating all data elements but retaining the authority to require quarterly financial and program reports pursuant to administrative instructions issued by the Department as approved by OMB.

In § 632.77 clarifying language has been added to paragraph (g) allowing transfers from one JTPA program to another. A new paragraph (i) has been added to this section regarding legal alien eligibility.

In § 632.86 the words "subject to the restrictions that services under section 401 of JTPA are legally available only to Indian and Native American persons" have been added to the beginning of paragraph (a).

In § 632.89 the last two sentences have been eliminated.

Subpart G—Complaints, Investigations and Sanctions has been eliminated and replaced by Part 636.

In § 632.171(c) the words "as incentives based on performance and for other activities" have been eliminated and the word "six" has been replaced by the word "one." In addition a paragraph (d) has been added to § 632.171 which authorizes the Secretary to employ a hold harmless factor in any formula allocation.

In § 632.173 language has been added which expands and further clarifies instances supporting a waiver to the 25 percent guideline for "Other Activities."

In § 632.174 and § 632.263 the existing language has been eliminated and replaced with the sentence "Administrative costs for this subpart are limited to and shall not exceed 20 percent of the funds available."

Part 633—Migrant and Seasonal Farmworker Program (MSFW)

Definitions

The proposed regulations for the Section 402 program at § 633.104 contain several definitions which are supplemental to those contained in the legislation. The definitions are needed to ensure uniform application of a national program. Numerous comments suggested deletions and revisions to this section. Many of these suggestions dealt with reporting requirements which will now be handled administratively. Others dealt with eligibility requirements for the program and were generally accepted by the Department. Changes which would have made the definitions inconsistent with the Act or congressional intent were not accepted.

Comments were received to review the definition of "family" to indicate that family units under common law marriage are included. The Department did not accept this suggestion since the term marriage, which is included in the definition, encompasses legally-recognized common law marriages. Further, for the purposes of the Section 402 program, the definition for the term "family" used in an applicant's State of legal residence shall be the one germane for such applicant, regardless of where the applicant is applying for the program.

Performance Standards

Commentators suggested that language be added requiring that the performance standards for the Section 402 program be published in the **Federal Register** for comments. The Department did not accept this suggestion because the performance standards will be used on an experimental basis through the 1986 program year. The Department intends to publish performance standards in the **Federal Register** for comments prior to their application on a fully operational basis.

Precondition for Grant Application

Section 633.201 establishes two preconditions where the Department will not consider an application for funding when these preconditions are not met. Comments were received suggesting that any assessment of an applicant relevant to the preconditions be a Federal agency-wide review. The Department did not accept these suggestions because a Federal agency-wide review would be impractical given the limited time in the funding cycle and the Department's inability to control other agencies' actions.

Responsibility Review

Numerous comments were received on the "Responsibility Review" contained at § 633.204. Objections were raised to both the opening description regarding application of the responsibility review and several of the individual responsibility factors. The commentators did not object to the concept of a responsibility review, but expressed concerns that it may be applied in such a manner as to deny selection as a potential grantee for inconsequential problems. Since the intent of this section is to establish overall responsibility for federal funds, the language has been altered to make it clear that the standard will be whether there is a substantial or persistent record of failures. A change has been made to the individual factors to clarify the existence of and use of performance standards.

Allocation of Funds

Section 633.105 provides for the distribution of Section 402 funds. Numerous comments were received concerning the various provisions of this section.

It was suggested that in paragraph (a)(2) of this section private profitmaking organizations be eliminated as eligible entities for the National Account set-aside funds since the commentators believe that such organizations are not identified by the legislation as being eligible. The Department did not accept this comment because the congressional intent is that the Section 402 program is to be basically the same as the CETA, Section 303 program, under which private profitmaking organizations were used to provide only technical assistance, and not services to eligible applicants with funds from the National Account.

The Department accepted comments that language be added to paragraph (b)(1) requiring that the formula used to determine State allocations be published in the **Federal Register** for review and comment, along with the rationale for such formula and proposed allocations, no later than 30 days prior to the publication of the final allocations of available funds in the **Federal Register**.

Numerous comments suggested that paragraph (b)(2)(i) be changed to eliminate the threshold level and require funds to be allocated to all States regardless of the funding level determined by the allocation formula. This would allow States contiguous to those receiving amounts insufficient to conduct an effective program to serve those States. The Department did not accept this comment because it believes that funds below a certain level are insufficient to conduct an effective program in a State, regardless of who is administering the program. The proposed language allows sufficient flexibility to adjust the threshold level from year-to-year to meet changes in appropriation levels or other needs. For example, the Department for the Fiscal Year 1984 program has lowered the threshold level to $80,000, allowing more States to participate, but providing that those States whose formula allocation falls between $60,000 and $120,000 will receive a minimum allocation of $120,000.

The Department accepted comments that a "hold harmless" provision be added to this section. Paragraph (b)(3) has been added which provides for an allocation adjustment. Where the Department determines that the formula allocation will result in severe disruption of the funding levels from one year to the next, a hold harmless or other factor may be used.

The Department did not accept comments that language be added to paragraph (b)(3) that would provide a specific timetable for completion of the Department's responsibilities in the funding cycle. Such a timetable would be impractical since the fulfillment of many of the Department's responsibilities is dependent upon congressional and other Federal agencies' actions.

Eligibility for Allocable Funds

Numerous comments were received that the reference to "units of government" as public agencies be eliminated from § 633.106 since the legislation does not specify a unit of government as being an eligible entity for Section 402 funds. The Department did not accept this comment since public agencies are under the direction and control of units of government.

Participant Eligibility

Section 633.107 limits the eligibility determination period for participation in the program to the consecutive 12-month period preceding application for enrollment. Numerous comments were received to change the period to "any consecutive 12-month period within the 24-month period preceding application for enrollment" as it was under CETA to meet the broad special circumstances unique to migrant and seasonal farmworkers. The Department accepts the comment and § 633.107 has been changed accordingly.

The Department also accepts comments suggesting that a paragraph (f) be added to this section stating that Section 181(k) of the Act, which provides for the eligibility in JTPA of participants who are in CETA programs on September 30, 1983, is applicable to Section 402 programs.

The Department did not accept comments to provide an eligibility window which would exempt up to 10 percent of a program's participants from the income eligibility requirements if such participants are in an agricultural skills upgrading activity. The Department believes that the resources of the program should be directed toward those farmworkers most in need.

Solicitation for Grant Application (SGA)

Section 633.202 provides for publication in the **Federal Register** of an SGA for all areas open to competition for Section 402 funds. Numerous comments were received that the SGA should be published as part of the regulations rather than as a separate **Federal Register** notice in order to meet the requirement that procedures to select grantees shall be consistent with standard competitive procurement policies. The Department did not accept these comments since standard competitive procurement policies do not require the publication of an SGA in program regulations, and the use of a **Federal Register** notice provides needed flexibility to meet changes in program needs.

Notification of Selection

Numerous comments were received concerning two of the provisions of § 633.205 concerning the selection procedures for potential grantees.

Commentators objected to the provisions of paragraph (b) which state that the Department may give the Governor first right to submit an acceptable application should the SGA process not result in the selection of a grantee within that State. The commentators believe this violates the requirement to use standard competitive procurement policies in the selection of a grantee. The Department did not accept this comment because it believes that after a standard competitive procurement procedure has been used which did not result in the selection of a grantee for the area in question, the Department has the obligation to select expeditiously a grantee to provide services to farmworkers in that area. In addition, the provision simply formalizes past practice.

Commentators objected to the provision of paragraph (e) which states that the available remedy for a successful appeal to the ALJ of nonselection will be the right to be designated in the succeeding funding period rather than relief during the funding period in question. This limitation could have prevented a successful appellant from being the grantee for up to two years. A limit is necessary to allow the Department to responsibly ensure services are provided to farmworkers. The Department agrees, however, that the waiting period as provided may cause undue harm, and the language has been changed to make the remedy effective within 90 days so long as there is sufficient time remaining in the funding period to make a new grantee's operation practical.

Training Activities and Services

Comments were received objecting to the limitation imposed upon tryout employment in paragraph (c) of § 633.302. The commentators believe that adults as well as youth are eligible for tryout employment. The Department did not accept this comment because Section 141(k) of the JTPA clearly limits subsidized employment in private profitmaking firms to youths aged 16–21 and in accordance with section 205(d)(3)(B) of JTPA.

Comments were received objecting to the requirement of paragraph (d) of § 633.302 which requires work experience programs to be combined with classroom or other training. The commentators state this is not required by JTPA nor was it a requirement under CETA. The Department accepts the comment and this restriction has been removed from the final regulation.

Allowable Costs

Numerous comments were received concerning the allowable costs provisions of § 633.303.

The commentators objected to the requirement imposed in paragraph (d) that the prior approval of the Department is needed before building repairs or maintenance could be performed since this is not a requirement of OMB Circular A–122. The Department accepts this comment and the restriction is removed from the final regulation with the proviso that the requirements of OMB Circular A–122 apply.

The Department accepted the comment that unemployment insurance for program staff be included as an allowable cost in paragraph (e).

The Department also accepted the comment that any individual serving on boards and advisory councils who meets the income requirements shall be eligible for allowances and reimbursement for loss of wages. The proposed regulation limited such payments to only farmworkers who meet the income requirements. The term "individual" has been substituted for the term "farmworker" in the final regulation.

Section 402 Cost Allocation

Numerous comments were received concerning the cost allocation requirements at § 633.304.

The Department did not accept comments that Training-related supportive services should be eliminated as a cost category and the

costs associated with this category be allocated to the Training category. The Department believes that maximum resources should be devoted to training; therefore, costs that are supportive in nature should not be charged to the training category.

Commentators objected to the 15 percent with waiver to 20 percent limitation imposed on administrative costs in paragraph (b). A 20-percent limitation with a waiver provision to 25 percent for this cost category was suggested because most Section 402 grantees have statewide programs concentrated in rural areas, a factor which could increase administrative costs. The Department accepts the comment to the degree that the final regulation provides for a 20-percent limitation on administrative costs, but with no provision for a waiver above this amount.

The commentators objected to the 15-percent limitation on each of the supportive services categories as provided in paragraph (b). A limitation of 30 percent for both categories combined was suggested which would allow increased flexibility between the two categories. The Department believes that maximum resources should be devoted to participant training; therefore, the final regulation retains the 15-percent limitation on nontraining-related supportive services but provides no limitation on training-related supportive services other than those imposed by the 50-percent floor on training costs and the amounts the grantee chooses to devote to administrative and nontraining-related supportive services.

The commentators suggested that the examples given for costs assignable to the Training category in paragraph (c) should be expanded. The Department does not accept this comment since the list was not meant to be, and could not practicably be, all-inclusive.

The commentators objected to the inclusion of "Direct placement services" in the nontraining-related supportive services category in paragraph (c) since this is inconsistent with the treatment of these services in the basic JTPA regulations. The Department accepts this comment and § 633.304(c)(4)(ii) is eliminated from the final regulation.

The Department also accepts the comment that a Services Only (no referral to employment) program activity be included in paragraph (d).

In anticipation of administrative instructions for reporting, a Training Assistance program activity has been added to paragraph (d).

General Benefits for Participants

The Department accepts the comment pertaining to work experience participants in paragraph (b) of § 633.305 that the phrase "Subject to provisions of Section 108 of the Act" should be deleted. The Department agrees that Section 108 does not apply to Section 402 programs, and the phrase is deleted in the final regulation.

The Department also accepts the comment that § 633.305–4 *Termination conditions* should be deleted since it is almost impossible to provide written termination notices to migrant farmworkers as required by this section. This section is deleted from the final regulation.

Administrative Staff and Personnel Standards

Numerous comments were received concerning paragraph (f) of § 633.310 which requires Section 402 grantees to provide employee benefits at the same level and to the same extent as those positions in public or private nonprofit agencies in the area where the program is carried out. The commentators argued that Section 402 grantees would find it very difficult to provide fringe benefits at the same level as public agencies. The Department does not accept the comment since this was the standard applicable to the program under CETA, and it should not be lowered under JTPA.

Reports Required

Comments were received concerning the data elements to be reported as proposed at § 633.311. The Department has removed the data elements from the final regulation, retaining the authority to require quarterly and final financial and program reports pursuant to administrative instructions to be issued by the Department.

Replacement, Corrective Action, Termination

Numerous comments were received objecting to some of the replacement and termination conditions proposed at § 633.312 (in these final regulations § 633.315).

In paragraph (a) the commentators objected to the Governor being given the first opportunity to submit an application to replace any grantee which has been terminated during the grant period since they believe that the JTPA requires a standard competitive procurement process be used to replace the terminated grantee. The Department does not accept the comment because to avoid serious disruption of services in the area affected, the Department would have to act expeditiously. This provision also simply formalizes past practice.

The commentators suggested that paragraph (d) be made more definitive. The Department does not accept the comment since it would be impractical to attempt to make the paragraph all-inclusive.

The commentators objected to the inclusion of proposed § 633.312(f)(i) in the regulations and suggested that it should be deleted since they believe it goes beyond the provisions of Section 164(f) of the JTPA. The Department believes the examples given are legitimate reasons for the emergency termination of a grant and, therefore, retains this provision.

Reallocation of Funds

Numerous comments were received that proposed § 633.314 (in these final regulations § 633.317), which authorizes the Department to recapture funds from a grant in a limited number of circumstances, be deleted. The commentators cite that the Department could be arbitrary in any decision based on actual expenditures being behind those planned, and it is arbitrary to deny the right to appeal such decisions. The Department does not accept the comment to delete the section in its entirety. Instead, the phrase "planned vs. actual expenditures are significantly behind schedule" has been modified, and the phrase "is not appealable" has been deleted.

Complaints, Investigations and Sanctions

As discussed in a preceding part of this preamble, Subpart D is rewritten as a consolidated procedure to be used for programs under Sections 401, 402, and 441 of the Act and is published at 20 CFR Part 636. In addition, a new § 633.322 regarding sanctions has been added to Part 633.

Regulatory Changes by Section

In § 633.104 the following changes have been made to definitions:

The terms "Average earnings (pre-application)," "Average earnings for the first ninety (90) days following termination," "Average hourly wage at termination (no preapplication hourly wage)," "Average hourly wage in last job (preapplication)," "Average hourly wage at termination (with preapplication hourly wage)," "Earnings," "Education status," "Individuals with earnings," "Individuals entering employment with preapplication hourly wage," "Limited English proficiency " "Race/ethnic group," "Welfare recipient," and "Total

employed 13 weeks following termination" have been deleted because reporting requirements, of which these terms are a part, will be provided through administrative procedures rather than in the final regulation.

The terms "Contracts made" and "Followup period" have been deleted because followup of participants will not be a program requirement. The term "direct placement services" has been deleted.

The definition for "Entered employment" has been modified to indicate that seasonal agricultural placements will not be considered as unsubsidized employment unless it represents an upgraded position within agriculture and will not result in the continued underemployment of the individual.

"Family." The word "individual" has been substituted for the word "adult" in paragraph (b)(2).

"Earned family income" has been changed to "Family income" and "52-week period" has been changed to "eligibility determination period."

The definition of "Farmwork" has been modified by adding the words "for eligibility purposes" after "Farmwork shall mean."

The definitions of "Migrant farmworker" and "Seasonal farmworker" have been modified to indicate that the eligibility determination period is now any consecutive 12-month period within the 24-month period preceding application for enrollment.

In § 633.105 paragraph (b)(1) has been modified to indicate that the formula used to determine State allocations will not be published in the SGA but will be published in the **Federal Register** for review and comment, along with the rationale for such formula and proposed allocations, no later than 30 days prior to the publication of the final allocations of available funds in the **Federal Register.** A new paragraph (b)(3) has been added to provide for the use of a hold harmless or other factor as an allocation adjustment where the Department determines that the formula allocation will result in severe disruption of funding levels from one year to the next. The former paragraph (b)(3) becomes (b)(4) because of the inclusion of the hold harmless provision.

In § 633.107 paragraphs (a) and (b) have been modified to indicate that the eligibility determination period has been changed to "any consecutive 12-month period within the 24-month period preceding their application for enrollment." A new paragraph (f) has been added to indicate the provisions of Section 181(k) of the JTPA are applicable to Section 402 programs.

In § 633.202 a paragraph (d) has been added to comply with the requirements of 30 CFR Part 46 which implements Executive Order 12372, "Intergovernmental Review of Federal Programs." It provides that in those States where a consultation process has been established which expressly covers the Section 402 program, applications shall be provided to the State for comment upon the deadline for submission of the application to the Department.

In § 633.204 the last sentence of paragraph (a) has been changed to read "With the exceptions of paragraphs (a)(1) and (a)(3) of this section, the failure to meet any one of the following responsibility tests would not establish that the organization is irresponsible unless the failure is substantial or persistent." A phrase has been added to paragraph (b)(5) stating "or to meet performance standard requirements as provided at § 633.318 of this subpart."

In § 633.205 paragraph (e) has been modified to indicate that the available remedy to a successful appellant has been changed from selection in the succeeding funding period to selection and funding within 90 days of the ALJ's decision unless the end of the 90-day period is within 6 months of the end of the funding period. Clarification has been provided in this paragraph by adding the phrase "during the appeal period" to the end of the second sentence and substituting the phrase "the requirements of this Part" for "minimum standards" in the last sentence.

In § 663.301 the phrase "and OMB Circulars A–110 and A–122" has been added to the end of paragraph (a) as a technical clarification.

In § 633.302 the phrase "and Section 141(k) of the Act" has been added to paragraph (c) as a technical clarification. Paragraph (d) has been changed to read "A participant's enrollment in work experience shall not exceed 1,000 hours in a one-year period" to indicate that it is no longer required to combine work experience with classroom or other training.

In § 633.303 the phrase "and OMB Circular A–122" has been added to the end of paragraph (b) as a technical clarification. In paragraph (d) the phrase "building repairs, maintenance, and" has been deleted, and the parenthetical phrase "(as defined in OMB Circular A–122, Attachment B, Sections 13 and 22)" has been added after "capital improvements." In paragraph (e) the words "and program" have been added after the word "administrative." In paragraphs (i)(2), (i)(2)(i), and (i)(3)(ii) the word "farmworker" has been changed to "individual."

In § 633.304 paragraph (b)(1) has been changed to indicate that administrative costs shall not exceed 20 percent of the total amount of the grant with no provision for a waiver above this amount. Paragraph (b)(3) has been deleted and paragraph (b)(4) becomes (b)(3). The letter (i) has been deleted from paragraph (c)(4)(i) and paragraph (c)(4)(ii) has been deleted in its entirety. The cost category "administration" has been deleted in paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) since administration will now be reported as a total amount. As a technical clarification a "Training assistance" activity has been added as paragraph (d)(5) and a "Services only (no referral to employment)" activity has been added as paragraph (d)(6).

In § 633.305 the phrase "Subject to provisions of Section 108 of the Act" has been deleted from paragraph (b).

Section 633.305–4 has been deleted.

In § 633.311 paragraph (b) has been deleted in its entirety.

In § 633.314 the phrase "when it can be reasonably projected that the funds will not be used during the grant performance period or that they will not be used for DOL authorized carryover purposes" replaces the phrase "because planned versus actual expenditures are significantly behind schedule," and the phrase "is not appealable and" is deleted.

In § 633.317 the cite (Sec. 123(g)) is deleted from paragraph (b) as a technical correction.

In § 633.318 the phrase for the first program year has been deleted from paragraph (a) as a technical correction.

In § 633.319, paragraphs (c) and (d) have been added to incorporate the statutory restrictions on political activities and the assistance, promotion, and deterence of union organizing.

Sections 633.305–1 through 633.318 have been renumbered 633.306 through 633.321 to eliminate the numbers –1, –2, and –3 from Section 633.305.

Subpart D—*Complaints, Investigations and Sanctions* is deleted. It is rewritten as a consolidated procedure to be used for programs under Sections 401, 402, and 441 of the Act and is published at 20 CFR Part 636. A new § 633.322 regarding sanctions has been added to Part 633.

Part 634—Labor Market Information Programs Under Title IV, Part E of the Job Training Partnership Act

Commentators on the proposed regulations governing labor market information (LMI) programs suggested

changes in three general areas: The funding process, program activity and eligible recipients. In terms of funding, some confusion was caused by § 634.4. This section has been eliminated because it described an LMI funding process no longer in use. Other commentators sought more specific information on how State LMI funds are to be distributed. Such decisions are to be made within the States and, accordingly, additional regulatory specification by the Department is unnecessary.

With regard to program activity, commentators sought more information on such LMI activities as the *Dictionary of Occupational Titles*, and expected standards of performance for each activity. The information sought varies by LMI component and program objectives, therefore the information will be provided through a series of administrative issuances.

With regard to eligible recipients, it was pointed out that Section 4(22) of JTPA, 29 U S.C. 1503(22), defines the term "state" to include all U.S. territories, while the definition of "state" contained in the 1982 Wagner-Payser amendments is narrower. Section 634.3 has been modified to take account of the differences in the definitions of "state" and to qualify as eligible recipients of LMI funds those entities that meet the definition of "state" under the statute that authorizes the appropriation of LMI monies.

Regulatory Changes by Section

Section 634.3 has been amended to include all U.S. territories, as specified in Section 4(22), 29 U.S.C. 1503(22), for funds appropriated pursuant to JTPA Title IV, Part E. For funds appropriated pursuant to the Wagner-Peyser amendments (e.g., the BLS cooperative labor market information programs), the definition of eligible recipients contained in the proposed regulations is retained.

Section 634.4 has been eliminated. The funding process is described in § 634.2.

Part 684—Job Corps Programs Under Title IV–B of the Job Training Partnership Act

Funding Procedures

The proposed regulations at § 684.22(b) state the program emphasis and places greater weight on past performance and fiscal integrity of contractors consistent with a new model RFP. The commentator, Department of Interior, suggested that the language should be limited to contract centers since federal centers are not selected on the basis of proposals received. The Department concurs with the comment and has clarified this point by adding the word contract to center operators.

Disclosure

The proposed regulation states at § 684.95 require centers to respond to requests for information under either the Freedom of Information and or the Privacy Act of 1974, as appropriate. All centers are required to treat the results of such requests in accordance with the Privacy Act; Federally operated civilian Conservation Centers must also address such requests in accordance with the Freedom of Information Act. The commentator suggested that this provision not apply to the Department of Interior centers. The Department believes that since the centers are more knowledgeable of the corpsmembers than the regional offices of the Department and they maintain the information on the corpsmembers, therefore, it is most practical for all centers to respond to such requests including the Department of Interior's centers.

Corpsmember Records

The proposed regulations at § 684.123 place responsibility on the centers for maintaining corpsmember records consistent with a pilot project conducted in one region to test feasibility of handling in this manner. The commentator suggested that this provision not apply to Department of Interior centers. The Department believes that issues raised by the Department of Interior on space and security of records are incorrect and that records are being maintained at those centers at present on a limited basis. Therefore, no exception will be provided to Department of Interior centers solely.

Also, with regard to this section, two questions were raised by advanced training contractors. Comments were made by two commentators to the effect that corpsmembers' folders be maintained by the original center of record. No change is contemplated by this proposal that would alter that procedure. Thus, no further changes to the proposed language will be made.

Additional Regulation

In addition to the comments on the proposed regulations, there were three comments which requested additional regulations. Since the intent was not to extend the regulations at this time, no additional regulations are being added.

Rulemaking Certifications

These proposed regulations are procedural in character and give direction on the implementation of the programs under Title IV of the Job Training Partnership Act.

Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100,000 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the paperwork requirements that are included in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 1205–0213.

Regulatory Flexibility Act:

The Department has certified that these rules will not have a "significant economic impact on a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). Although these rules apply to some organizations which are within the statutory definition of "small entity," they do not apply to a substantial number of such entities. Thus, a regulatory flexibility analysis was not required.

List of Subjects

20 CFR Part 632

Administrative practice and procedures, Aged, Alaska, Aliens, Civil rights, Education, Employment, Equal employment opportunity, Fraud, Grant programs—labor, Handicapped, Indians, Labor, Political activities, Political affiliation discrimination, Public assistance programs, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Veterans, Vocational education, Wages, Women, Youth.

20 CFR Part 633

Agriculture, Education, Employment, Equal employment opportunity, Fraud, Grant programs—labor, Labor, Migrant labor, Relocation assistance, Reporting and recordkeeping requirements, Vocational education, Wages.

20 CFR Part 634

Grant programs—labor, Manpower training programs.

20 CFR Part 636

Administrative practice and procedure, Grant programs—labor.

20 CFR Part 684

Community development, Employment, Grant programs—labor, Job Corps, Labor, Manpower training programs, Religious discrimination, Reporting and recordkeeping requirements, Tort claims, Unemployment, Vocational rehabilitation, Youth.

Accordingly, Chapter V of Title 20 of the Code of Federal Regulations is amended by adding Parts 632, 633, 634 and 636, and by amending Parts 626 and 684 as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

§ 626.3 [Amended]

In § 626.3, the consolidated table of contents is amended by adding the following tables of contents for Parts 632, 633, 634, and 636:

PART 632— INDIAN AND NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

Subpart A—Introduction

Sec.

Subpart B—Designation Procedures for the Native American grantees

Subpart C—Program Planning, Application and Modification Procedures

Sec.

Subpart D—Administrative Standards and Procedures

Subpart E—Program Design and Management

Subpart F—Prevention of Fraud and Program Abuse

Subpart G—[Reserved]

Subpart H—Job Training Partnership Act Programs Under Title IV, Section 401

Sec.

Subpart I—Summer Youth Employment and Training Programs

PART 633—MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Subpart A—Introductory Provisions

Subpart B—Grant Planning and Application Procedures

Subpart C—Program Design and Administrative Procedures

PART 634—LABOR MARKET INFORMATION PROGRAMS UNDER TITLE IV, PART E OF THE JOB TRAINING PARTNERSHIP ACT

PART 636—COMPLAINTS, INVESTIGATIONS AND HEARINGS

2. Chapter V, Title 20 of the Code of Federal Regulations is amended by adding new Parts 632, 633, 634 and 636 to read as follows:

PART 632—INDIAN AND NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

Authority: Job Training Partnership Act. Sec. 169 (29 U.S.C. 1501 *et seq.*, Pub. L. 97–300. 96 Stat. 1322), unless otherwise noted.

Subpart A—Introduction

§ 632.1 [Reserved]

§ 632.2 Scope and purpose.

It is the purpose of Native American programs to provide job training and employment activities consistent with the intent of Title IV, Part A, Section 401. Such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this Section including furtherance of the policy of Indian Self-Determination.

§ 632.3 Format for these regulations.

Regulations promulgated by the Department of Labor to implement the provisions of Title IV, Section 401 and Indian programs under Title II–B of the Act are set forth in 20 CFR Part 632. This part in conjunction with Part 636 contains all the regulations under the Act applicable to Indian and Native American programs.

§ 632.4 Definitions.

Act—means the Job Training Partnership Act (29 U.S.C. section 1501 et seq.).

Capital Improvement—means any modification, addition, restoration or other improvement:

(a) Which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment;

(b) Which is classified for accounting purposes as a "fixed asset;" and

(c) The cost of which increases the recorded value of the existing building, structure, or major item of equipment and is subject to depreciation.

Community Based Organization—means a private nonprofit organization which is representative of the Indian

and Native American community or significant segments of the community and which provides employment and training services or activities.

Comprehensive Annual Plan (CAP)—means the annual update to the Master Plan. The CAP will identify the work plan and budget for the annual 401 and Title II, Part B funding allocations.

Construction—means the erection, installation, assembly or painting of a new structure or a major addition, expansion or extension of an existing structure and the related site preparation, excavation, filling and landscaping or other land improvements.

Contract—means a procurement instrument, other than a grant, by which the Department, a Native American grantee or a subgrantee acquires and pays for property, services, supplies, materials or equipment.

Contractor—means any person, corporation, partnership, public agency, or other entity which enters into a contract with the DOL, a Native American grantee or subgrantee under the Act.

Department—means the United States Department of Labor (DOL) including its agencies and organizational units.

Dependent—means any person for whom, both currently and during the previous 12 months, the participant has assumed 50 percent of the person's support.

DINAP—means the Division of Indian and Native American Programs of the Department of Labor.

DOL—means the U.S. Department of Labor.

Economically Disadvantaged—means an individual who (a) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (b) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (1) the poverty level determined in accordance with criteria established by the Department of Health and Human Services, or (2) 70 percent of the lower living standard income level; (c) is receiving food stamps pursuant to the Food Stamp Act of 1977; (d) is a foster child on behalf of whom State or local government payments are made; or (e) is a handicapped individual whose own income meets the requirements of paragraph (a) or (b) of this definition, but who is a member of a family whose income does not meet such requirements.

Entered Employment—means the act of securing unsubsidized employment for or by a participant.

Entry Level—means the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules.

Family—(a) means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step-child or a step-parent is considered to be related by marriage.

(b) (1) For purposes of paragraph (a) of this definition, one or more persons not living in the single residence but who are claimed as a dependent on another person's Federal Income Tax return for the previous year is presumed, unless otherwise demonstrated, to be part of the other person's family.

(2) A handicapped individual may be considered a family of one when applying for programs under the Act.

(3) An individual 18 years of age or older, except as provided in (b) (1) or (2) of this definition, who receives less than 50 percent of support from the family, and who is not the principal earner nor the spouse of the principal earner shall not be considered a member of the family. Such an individual shall be considered a family of one.

Family Income—means all income actually received from all sources by all members of the family for the six-month period prior to application. Family size is the maximum number of family members during the six-month period prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the six-month period prior to application that the person was actually a part of the family unit.

(a) For the purposes of determining participant eligibility (and not for grantee allocations), family income includes:

(1) Gross wages, including CSE, Work Experience and OJT paid from JTPA funds, and salaries (before deductions);

(2) Net self-employment income (gross receipts minus operating expenses); and

(3) Other money income received from sources such as interest, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income.

(b) Family income does not include:

(1) Non-cash income such as food stamps, or compensation received in the form of food or housing;

(2) Imputed value of owner-occupied property, i.e., rental value;

(3) Public assistance payments;

(4) Cash payments received pursuant to a State plan approved under Titles I, IV, X or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(5) Federal, State or local unemployment benefits;

(6) Capital gains and losses;

(7) One time unearned income, such as, but not limited to:

(i) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(ii) One-time or fixed-term scholarship and fellowship grants;

(iii) Accident, health, and casualty insurance proceeds;

(iv) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;

(v) One-time awards and gifts;

(vi) Inheritance, including fixed term annuities;

(vii) Fixed term workers' compensation awards;

(viii) Terminal leave pay;

(ix) Soil bank payments; and

(x) Agriculture crop stabilization payments;

(8) Pay or allowances which were previously received by any veteran while serving on active duty in the Armed Forces;

(9) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36, of Title 38, United States Code;

(10) Payments received under the Trade Act of 1974;

(11) Black Lung payments received under the Benefits Reform Act of 1977, Pub. L. 95–239, 30 U.S.C. 901;

(12) Child support payments; and

(13) Any income directly or indirectly derived from, or arising out of, any property held by the United States in trust for any Indian tribe, band or group or any individual; per capita payments; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected by treaty; and any property distributed or income derived therefrom, or any amounts paid to or for any individual member, or distributed to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim.

Financial Assistance—means any grant, loan, or any other arrangement by

which the Department or Native American grantee provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of Federal or Native American grantee personnel; or

(c) Real and personal property or any interest in or use of such property, including:

(1) Transfers or leases of such property for less than fair market value or for reduced consideration and

(2) Proceeds from a subsequent transfer or lease of such property if the Federal or Native American grantee share of its fair market value is not returned to the Federal Government or Native American grantee.

Governing Body—means a body consisting of duly elected or designated representatives, a body appointed by duly elected officials, or a body selected in accordance with traditional tribal means which has the authority to provide services to, and to enter into contracts, agreements and grants under this part on behalf of the organization or individuals who elected or designated them, elected the appointing official, or recognize the body selected in accordance with traditional tribal means.

Governor—means the chief executive of any State.

Handicapped Individual—means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

Hawaiian Native—means any individual, any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii (Sec. 3(12)).

JTPA—means the Job Training Partnership Act.

Local Educational Agency (LEA)—means such an agency as defined in Section 195(10) of the Vocational Educational Act of 1963. It shall further mean the governing bodies of any Bureau of Indian Affairs, tribal or reservation run agencies or school districts, or any nonprofit agency or tribally chartered entity providing educational services to Indian and Native American persons as determined by the Native American grantee.

Low Income Housing—means: (a) For weatherization or winterization projects, those dwellings occupied by persons whose family income does not exceed 125 percent of the poverty level and which are:

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization;

(4) Cooperatively owned; or

(5) For projects funded and approved by the Federal Energy Administration, privately owned rental housing.

(b) For rehabilitation as part of community revitalization or stabilization, housing built or improved with the assistance of Federal, State or tribal programs, and those dwellings occupied by persons whose family income does not exceed 80 percent of the median income for the area, in accordance with Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f) and which are:

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization; or

(4) Cooperatively owned.

Lower Living Standard Income Level—means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent "lower living family budget" issued by the Secretary.

Master Plan—means the basic long term agreement between the Department and the Native American grantee. The master plan contains all basic eligibility determination and administrative information.

Native American Community Benefit—means the outcome of allowable activities undertaken for the advancement of economic and social development in the Indian, Alaskan Native, and Hawaiian Native communities consistent with their goals and life styles as determined by representatives of the community.

Offender—means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom services under this Part may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Older Worker—means a person who is 55 years of age or older.

Participant—means an individual who has:

(a) Been determined eligible for participation; and

(b) Started receiving employment, training or services (except post-termination services) funded under the Act, within 45 days of such determination.

Poverty Level—means the annual income level at or below which families are considered to live in poverty, as annually determined by the Department of Health and Human Services.

Program Income—means net income earned from grant or agreement supported activities. Such earnings include but are not limited to: income from service fees, sale of commodities, usage or rental fees, and royalities on patents or copyrights.

Program year—means that 12-month period of time during which job training activities and services and provided to participants.

Public Assistance—means Federal, State, tribal, or local government cash payments for which eligibility is determined by a need or income test.

Secretary—means the Secretary of Labor.

Similarly Employed—means that status of a person who is working for the same employer as the JTPA participant, is doing the same type of work, and is similarly classified with respect to employment status (e.g., full-time, permanent, or termporary).

State—means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Marianas Islands, American Samoa, and the Trust Territory of the Pacific Islands.

State Employment Security Agency (SESA)—means the State agency which exercises control over the Unemployment Insurance Service and the Employment Service.

Subgrantee—means any person, corporation, partnership, public agency, or other entity, excluding private for profits concerns, which enters into a grant with the Native American Grantee.

Underemployed Persons—means:

(a) Persons who are working part-time but seeking full-time work; or

(b) Persons who are working full-time but whose current annualized wage rate (for a family of one), or whose family's current annualized income, is not in excess of:

(1) The poverty level, or

(2) 70 percent of the lower living standard income level.

Unemployed Persons—means individuals who are without jobs and who want and are available for work. The determination of whether individuals are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

Subpart B—Designation Procedures for Native American Grantees

§ 632.10 Eligibility requirements for designation as a Native American grantee.

(a) All funds specifically identified in the Act as reserved for the benefit of Indian and Native American

participants shall be disbursed by the Department only to Native American grantees designated pursuant to this subpart. Except for FY 1984, designation will be for a period of two years.

(b) To be designated as a Native American grantee, an applicant must have:

(1) A governing body;

(2) For new grantees, an Indian or Native American population within its designated service area of at least 1,000 persons;

(3) The capability to administer an Indian and Native American employment and training program. For purposes of this paragraph, "capability to administer" means that the applicant can demonstrate that it possesses, or can acquire the managerial, technical, or administrative staff with the ability to properly administer government funds, develop employment and training opportunities, evaluate program performance and comply with the provisions of the Act and the regulations. In judging the applicant's request for designation, consideration shall be given to factors such as:

(i) Previous experience in operating an effective employment and training program serving Indians or Native Americans;

(ii) The number and kind of activities of similar magnitude and complexity that the applicant has successfully completed;

(iii) Information from other Federal agencies regarding program performance or financial and management capability.

(c) The Department will not designate an organization in cases where it is established that:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or

(2) Fraud or criminal activity has been proven to exist within the organization, or

(3) The amount under the funding formulas will not total at least $120,000 in all JTPA funds for the first year of the two-year designation period. In the event that this amount cannot be determined at the time of the Department's decision on the request for designation, the amount shall be estimated in part by reference to the funding levels for Native American programs for the prior fiscal or program year. An applicant for designation shall be designated notwithstanding the limitation in this paragraph of this subsection if it demonstrates that:

(i) It has or expects to receive a combined total of $120,000 in funds or services for the first year of the 2-year designation period from JTPA and other human resource development programs, including but not limited to those providing for employment, education, vocational education, health, social or similar services; or

(ii) It is recognized and directly funded by Federal agencies, such as the Indian-serving agencies within the Departments of the Interior, Health and Human Services or Education as the primary service delivery organization for the provision of human resource development services to Indians or Native Americans within the organization's customary service area. This provision shall be interpreted consistent with the Federal policy established in Pub. L. 96-638, the Indian Self-Determination Act; or

(iii) It has demonstrated successful operation of an employment and training program at a level below $120,000 within the previous two years. For this purpose, success is the ability to adequately meet planned goals and stay within the grant's cost limits.

(4) For a consortium to be designated, it must submit the consortium agreement which meets the requirements of this subpart.

(d) Types of eligible Native American grantees:

(1) *Indian tribe, band or group.* The Department shall designate as a Native American grantee an Indian tribe, band or group which meets the requirements in paragraphs (b) and (c) of this section.

(2) *Alaskan Native entity.* The Department shall designate as a Native American grantee an Alaskan Native entity as defined in the Alaskan Native Claims Settlement Act which meets the requirements in paragraphs (b) and (c) of this section.

(3) *Hawaiian Native grantee.* The Department may designate as a Native American grantee any private nonprofit organization or public agency representative of the Native Hawaiian community which meets the requirements in paragraphs (b) and (c) of this section and which the Department determines will best meet the needs of Native Hawaiians.

(4) *Public or private agencies.* The Department may designate as a Section 401 grantee a private nonprofit organization or public agency which meets the requirements in paragraphs (b) and (c) of this section to serve areas where there are significant numbers of Indians or Native Americans, but where there are no Indian tribes, bands or groups, Alaskan Native entities or Hawaiian sponsors or consortia of such sponsors eligible for designation.

(5) *Consortium grantees.* The Department may designate as a Native American grantee a consortium of any of the types of grantees described in paragraphs (c), (1), (2), (3), and (4) of this section which may or may not be independently eligible. All such consortia shall meet the following requirements, in addition to the requirements in paragraphs (b) and (c) of this section:

(i) All the members shall be in geographic proximity to one another. A consortium may operate in more than one State.

(ii) An administrative unit shall be designated for operating the program, which may be a member of the consortium or an agency formed by the members. The administrative unit shall be delegated all powers necessary to administer the program effectively, including the power to enter into contracts and subgrants and other necessary agreements, to receive and expend funds, to employ personnel, to organize and train staff, to develop procedures for program planning, to monitor financial and program performance, and to modify the grant agreement through agreement with the Secretary. The right of reallocating funds within the consortium area shall be reserved to the consortium's members.

(iii) The consortium shall be the Native American grantee. The consortium agreement shall be signed by an official or officials of each member of the consortium authorized to enter into a binding consortium and shall specify that each member shall be liable jointly or separately for claims established against the grantee. Additional standardized requirements for consortium agreements will be communicated to grantees under separate order.

(e) In the situation where the Department does not designate Indian tribes, bands or groups or Alaska Native groups to serve such groups, the Department shall, to the maximum extent feasible, enter into arrangements for the provision of services to such groups with other types of Section 401 grantees which meet with the approval of the Indian tribes, bands, groups or Alaska Native groups to be served (Section 401(d)). In such cases, the Department shall consult with the governing body of such Indian tribes, bands, groups or Alaska Native groups prior to the designation of a Native American grantee.

(f) In designating Native American grantees to serve groups other than those in paragraph (e) of this section,

such as nonreservation Indians and Native Hawaiians, the Department shall, whenever feasible, designate grantees which are directly controlled by Indian or Native American people. Where it is not feasible to designate such types of grantees, DINAP shall consult with Indian or Native American-controlled organizations in the area with respect to the designation of a Native American grantee. Where a private nonprofit organization is designated, DINAP shall require any such grantees not directly controlled by Indian or Native American people to establish a Native American Employment and Training Planning Council and to implement an Indian preference policy with respect to hiring of staff and contracting for services with regard to all funds provided pursuant to this Part (Sec. 7(b) of the Indian Self-Determination and Education Assistance Act).

§ 632.11 Designation of Native American grantees.

(a) When designations are required and the potential grantee is not under a Master Plan agreement, an applicant for designation as a Native American grantee shall submit a notice of intent to apply for funds. Such notices of intent shall be postmarked by January 1 and be submitted to the Division of Indian and Native American Programs (DINAP), Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213. Notices of intent may also be delivered to that office in person not later than the close of business on January 2 or the first business day of the designation year. Such notices of intent to apply shall be submitted on Standard Form 424 as a preapplication for Federal assistance. For applicants not under an active Master Plan agreement or the Master Plan agreement is due to expire during the year of designation, the following information shall be included in the notice of intent:

(1) Evidence that the applicant meets the requirements for a Native American grantee contained in § 632.10.

(2) A description of the geographic area or areas which the applicant proposes to serve, together with the Indian and Native American population in such areas, to the extent known. The description must include a list of States (if more than one), in alphabetical order, and under each State, a list of counties in alphabetical order, followed by a list of tribes, bands or groups (if any) in alphabetical order. If the applicant was a Native American grantee for the period prior to the one which is being applied for, the applicant must also list any counties and tribes, bands or groups which are being added to, or deleted from, the previous fiscal year's service area;

(3) A description of the applicant's organization, including the legal status of the applicant, the process of selection of the governing body, the duties and responsibilities of the governing body, and in the case of private nonprofit organizations, a copy of the articles of incorporation;

(4) Evidence of the applicant's capability to operate an Indian or Native American employment and training program, including a statement of the applicant's past successes in operating programs for Indians or other Native Americans and a statement of the applicant's experience in managing the types of programs and activities allowable under the Act;

(5) A description of the planning process including employer involvement which the applicant proposes to undertake in developing a plan for the use of funds;

(6) Information related to a grantee's administrative responsibility. The DOL will conduct an independent review to determine whether each applicant is currently delinquent in repaying any DOL claims or has any outstanding administrative problems. Applicants are, therefore, encouraged to submit any documents related to these factors including documents and correspondence previously submitted to DOL. Submittal of such materials will enable DOL to move rapidly to complete the Notice of Intent and grantee designation review process.

(7) If the applicant is applying as a consortium, evidence that the consortium meets the requirements for a consortium in this part and a consortium agreement as specified in § 632.10(d)(5)(iii).

(b) If more than one organization submits a Notice of Intent for a geographic area, the Department will notify the organizations involved and conduct a special review for the area in question. The notice to the organizations will indicate any additional information needed and the review process to be followed.

(c) If the applicant for designation is a current grantee, under a master plan agreement, and there is no change in the service area requested, only the Standard Form 424 and a statement(s) indicating that to the best of the applicant's knowledge, it meets the requirements of § 632.10(c)(4) will be necessary and shall be submitted within the timeframe established in § 632.11(a).

(d) *Responsibility Review.* Prior to finally designating, conditionally designating or nondesignating the Department will conduct a review of the available records to determine whether or not the organization has failed any responsibility test. This review is intended to establish overall responsibility to administer Federal funds. With the exception of § 632.11 (c)(1) and (c)(3), the failure to meet any one of the following responsibility test factors would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are as follows:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.

(2) Serious administrative deficiencies have been identified in final findings and determination—such as failure to maintain a financial management system as required by Federal regulations.

(3) Established fraud or criminal activity exists within the organization.

(4) Wilfull obstruction of the audit process.

(5) Substantial failure to provide services to applicants as agreed to in a current or recent grant or to meet performance standards requirements as provided for and developed pursuant to § 632.89.

(6) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, etc.

(7) Failure to return a grant closeout package on outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to properly report and dispose of government property as instructed by DOL.

(10) Failure to have maintained cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any two year period when required by DOL.

(12) Failure to audit subrecipient within the required period when applicable.

(13) Final disallowed costs in excess of five percent of the grant or contract award.

(14) Failure to establish a mechanism to resolve subrecipient's audit within established time frames.

(e) On March 1 of each designation year, the Department shall designate or conditionally designate Native American grantees for the coming two program years. Each applicant shall be notified in writing of the determination. Those applicants that are not designated in whole or in part as Native American grantees may appeal under the complaint procedures available for this Part. Conditional designations will include the nature of the conditions and the actions required to be finally designated.

(Approved by the Office of Management and Budget and assigned OMB control number 1205-0213)

§ 632.12 Alternative arrangements for the provision of services, nondesignation.

(a) If no application for Native American grantee designation for an area is filed, or if the Department has denied such application for that area, the Department may designate and fund an entity to serve that area, pending the final resolution of any Petitions for Reconsideration or other actions taken pursuant to § 632.13. An organization not designated in whole or in part may also appeal to an ALJ under the provisions of Part 636. This further appeal will not in any way interfere with the Department's designation and funding of another organization to serve the area in question. The available remedy under such an appeal will be the right to be designated in the future rather than a retroactive or immediately effective designation status. Therefore, in the event the ALJ rules that the organization should have been designated and the organization continues to meet the requirements at §§ 632.10 and 632.11, the Department will designate the successful appellant organization and fund within 90 days of the ALJ decision unless the end of the 90 day period is within six months of the end of the two year designation period. Any organization designated or funded for the area in question would be affected by this remedial action and undesignated. All parties must agree to this arrangement prior to funding. The alternate organization which loses its designation as a result of the application of this remedy may not appeal the undesignation.

(b) If the grant officer finally disapproves a CAP pursuant to § 632.21 he/she may withdraw the Native American grantee's designation and immediately designate another entity to serve the area, pending the final resolution of any Petitions for Reconsideration or other actions taken pursuant to Part 636.

(c) If a Native American grantee's CAP is terminated or suspended in whole or in part, the Department (after an opportunity for a hearing except in emergency situations as described in Section 164(f) of the Act) may designate another entity to serve the area.

(d) If it is not feasible for the Department to designate another entity to serve the area under the conditions described in paragraphs (a), (b), and (c) of this section, the funds involved may be distributed at the Secretary's discretion to Native American grantees serving other areas.

§ 632.13 Review of denial of designation as a Native American grantee, or rejection of a Comprehensive Annual Plan.

(a) An applicant for designation as a Native American grantee which is refused such designation in whole or in part may file a Petition for Reconsideration with the Grant Officer within 14 days of receipt of a letter from the Department indicating its failure to be designated as a Native American grantee.

(1) A Petition for Reconsideration shall be in writing, shall be signed by a responsible official of the applicant entity, and shall enumerate the factors which the applicant entity asserts should be reviewed by the Grant Officer in reconsidering the denial of its application.

(2) Upon receipt of the Petition for Reconsideration, the Grant Officer shall, within 30 days, make one of the following determinations:

(i) That based on the available information from the original request for designation and information supplied in the Petition for Reconsideration, the applicant entity should be designated as a Native American grantee;

(ii) That the original determination made was correct; or

(iii) That an informal conference between representatives of the applicant entity and the Grant Officer shall be held at a specified time and place to discuss the Petition for Reconsideration.

(3) If an informal conference is held, the applicant entity shall have the opportunity to present any pertinent information which may further substantiate its petition. The Grant Officer shall notify the applicant entity of its final decision within 14 days after the informal conference is held.

(4) All final determinations of the Grant Officer, which deny a Petition for Reconsideration, shall be in writing, shall state the reasons for the denial, shall be sent to the applicant by certified mail, return receipt requested, and shall notify the applicant entity that, within 21 days of its receipt of the notice, it may request a hearing pursuant to Part 636.

(b) A designated Native American grantee whose CAP has been rejected may file a Petition for Reconsideration pursuant to paragraph (a) of this section. Such petitions shall be handled under the procedures described in paragraph (a) of this section.

Subpart C—Program Planning, Application and Modification Procedures

§ 632.17 Planning process.

(a) Each Native American grantee shall establish a planning process for the development of its Master Plan and Comprehensive Annual Plan. This planning process shall involve consideration of the need for job training and employment services, appropriate means of providing needed services and methods of monitoring and assessing the services provided. Recognizing the importance of employer involvement in designing and implementing programs, each Native American grantee shall involve employers in program planning.

(b) (1) Each Native American grantee's planning process shall involve consultation with major employers or organizations representing employers inside the grantee's designated service or surrounding labor market area. Such consultation shall include consideration of the opportunities for placement of program participants and the design of training activities and related services.

(2) A description of the procedures used for this consultation shall be included in the grantee's Master Plan. The results of the consultation shall be described in the grantee's Comprehensive Annual Plan.

(3) Native American grantees are encouraged to establish or to use existing formal advisory councils, such as Private Industry Councils, as vehicles for such consultation. Grantees are also encouraged to use all appropriate mechanisms, including Tribal Employment Rights Offices (TEROs), to insure maximum opportunity for the placement of participants in unsubsidized employment.

(4) A Native American grantee will not be held responsible for the refusal of any employer or organization representing employers to engage in the consultation process described in this Section.

(c) In addition to the requirement in paragraph (b) of this Section, the planning process shall provide the opportunity for the involvement of the client community, service providers

(such as appropriate community-based organizations) and educational agencies, tribal agencies or other Indian and Native American organizations whose programs are relevant to the provision of job training services within the grantee's service area.

§ 632.18 Regional and national planning meetings.

Grant funds may be used for holding regional and national planning meetings, subject to restrictions of allowable costs.

§ 632.19 Grant application content.

The basic document will be a four year Master Plan which will be supplemented each fiscal year by submission and approval of a Comprehensive Annual Plan (CAP). The Master Plan and CAP system will be implemented for 1985 or the first designation period following the FY 1984 designations. Each designated grantee will be informed of and provided the necessary documents and requirements in sufficient time to complete grant actions without interrupting services to participants.

§ 632.20 Submission of grant application.

(a) Beginning with 1985 or the first designation period after 1984, a Master Plan must be submitted by a date and pursuant to instructions issued by the Department. The approved Master Plan will remain in effect for four years unless terminated. During the fourth year of the Master Plan a new Master Plan must be submitted by a date and pursuant to instructions issued by the Department.

(b) Each year a completed CAP is to be submitted for approval by registered mail to the Chief, DINAP by a date and pursuant to instructions announced by the Department. The CAP will be approved by DINAP if it is consistent with the basic provisions or the Master Plan and applicable regulations and formal directives.

§ 632.21 Application disapproval.

(a) A CAP shall be disapproved by the Grant Officer if it fails to meet the requirements of the Act or the regulations.

(b) No CAP shall be finally disapproved until the designated Native American grantee is provided with a description by the Chief, DINAP in writing of the CAP's defects and has been provided with at least 30 days to remedy such defect(s), but has failed to do so.

(c) When a CAP is finally disapproved a notice of disapproval shall be transmitted by certified mail, return receipt requested, to the applicant, accompanied by a statement of the grounds of the disapproval and a statement that the applicant may file a Petition for Reconsideration with respect to the disapproval.

§ 632.22 Modification of a Comprehensive Annual Plan (CAP) and/or Master Plan.

(a) The requirements for modifying a Master Plan and/or CAP will be included in administrative instructions issued by the Grant Officer upon final implementation of the Master Plan/CAP system.

(b) Prior to implementing the Master Plan/CAP system, a formal modification will be required when:

(1) There is a change of at least 25 percent or $25,000 (whichever is greater) in any cost category; or

(2) There is a change of at least 25 percent or 25 individuals (whichever is greater) in the number of individuals to be served in any category of program activity.

(c) The documentation to be submitted to the DINAP Federal Representative requesting such a modification shall consist of a letter explaining the need for the change and four copies of the proposed modification.

(d) The Grant Officer should notify the Native American grantee of tentative approval or disapproval within 10 calendar days of receipt of the proposed modifications. The Grant Officer should notify the Native American grantee in writing of final approval or disapproval within 30 calendar days of the receipt of the proposed modification.

(e) A Native American grantee may make any change in its Program Planning Summary and Budget Information Summary without prior approval, except as provided in this section.

(f) Native American grantees shall notify DINAP by submitting a modification whenever there is a change in a name, address, or other similar information.

(g) The Department will unilaterally modify a grant when a simple funding or performance period increase is required and it is consistent with the approved plan.

(Approved by the Office of Management and Budget and assigned OMB control number 1205–0213).

632.23 Termination and corrective action of a CAP and/or Master Plan.

(a) *Emergency Termination.* The Department may terminate or suspend a CAP designation or Master Plan under emergency termination procedures in accordance with Section 164(f) of the Act. The provisions in Part 636 shall not apply in instances of emergency termination.

(1) Instances under which emergency termination can occur include but are not limited to: Audit reports identifying numerous adverse findings in the area of financial control and management; information gathered through onsite monitoring which substantiates serious management, fiscal and/or performance problems, information from the Inspector General or gained through incident reports of poor performance, serious administrative problems and/or inability to protect and account for Federal funds.

(2) Within 30 days of written termination notification to a grantee, the Department will secure applicable documents onsite, seize bank accounts relating to the program, arrange for the payment of legitimate bills and debts and arrange, to the degree feasible, for the continued provision of services to program enrollees.

(b) *Termination for Cause.* Termination for cause can occur whenever there is a substantial or persistent violation of the governing rules and regulations or failure to comply with the grant terms and conditions. The following factors will be considered for termination:

(1) Poor performance and inability to meet Federal standards related to such debt collection requirements as:

(i) Failure to respond to demand letters from DOL for repayment of debts within the stated timeframe;

(ii) Failure to comply with an approved repayment agreement revealed through monitoring or subsequent audit;

(iii) Failure to take necessary corrective action to improve underperformance and to plan for more effective subsequent operations.

(2) Nonperformance related to such requirements as:

(i) Failure to submit required quarterly financial reports for two successive periods within 45 days after they are due;

(ii) Failure to submit required quarterly performance reports for two successive periods within 45 days after they are due;

(iii) Failure to develop a plan of action to correct deficiencies identified in an audit report or by an onsite monitoring review.

(3) Nonperformance related to such requirements as:

(i) Failure to comply with formal corrective action after due notice;

(ii) Failure to comply with the requirements of the Act related to a

grievance procedure and other requirements;

(iii) Failure to submit a required modification within 10 days to adjust the grant award due to reduction in available funds, reductions due to debt collection action, etc.

(c) In addition, the Department, by written notice, may terminate a grant in whole or in part in the event of a reduction in the funds available or a change in provisions for JTPA Title IV, Section 401 programs by reason of congressional action.

Subpart D—Administrative Standards and Procedures

§ 632.31 General.

(a) This subpart describes requirements relating to the administration of grants by Native American grantees. Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) As referenced in this subpart, the requirements set forth in 41 CFR Parts 29–70, "Administrative requirements governing all grants and agreements by which Department of Labor agencies award funds to State and local governments, Indian and Native American entities, public and private institutions of higher education and hospitals, and other quasi-public and private nonprofit organizations," shall apply to grants under JTPA. Whenever the provisions of 41 CFR Part 29–70 conflict with the provisions of Part 632, the provisions of Part 632 shall prevail.

(1) The requirements in 41 CFR 29–70.1 set forth the policies which apply to all basic grants and agreements.

(2) The requirements in 41 CFR 29–70.2 implement OMB Circular Nos. A–102 and A–110, and apply to all JTPA grants and agreements unless otherwise indicated in these regulations.

§ 632.32 Financial management systems.

(a) Each Native American grantee, subgrantee and contractor shall maintain a financial management system which will provide accurate, current and complete disclosure of the financial transactions under each grant, subgrant or contract activity, and will enable each Native American grantee, subgrantee or contractor to evaluate the effectiveness of program activities and meet the reporting requirements of this Subpart.

(b) Each Native American grantee, subgrantee and contractor shall maintain its financial accounts so that the reports required by the Department may be prepared therefrom.

(c) To be acceptable for audit under this subpart, a Financial Status Report shall be:

(1) Current as of the cut-off date of the audit;

(2) Taken directly from or linked by worksheet to the Native American grantee's books of original entry; and

(3) Traceable to source documentation of the unit transaction.

§ 632.33 Audits.

(a) *General.* The audit provisions of 41 CFR Part 29–70 shall apply to Native American grantees. Until unified or single audit procedures are promulgated and implemented for nonprofit entities, the Office of the Inspector General shall be responsible for arranging and conducting audits of Native American grantees that are not Indian tribal governments.

(b) *Audit reports.* Upon receipt of a final audit report the Inspector General will promptly transmit the audit report to the grantee for a comment period not to exceed 30 days.

(c) *Initial Determination.* After the conclusion of the comment period for audits provided the grantee, the Grant Officer shall make an initial determination of the allowability of questioned costs or activities. Such determination should be based on the Act, regulations grants or other agreements under the Act.

(d) *Informal resolution.* Except as provided in Section 164(f) of the Act, the Grant Officer shall not revoke a grant, in whole or in part, nor institute corrective action or sanctions against a grantee without first providing the grantee with an opportunity to informally resolve those matters contained in the Grant Officer's initial determination. If the matters are informally resolved the Grant Officer shall notify the parties in writing of the nature of the resolution, which shall constitute the final determination, and may close the file.

(e) *Final determination.* The Grant Officer shall, not later than 180 days from the time the Inspector General issues the final approved audit report, issue a final determination that:

(1) Indicates that efforts to informally resolve matters contained in the initial determination pursuant to paragraph (a) of the section have been unsuccessful.

(2) Lists those matters upon which the parties continue to disagree.

(3) Lists any modifications to the factual findings and conclusions set forth in the initial determination.

(4) Lists any sanctions, and required corrective actions, including any other alteration or modification of the plan, grant, agreement or program intended by the Grant Officer.

(5) Sets forth any appeal rights.

§ 632.34 Program income.

(a) *General.* The provisions of 41 CFR 29–70.205, program income and interest earned, shall apply to Native American grantee programs.

(b) Income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of DOL financial assistance for that program.

(c) *Special provisions.* Income earned as a result of activities of JTPA participants by an income generating enterprise, which is owned by an Indian tribe, band or group or an Alaskan native entity, and the profits of which are used exclusively for governmental, charitable, educational, civic, social or other similar purposes, may be retained by such enterprise and used in the same manner as other income of such enterprise.

§ 632.35 Native American grantee contracts and subgrants.

(a) Contracts may be entered into between the Native American grantee and any party, public or private, for purposes set forth in the JTPA.

(b) Subgrants may be entered into between the Native American grantee and units of State and local general government, Indian tribal government, public agencies or nonprofit organizations.

(c) The Native American grantee is responsible for the development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, the regulations under the Act, and other applicable law. It shall also require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(d) Each Native American grantee shall take action against its contractors and subgrantees to prevent or eliminate violations of the regulations, and to prevent misuse of JTPA funds.

(e) Subgrantees are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants subject to the overall administrative costs of the grant.

(f) If a contract or subgrant is cancelled in whole or in part, the Native American grantee shall develop procedures for ensuring continuity of service to affected participants to the extent feasible.

(g) The Native American grantee may enter into contracts or subgrants which extend past the expiration date of the CAP but such extension shall not exceed 6 months. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants.

(h) To the extent feasible, Native American Indian grantees shall give preference in the award of contracts and subgrants to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). Any contract or subgrant made by a Native American grantee shall require that, to the greatest extent feasible, preference and opportunities for training and employment in connection with such contract or subgrant shall be given to qualified Indians regardless of age, religion or sex and that the contractor or subgrantee shall comply with any Indian preference requirements established by the Native American grantee. All grantees, subgrantees and contractors shall include the requirements of this paragraph in all subcontracts and subgrants made by them (Sec. 7(b) of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638 (25 U.S.C. 450 et seq)).

(i) The Native American grantee shall ensure that contractors and subgrantees maintain and make available for review by the grantee and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants consistent with the maintenance and retention of record requirements in 41 CFR Parts 29–70.

§ 632.36 Procurement standards.

(a) Native American grantees shall comply with the procurement systems and procedures found in 41 CFR 29–70.216, Procurement standards.

(b) Subject to the Indian preference provisions of § 632.35(h), small and minority-owned businesses, including small businesses owned by women, within the service area of the Native American grantee, shall be provided maximum reasonable opportunity to compete for contracts for supplies and services. One means to provide for this is the use of set-asides.

(c) No funds shall be paid by the Native American grantee to any organization for the conduct of programs under the Act unless:

(1) It has submitted an acceptable proposal;

(2) Selection is performed on a merit basis;

(3) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless the organization statisfactorily demonstrates that the deficiency has been or will be corrected and performance substantially improved; and

(4) It has the administrative capability to perform effectively.

§ 632.37 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the grantee's program, be allocable thereto under these principles, and, except as provided herein, not be a general expense required to carry out the overall responsibilities of the grantee. Costs charged to the program shall be consistent with those normally allowed in like circumstances and, with applicable State and local law, rules or regulations as determined by the Native American grantee.

(b) Unless otherwise indicated below, direct and indirect costs shall be charged in accordance with 41 CFR 29–70 and 41 CFR 1–15.7.

(c) Costs associated with repairs, maintenance, and capital improvements of existing facilities used primarily for programs under the Act are allowable. Additionally, the costs of home repair, weatherization and rehabilitation are allowable when the work is performed on low income housing as defined in § 632.4.

(d) Section 401 funds may be used to pay the cost of incorporating a PIC, other planning body or consortium administrative entity for the purpose of carrying out programs under the Act. These costs are chargeable to administration.

(e) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

(1) Is for classroom training;

(2) Is fixed unit price; and

(3) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

§ 632.38 Classification of costs.

Allowable costs shall be charged against the following four cost categories: Administration; training, employment and other (including supportive services).

(a) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(b) The Native American grantee is required to plan, control and charge expenditures against the aforementioned cost categories.

(c) The Native American grantee is responsible for ensuring that, at a minimum, subgrant or subcontract recipients plan, control, and charge expenditures against the aforementioned cost categories.

(d) Administrative costs consist of all direct and indirect costs associated with the management of the grantee's program. These costs include but are not limited to: the salaries and fringe benefits of personnel engaged in executive, fiscal, data collection, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions; and related materials, supplies, equipment, office space costs, and staff training. Also included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these program administration positions are charged to administration.

(e) Training costs consist of goods and services which directly affect program participants in a training activity. Training costs include, but are not limited to, the following: the costs associated with on-the-job training, salaries, fringe benefits, equipment and supplies of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; employability assessment; job related counseling for participants; job search assistance and labor market orientation; participant allowances, and tuition and entrance fees which represent instructional costs which have a direct and immediate impact on participants. In addition, 250 hours of youth try-out employment is considered an allowable training cost. Youth try-out employment is that which meets the requirements of § 632.78.

(f) The compensation of individuals who both instruct participants and supervise other instructors must be prorated among the training and administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees, and the costs of supplies used in the course of

both participant instruction and other activities should be prorated among the benefitting uses.

(g) Employment costs consist of those costs associated with community service employment and work experience as described in § 632.79.

(h) Other costs include supportive services, services which are necessary to enable an individual to participate in training and assistance under this Part, and those described in § 632.80.

(i) Costs which are not readily assignable to the training or employment cost category should be charged to either the administration or other category as appropriate.

(j) Unemployment compensation costs are allowable for administrative staff hired in accordance with the administrative provisions of this Part, and for CSE participants. Unemployment compensation costs are allowed for work experience only where required by State law.

(k) *Travel costs.* (1) The cost of participant travel and staff travel necessary for the administration of programs under the Act are allowable costs, chargeable to the proper cost category, and must follow standard Federal travel requirements.

(2) Travel costs of Native American grantee officials, including staff, board members, and advisory council members are allowable if the travel and costs specifically relate to programs under the Act. These costs will be charged to administration. Travel costs for officials of tribes or organizations belonging to a consortium require advance written approval from the Chief, DINAP, unless they are also officials of the Native American grantee organization.

(3) Travel costs for participants using their personal vehicles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to supportive services.

(4) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services.

(l) *Allocation of fixed unit charge.* (1) When contractors or subgrantees bill the Native American grantee with a single unit charge containing costs which are chargeable to more than one cost category, the Native American grantee shall charge these costs to the cost categories in § 632.38. For unit charges such as tuition fees for which the necessary detail cannot be provided, a reasonable estimate of the breakdown of the single unit charge among cost categories in § 632.38 will be sufficient, including for audit purposes. When such unit charges are normally billed as a single charge and the cumulative amount of such charges to a service provider does not exceed $25,000 within the grant year, proration will not be required. These costs may be charged to the category receiving the most benefit.

(2) The provisions of this section shall not apply to vendors selling or leasing equipment and attendant service at a commercially established rate to Native American grantees or subgrantees.

(3) In the case of multiuse equipment there must be a proration of costs or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(4) Any single cost, such as staff salaries or fringe benefits, which is properly chargeable to more than one cost category shall be prorated among the affected categories.

§ 632.39 Administrative cost plan.

(a) All administrative funds for all programs operated under separate Sections of the Act by a Native American grantee may be accounted for separately and be allocated by title and program activity or may be pooled into one fund. Planned expenditures from the fund shall be described in a separate section of the CAP.

(b) The administrative cost plan may be modified during the program year.

§ 632.40 Administrative staff and personnel standards.

(a) *Staffing.* Members of the population to be served shall be provided maximum employment opportunities at all levels of the JTPA grantee administration. Native American grantees shall establish systems to enhance the recruitment and hiring of qualified Indian and Native Americans and to provide opportunities for their further occupational training and career advancement.

(b) *Compensation.* Compensation for administrative staff shall be at levels consistent with generally accepted business practices in the area. Such administrative wages, salaries, and fringe benefits are allowable administrative costs under JTPA.

(c) *Basic personnel standards.* All grantee employees, including participants, engaged in the administration of programs under the Act shall be subject to the policies and methods of personnel administration as formally established by the Native American grantee.

(d) *Bonding.* Native American grantees shall comply with the bonding requirements at 41 CFR 29-70.202b.

§ 632.41 Reporting requirements.

Within 45 days of the end of each quarter, a Native American grantee shall submit to the Chief, DINAP by registered mail, financial and program reports. Accuracy of all reports must be verified by the chief executive officer or financial officer. When estimates are used the verification statement will so state. The exact reports to be submitted and reporting instructions as approved by the Office of Management and Budget will be announced to Native American grantees under separate order.

§ 632.42 Grant closeout procedures.

Grant closeout will conform to the requirements at 41 CFR Part 29-70. As necessary, the Secretary shall issue supplementary closeout requirements.

§ 632.43 Reallocation of funds.

When the DINAP determines that reallocation is appropriate, it shall give the Native American grantee 30-day notice of proposed action to remove funds from the grant. Such notice shall include specific reasons for the action being taken, and shall give the Native American grantee the opportunity to submit comments on the proposed reallocation of funds. These comments shall be submitted to DINAP within 30 days from the date of the notice. DINAP shall notify affected Native American grantees on any decision to reallocate funds. The Grant Officer shall finally reallocate by modifying the CAP.

§ 632.44 Sanctions for violation of the Act.

(a) Pursuant to Sections 164 (d), (e), (f), (g), and (h) of the Act, the Secretary may impose appropriate sanctions and corrective actions for violations of the Act, Regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the grantee is or may be entitled under the Act, except as provided in Section 164(e)(1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the grantee by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the grantee or its subgrantee or contract or in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under Section 164(f) and 167 of the Act, to establish a debt or violation subject to sanction and/or corrective action, the Secretary shall utilize initial and final

determination procedures outlined in Part 636.

(c) To impose a sanction or corrective action regarding a violation of Section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR Part 31.

(d) (1) The Secretary shall hold the grantee responsible for all funds under the grant. The grantee shall hold its subgrantees and contractors responsible for JTPA funds received through the grant.

(2) The Secretary shall determine the liability of the grantee for misexpenditures of grant funds in accordance with Section 164(e) of the Act, including the requirement that the grantee shall have taken prompt and appropriate corrective actions for misexpenditures by a subgrantee or contractor.

(3) Prompt, appropriate, and aggressive debt collection action to recover any funds misspent by subgrantees or contractors ordinarily shall be considered a part of the corrective action required by Section 164(e)(2)(D) of the Act.

(4) In making the determination required by Section 164(e)(2) of the Act, the Secretary may determine, based on a request from the grantee, that the grantee may forego certain collection actions against a subgrantee or contractor where that subgrantee or contractor was not at fault with respect to the liability criteria set forth in Section 164(e)(2)(A) through Section 164(e)(2)(D) of the Act. The Secretary shall consider such requests in assessing whether the grantee's corrective action was appropriate in light of Section 164(e)(2)(D) of the Act.

(5) The grantee shall not be released from liability for misspent funds under the determination required by Section 164(e) of the Act until the Secretary determines that further collection action, either by the grantee or subgrantee or contractor, would be inappropriate or would prove futile.

(e) Nothing in this section shall preclude the Secretary from imposing a sanction directly against a subgrantee or contractor as authorized in Section 164(e)(3) of the Act. In such a case, the Secretary shall inform the grantee of the Secretary's action.

Subpart E—Program Design and Management

§ 632.75 General responsibilities of Native American grantees.

This subpart sets out program operation requirements for Native American grantees including program management, linkages, coordination and consultation, allowable activities, participant benefits and duration of participation provisions. It also sets forth the responsibilities of Native American grantees with respect to nondiscrimination and equitable provision of services.

§ 632.76 Program management systems.

(a) All Native American grantees shall establish management information systems to control and assess all programs. Native American grantees must institute and maintain effective systems for the overall management of all programs including:

(1) Eligibility verification systems as described in § 632.77;

(2) Complaint and hearing procedures as described in Part 636; and

(3) Mechanisms for taking immediate corrective action where problems have been identified and for restitution of JTPA funds for improper expenditures.

(b) All Native American grantees shall establish and maintain financial management and participant tracking systems in accordance with § 632.32 and § 632.77. The principal objectives of such systems shall be to provide the Native American grantee with systems necessary to effectively manage its program and to provide information necessary to design program activities and delivery mechanisms and complete Federal required reports.

(c) Each Native American grantee shall establish and use procedures for the continuous, systematic assessment of program performance in relation to the performance standards and goals contained in its CAP.

(d) Native American grantees shall establish and use procedures whereby the information collected and assessments conducted shall be considered in subsequent program planning and in the selection of service deliverers.

§ 632.77 Participant eligibility determination.

(a) Each Native American grantee, and any subgrantees or contractors assigned responsibility for the determination of participant eligibility, shall be responsible for developing and maintaining a system which reasonably ensures an accurate determination and subsequent verification of eligibility based on the information presented at the time of application.

(b) The ultimate responsibility for the selection of participants and the maintenance of participant records rests with the Native American grantee. However, the Native American grantee may assign the administration of this responsibility to subgrantees of contractors. The selected agency must provide adequate documentation of each participant's eligibility and retain in the participant's folder the information on which this determination is based.

(c) The eligibility determination shall be based upon a signed, completed, application form which records all information necessary to determine eligibility, which attests that the information on the application is true to the best of the applicant's knowledge and acknowledging that such information is subject to verification and that falsification of the application shall be grounds for the participant's termination and may subject the applicant to prosecution under law. In the case of an applicant who is a minor (except minors who are emancipated or heads of households), the signature of the parent, responsibile adult or guardian is also required.

(d) Native American grantees shall maintain documentation to ensure the credibility of the eligibility determination, which shall at a minimum:

(1) Include a completed application for participation;

(2) Include records of all actions taken to correct deficiencies in the eligibility determination procedures; and

(3) Show compliance with Section 504 of the Act.

(e) A participant determined to be ineligible shall immediately be terminated.

(f) A Native American grantee may enter into an agreement with a State employment security agency (SESA) or other independent agency or organization as may be approved by the Department, for the verification of applicant eligibility within 45 days of enrollment. The Native American grantee shall monitor such verification procedures to ensure that erroneous verifications are not made deliberately or with insufficient care.

(g) Participants may be transferred from one JTPA program to another, from one Native American grantee to another, from a Native American grantee to a SDA grant recipient, from a SDA grant recipient to a Native American grantee, or concurrently enrolled in programs sponsored by Native American grantees or SDA grant recipients, provided, except for age requirements, they were eligible for the subsequent or concurrent program when they were first enrolled.

(h) Eligibility determinations for each program shall be made at the time of application. Applicants determined eligible may be enrolled as participants within 45 days of the date of the application without an update of the

information on the application provided they did not obtain full-time permanent unsubsidized employment in the interim. This provision does not appy to the Title II–B program.

(i) Aliens described in Section 167(a)(5) of the Act and who otherwise meet the eligibility requirements for programs under this Part, may participate in a program if this is permitted by Indian law or the Native American grantee.

§ 632.78 Training activities.

Native American grantees shall design and operate programs funded under the Act which support growth and development as determined by representatives of the Indian and Native American communities and groups served (Sec. 401(a)). Training shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs may be given to training in occupations determined to be in sectors of the economy which have a potential for sustained demand or growth. The CAP will provide evidence based on local labor market information that occupational demand exists for planned training. The basic types of training activities available to Native American grantees, subgrantees and contractors include, but are not limited, to the following:

(a) *Classroom training.* This program activity is any training of the type normally conducted in an institutional setting, including vocational education, and designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may be coupled with other employment and training activities and may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education, GED, training in the primary language of persons with limited English-speaking proficiency, or English-as-a-second-language training.

(b) *On-the-job training.* (1) On-the-job training (OJT) is training in the private or public sector given to a participant, who has been hired first by the employer, and which occurs while the participant is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job. This does not preclude a participant who has been hired by and received OJT from one employer from being ultimately placed with another employer. Innovative approaches to financing, particularly involving the sharing of training costs by the private sector are to be encouraged.

(2) OJT may be coupled with other JTPA employment and training activities. As needed, OJT participants may receive any of the employment and training services or supportive services through the system, through community resources, or through employer resources.

(3) *Reimbursement.* Payments to employers for OJT which shall not, during the period of such training, average more than 50 percent of the wages excluding fringe benefits paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with the training costs and lower productivity of such participants. No direct wage payments will be made to OJT participants by the Native American Grantee.

(4) *OJT agreements.* Employers will be held responsible with respect to JTPA costs only in accordance with the provisions of their OJT agreements. At a minimum, the OJT agreement shall contain the elements listed below. Native American grantees may place additional provisions in the OJT agreement only after a careful assessment is made of the additional burdens imposed on participating employers. Agreements may be entered into only with employers which have not been seriously deficient in their conduct of or participation in any DOL program. Each OJT agreement shall contain:

(i) A brief training outline, including the length of training and the nature of the training;

(ii) The method and maximum amount of reimbursement for OJT training costs;

(iii) The number of participants to be trained;

(iv) Job descriptions and specification of participant wage rates;

(v) Reporting requirements;

(vi) An assurance that payroll records, time and attendance records, job duties and documentation of classroom training, employment and training services, or supportive services, costs for which the employer is being reimbursed will be subject to review;

(vii) A termination clause for nonperformance; and

(viii) An assurance that the employer will comply with the Act and regulations.

(c) *Tryout employment.* Tryout employment in private-for-profit worksites may be conducted in accordance with Section 205(d)(3)(B) of the Act (Sec. 141(K)).

(d) *Training assistance.* Such assistance includes:

(1) Orientation to the world of work;

(2) Counseling. This includes employment and training related counseling and testing;

(3) Job development;

(4) Job search assistance. This includes transition services, such as job seeking skills instruction, individualized job search plan, labor market information, and other special activities for transition to unsubsidized employment;

(5) Job referral and placement; and

(6) Vocational Exploration Program (VEP). A Native American grantee may conduct a VEP program to expose participants to jobs available in the private sector through observation of such jobs, instruction, and, if appropriate, limited practical experience.

(e) *Combined activities.* (1) A participant may be simultaneously or sequentially enrolled in two or more activities.

(2) (i) Reimbursement may be up to 100 percent to employers, including private-for-profit employers, for expenditures for the costs of classroom training, employment and training assistance or supportive services for participants in combined activities including the costs of participants' wages paid by the employer for time spent in these activities during working hours.

(ii) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payroll, or other records normally kept by the employer.

(iii) Nothing in this paragraph (b)(1) shall allow reimbursement to private-for-profit employers for the costs of OJT to exceed the amounts allowable in § 632.78.

§ 632.79 Employment activities.

(a) *Community service employment (CSE).* Community Service Employment is the type of work normally provided by government and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community

improvement. It includes work performed by tribally sponsored or owned income generating enterprises owned by Indian tribes, bands, or groups, or Native Alaskan entities, provided the profits from such enterprises are used exclusively for functions normally performed by the governing body of such entities.

(b) *Work experience.* (1) Work experience is a short-term or part-time work assignment with an employing agency or an organization authorized to employ CSE participants. It is otherwise prohibited in the private-for-profit sector.

(2) Participation in work experience shall be for a reasonable length of time, based on the needs of the participant, and subject to the restrictions set forth in § 632.85.

§ 632.80 Other activities.

(a) *General.* Native American grantees may conduct employment and training activities not described in this subpart. The CAP shall describe the basic design of activities undertaken as "other activities" and their objectives. These activities may include, but are not limited to:

(1) Removal of artificial barriers to employment;

(2) Job restructuring;

(3) Revision or establishment of merit systems;

(4) Development and implementation of affirmative action plans, including Indian preference plans and Tribal Employment Rights Office (TERO) programs.

(5) Post termination services in § 632.80 for up to 30 days following termination; and

(6) Employment generating services.

(b) *Supportive services.* Supportive services are those which are necessary to enable an individual eligible under this Part, but who cannot afford to pay for such services, participate in the program. Such supportive services may include but are not limited to transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance.

§ 632.81 Payments to participants.

(a) *General.* Each participant paid wages for employment activities, allowances for classroom training or reimbursed for OJT or tryout employment will be provided such benefits pursuant to Section 142 of the Act.

(b) *Maximum wage rates for CSE.* (1) The wages (including those received from overtime work and leave taken during the period of employment) paid to any CSE participant from funds under the Act shall be limited to a full-time rate of $10,000 per year (or the hourly, weekly, or monthly rate which, if full-time and annualized, would equal a rate of $10,000 per year). Approved rates above $10,000 are fixed at the CETA approved rate as of September 30, 1982, unless adjusted by the Secretary.

(2) Fringe benefits payable from funds under the Act to any CSE participant may not exceed those regularly afforded to similarly employed non-JTPA workers.

(3) *Davis-Bacon wages.* All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordnace with the Act of March 3, 1931, popularly known as the Davis-Bacon Act, and the implementing regulations in 29 CFR Parts 1, 3, 5, and 7.

(c) *Payment of allowances.* (1) A basic hourly allowance for regularly enrolled classroom training or services participants shall not exceed the higher of the State or Federal minimum hourly wage.

(2) Native American grantees are encouraged to submit allowance payment designs which are less than (c) (1) above. Through innovative reimbursement systems the number of participants should be maximized. The allowance payment system will be described in the Master Plan and as an option may include dependent allowances.

(3) *Repayments.* Native American grantees shall require participants to repay the amount of any overpayment of allowances under this part, except if the overpayment was made in the absence of fault on the part of the participant. Where the Native American grantee requires repayment, any overpayment not repaid may be set off against any future allowance or other payments under the Act to which the participant may become entitled.

(d) *Combined activities.* A primary activity is one in which a participant is enrolled for more than 50 percent of scheduled time. Participants enrolled in a primary activity for which wages are payable and simultaneously in an activity for which allowances are payable may, at the Native American grantee's option, be paid wages for all hours of participation. A participant enrolled in a primary activity for which allowances are payable may, at the Native American grantee's option, be paid allowances for all hours of participation, except when OJT is the non-primary component. However, in the latter case, before placing an individual in such an activity, the Native American grantee shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable.

§ 632.82 Benefits and working conditions for participants.

The provisions of Sections 142 and 143 of the Act shall apply to benefits and working conditions.

§ 632.83 FICA.

Expenditures may be made from JTPA funds for taxes under the Federal Insurance Contribution Act (FICA), 26 USC 3101, et seq.

§ 632.84 Non-Federal status of participants.

Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment.

§ 632.85 Participant limitations.

(a) Except as provided in paragraph (c) of this section and for participants in programs that have other statutory limits, participation in work experience shall be limited to a maximum of 1,000 hours during any one year beginning with the day of enrollment in either CETA or JTPA.

(b) No participant may receive wages for CSE for more than 78 weeks during a 2-year period from the participant's initial enrollment in either JTPA or in a program supported by the Comprehensive Employment and Training Act.

(c) The limitation on work experience participation in JTPA set forth in paragraph (a) of this section:

(1) Shall not apply to time spent by in-school youth or Title II–B participants enrolled in a work experience program under the Act, nor shall such time be included in determining if an individual has reached such limitations; and

(2) May be waived by the Chief, DINAP and the waiver justification described in the Master Plan or CAP.

§ 632.86 Nondiscrimination and nonsectarian activities.

Pursuant to Section 167(a) of the Act:

(a) Subject to the restriction that services under Section 401 of JTPA are legally available only to Indian and Native American persons,

nondiscrimination and equal opportunity requirements and procedures, including complaint processing compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32 and will be administered by the Office of Civil Rights.

(b) The employment or training of participants in sectarian activities is prohibited.

§ 632.87 Equitable provision of services to the eligible population and significant segments.

Native American grantees shall ensure and provide evidence in the Master Plan that a system is in place to afford all members of the eligible population within the service area for which the grantee was designated are afforded an equitable opportunity for employment and training activities and services.

§ 632.88 General responsibilities of the Department.

The Department of Labor shall be responsible for:

(a) Providing prompt notification to all Native American grantees of allocations of funds, proposed and final rules and program directives and procedures.

(b) The development, after consultation with Native American grantees, of regulations, performance standards and program policies governing Native American programs. Such regulations and program policies shall take into account the special circumstances under which Native American programs operate (Sec. 401 (h)(1)).

(c) Providing Native American grantees with technical assistance, as the Secretary deems necessary, related to the administration and operation of JTPA programs (Sec. 401(i)).

(d) Taking appropriate action to establish administrative procedures and machinery within the Department, including the retention of personnel having particular competence in the field of Indian and Native American employment and training programs, for the selection, administration, monitoring and evaluation of such programs (Sec. 401(e)).

§ 632.89 Performance standards.

The Department of Labor shall establish performance standards for all Native American grantees (Section 401(h)(1)). Performance results, as judged against these standards, will not be used for grantee designation purposes for the Program Years 1985–1986. Performance results will be a factor in grantee designations for Program Years 1987–1988, and beyond.

Subpart F—Prevention of Fraud and Program Abuse

§ 632.115 General.

(a) To ensure the integrity of the JTPA programs special efforts by grantees are necessary to prevent fraud and other program abuses. While any violation of the Act or regulations may constitute fraud or program abuse, this Subpart F identifies and addresses those specific program problems of most concern to the Department.

(b) This subpart sets forth specific responsibilities of Native American grantees, subgrantees and contractors and of the Secretary to prevent fraud and program abuse in JTPA programs.

§ 632.116 Conflict of interest.

(a) No member of any advisory, planning, private industry council or governing body under the Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member or any organization which such member directly represents or on any matter which would financially benefit such member or any organization such member represents.

(b) Each Native American grantee, subgrantee or contractor shall avoid personal and organizational conflict of interest in awarding financial assistance and in the conduct of procurement activities involving funds under the Act in accordance with the code of conduct requirements set forth in 41 CFR 29–70.216–4.

(c) Neither the Secretary nor any Native American grantee, subgrantee or contractor shall pay funds under the Act to any nongovernmental individual, institution or organization to conduct an evaluation of any program under the Act if such individual, institution or organization is associated with that program as a consultant or technical advisor.

§ 632.117. Kickbacks.

No officer, employee or agent of any Native American grantee, subgrantee of contractor shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential subgrantee, contractor or supplier.

§ 632.118 Nepotism.

(a) No Native American grantee, subgrantee, contractor or employing agency shall permit the hiring of any person in a staff position or as a participant if that person or a member of that person's immediate family is employed in an administrative capacity by the Native American grantee, subgrantee or contractor. The Native American grantee may waive this requirement if adequate justification is documented. The following are examples where the nepotism provision may be waived:

(1) If there are no other persons eligible and available for participation or employment by the Native American grantee;

(2) Where the Native American grantee's total service population is 2,000 or less, or where the geographical situation of an Indian or Native American community is rural and isolated from other communities within the designated service area; or

(3) Where the potential participant has a history of unemployment or dependence on public assistance.

(b) A Native American grantee may develop its own nepotism policy in lieu of the policy in paragraph (a) of this section. The Chief, DINAP, shall review any such policy before its implementation and shall approve or disapprove it. Any such policy shall be described in the Master Plan and have adequate safeguards to prevent persons employed in an administrative capacity for the Native American grantee, its subgrantees or contractors from using such position to secure JTPA services or other benefits for a member of his or her immediate family. A satisfactory policy shall include the following minimum criteria:

(1) All formal personnel procedures shall be followed;

(2) There shall be full written disclosure to the governing body describing all advantages, conflicts and/or disadvantages which may result from the specific personnel action; and

(3) No member of the immediate family of the applicant shall participate in the applicant's selection.

(c) For purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all JTPA staff positions funded under the Act such as instructors, counselors, and other staff involved in administrative, training or service activities. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program including: All elected and appointed officials who have any responsibility for the obtaining of or approval of any grant funded under this Part as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement or

supervisory responsibilities for participants in a Native American employment and training program. The term excludes officials of entities belonging to a consortium who are not at the same time officials of the consortium. Persons serving on a Native American grantee's advisory councils or PIC shall not be considered to be in an administrative capacity.

§ 632.119 Political patronage.

(a) No Native American grantee, subgrantee or contractor may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advance of employees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subgrantees or contractors based on political affiliation.

§ 632.120 Political activities.

(a) No program under the Act may involve political activities.

(b) No participant may engage in partisan or nonpartisan political activities during hours for which the participant is paid with JTPA funds.

(c) No participant may, at any time, engage in partisan or nonpartisan political activities in which such participant represents himself or herself as a spokesperson for the JTPA program.

§ 632.121 Lobbying activities.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislative or appropriation by Congress; or

(b) To attempt to influence in any manner State or local legislators to favor or oppose any legislation or appropriation by such legislators.

§ 632.122 Unionization and antiunionization activities; work stoppages.

(a) No funds under the Act shall be used in any way to either promote or oppose unionization (Sec. 143(c)(1)).

(b) No participant in work experience or community service employment may be placed into, or remain working in, any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must:

(1) Be relocated to positions not affected by the dispute; or

(2) Be suspended through administrative leave or other means; or

(3) Where participants belong to the labor union involved in the work stoppage, they shall be treated in the same manner as other members of the union except that they may not remain in the affected positions. The grantee shall make every effort to relocate participants who wish to remain working into suitable positions unaffected by the work stoppage.

(c) No person shall be referred to or placed in an on-the-job training position affected by a labor dispute involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

§ 632.123 Maintenance of effort.

(a) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.

(b) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

§ 632.124 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.

The criminal provision of 18 U.S.C. 665 states:

(a) Whoever, being an officer, director, agent or employee of, or connected in any capacity with, any agency receiving financial assistance under the JTPA knowingly hires an ineligible individual or individuals; embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(b) Any person whoever willfully obstructs or impedes, or endeavors to obstruct or impede, an investigation or inquiry under the JTPA or the regulations thereunder, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(c) In addition to the criminal provisions set forth in paragraphs (a) and (b) of this section, individuals may be held criminally liable under other Federal laws. For example, 18 U.S.C. Sections 600 and 601 hold them liable if they:

(1) Directly or indirectly promise any employment position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by funds under the Act, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or regard for any political activity or for the support of, or opposition to, any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office (18 U.S.C. 600); or

(2) Directly or indirectly knowingly cause or attempt to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of any employment or benefits funded under the Act (18 U.S.C. 601).

§ 632.125 Responsibilities of Native American grantees, subgrantees and contractors for preventing fraud and program abuse and for general program management.

(a) Each Native American grantee shall establish and use internal program management procedures sufficient to prevent fraud and program abuse, including subgrantee and contractor fraud and abuse. The procedures to be used shall be identified in the Native American grantee's Master Plan.

(b) Each Native American grantee, subgrantee and contractor shall ensure that sufficient, auditable, and otherwise adequate records are maintained which support the expenditure of all funds under the Act. Such records shall be sufficient to allow the Secretary to audit and monitor the Native American grantees', subgrantees', and contractors' programs and shall include the maintenance of a management information system in accordance with the requirements of § 632.32.

(c) Any person having knowledge of fraud, criminal activity or other abuse shall report such information directly and immediately to the Secretary. Similarly, all complaints involving such matters should also be reported to the Secretary directly and immediately.

Subpart G—[Reserved]

Subpart H—Job Training Partnership Act Programs Under Title IV, Section 401.

§ 632.170 Eligibility for funds.

The Department shall provide funds under Section 401 of the Act only to Native American grantees designated in accordance with § 632.10.

§ 632.171 Allocation of funds.

(a) One hundred percent, except as provided in § 632.171(c), of the amount available for Section 401 will be distributed by formula as follows:

(1) Twenty-five percent of the available funds shall be allocated on the basis of the relative number of unemployed Indians and other Native Americans within the Native American grantee's geographic service area compared to the total number of unemployed Indians and other Native Americans in the United States.

(2) Seventy-five percent of the available funds shall be allocated on the basis of the relative number of members of Indian and other Native Americans households, whose income is at or below the poverty level, within the Native American grantee's geographic service area compared to the total number of members of Indians and Native American households in poverty in the United States.

(b) Commencing with Program Year 1985 and after consultation with Indian groups, the Department may reserve up to one percent of Section 401 funds. These funds may be used for technical assistance to improve the program's overall performance.

(c) In situations when the Department determines that the formula allocation will result in severe disruption from one year to the next, a hold harmless or other factor to minimize such disruptions may be used.

§ 632.172 Eligibility for participation in Title IV, Section 401.

(a) An Indian, Native Alaskan, or Native Hawaiian, as determined by the Native American Grantee, who is economically disadvantaged, or unemployed or underemployed is eligible to participate in a program under this subpart. For income eligibility purposes, the NAG may use either 6-months annualized or 12-months actual income.

(b) Indians and other persons of Native American descent who meet the requirements of subsection (a) of this section and who are identified by the Federal or State government as "landless" or "terminated" or "non-federally recognized" are included among those eligible to participate. These terms shall be broadly construed for the specific purpose of including, among others, terminated, State-recognized, or other groups or individuals previously determined to be eligible for Indian services under the Comprehensive Employment and Training Act.

(c) A Native American grantee may enroll Indian and Native American participants in upgrading and retraining programs who are not unemployed, underemployed or economically disadvantaged where such participants meet the following eligibility requirements:

(1) For upgrading, a person must be operating at less than full skill potential, and working for at least the prior 6 months with the same employer in either an entry level, unskilled or semiskilled position or a paid position with little or no advancement opportunity in a normal promotional line. Priority consideration shall be given to the workers who have been in entry level positions for the longest time.

(2) For retraining a person must have received a bona fide notice of impending layoff and have been determined by the grantee as having little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

§ 632.173 Allowable program activities.

(a) Native American grantees may undertake programs and activities consistent with the purposes of the Act including, but not limited to, programs and activities described in §§ 632.78 through 632.81.

(b) Native American grantees are encouraged to develop innovative means of addressing the needs of unemployed, underemployed and economically disadvantaged members of their communities and of contributing to the permanent economic self-sufficiency of such communities.

(c) Training and placement in the private sector will be emphasized. CSE and work experience are permitted when consistent over the long term with increasing earnings in unsubsidized employment. Expenditures for CSE are limited to 10 percent or the unemployment rate, based on data collected by an appropriate Federal or State agency including BIA, of a NAG's total Section 401 allocation. For nonreservation grantees, the official BLS unemployment rate or State job service rate for the area will be used.

(d) Wages and allowances are to be kept to a minimum to maximize funds to be used for training.

(e) Innovative approaches to the private sector are encouraged.

(f) Other activities described in § 632.80 should use no more than 25 percent of the funds. This limitation may be increased to accommodate the extraordinary costs associated with special training projects where it is clear the benefits support the additional cost. An increase to this limitation shall be approved in instances such as, but not limited to, rural participants needing relocation for training, when the costs of housing, transportation, etc., for training participants cannot be met within a 25 percent limitation, and for TERO activities.

§ 632.174 Administrative costs.

Administrative costs for this subpart are limited to and shall not exceed 20 percent of the funds available.

Subpart I—Summer Youth Employment and Training Programs

§ 632.250 General.

This subpart contains the policies, rules, and regulations of the Department in implementing and administering a Summer Youth Employment and Training Program for Indians and other Native Americans authorized by Title II, Part B of the Act.

§ 632.251 Eligibility for funds.

Only Native American grantees described in Section 401(c)(1) of the Act are eligible for summer youth program funds.

§ 632.252 Allocation of funds.

(a) For this program the Secretary shall reserve the same percentage of JTPA 3(b) funds as were available in the CETA, IV–C Fiscal Year 1983 program.

(b) Allocations shall be made to eligible Native American grantees on the basis of a formula using the best available data as determined by the Department in consultation with Native American groups and shall be published by the Secretary.

§ 632.253 Special operating provisions.

Native American grantees shall:

(a) Provide services to youths most in need;

(b) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantage youth population, especially school dropouts, youth not likely to return to school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors;

(c) Provide labor market orientation to participants. This orientation may include, as appropriate: vocational exposure, counseling, testing, resume preparation, job interview preparation, providing labor market information, providing information about other training programs available in the area, including apprenticeship programs, and similar activities. It may be provided on a group or individual basis. In providing labor market orientation, skill training and remedial education, each grantee shall make maximum efforts to develop cooperative relationships with other community resources so that these activities are provided in the summer program at no cost, or at minimum cost, to the summer program;

(d) Assure that adequate supervision from skilled supervisors is provided to participants at each worksite;

(e) Make appropriate efforts to encourage educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from their participation in the summer program;

(f) Ensure that appropriate efforts are made to closely monitor the performance of the summer program and measure program results against established goals;

(g) Ensure that enrollee applications are widely available and that jobs are awarded among individuals most severely disadvantaged in an equitable fashion. Enrollment applications shall require the signature of the applicant or (in the case of minors) the parent or guardian attesting to the accuracy of the information, including income data, provided on the application; and

(h) Provide participants with an orientation to the program which shall include, but not be limited to: purposes of the program and the conditions and standards (including such items as hours of work, pay provisions and complaint procedures) for such activities in the program.

§ 632.254 Program startup.

During the planning and design phase of the program and prior to the close of the school year, only those activities outlined in § 632.255(b) are permissible. These activities shall be charged as administrative costs. Individuals may not begin participation in the program before the close of school.

§ 632.255 Program planning.

(a)(1) In developing the summer program, the Native American grantee shall coordinate the summer plan with its Title IV program.

(2) Native American grantees shall use the planning process described in § 632.17.

(b) The following planning and design activities shall be allowable beginning October 1 of each year:

(1) Hiring of staff (planners, worksite developers, intake specialists, etc.), provided, prior to the close of school all staff salaries and benefits shall be charged as administrative expenses, except that 45 days prior to the beginning of the summer program and 45 days after the summer program, all staff costs and other program development costs may be charged pursuant to § 632.38;

(2) Development of the summer plan;

(3) Worksite development;

(4) Recruitment, intake and selection of participants;

(5) Arrangements for supportive services;

(6) Dissemination of program information;

(7) Development of coordination between schools and other services;

(8) Staff training; and

(9) Other activities that may be characterized as planning and design but not program operation.

(c) Expenses incurred in such planning and design activities may, pursuant to § 632.38, be paid from administrative funds received under other titles of the Act.

§ 632.256 Submission of applications.

To the extent possible, Native American grantees will be notified of their summer youth allocation at the same time Section 401 allocations are announced. The summer plan will be a separate part of the CAP and follow the same format as the CAP.

§ 632.257 Eligibility for participation.

(a) An individual shall be eligible for participation if, at time of application, he or she is an Indian or Native American youth who is:

(1) At the time of application, economically disadvantaged;

(2) At the time of enrollment, age 14 through 21 inclusive; and

(3) For income eligibility purposes, the NAG may use either six months annualized or 12 months actual income.

(b) The nepotism provisions of this Part shall not apply to this program.

§ 632.258 Allowable activities.

Allowable activities are those listed in § 632.78–80 except that community service employment is not permitted.

§ 632.259 Vocational exploration program.

A Native American grantee may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs and instruction including, where appropriate, limited and short term practical experience.

§ 632.260 Worksite standards.

(a)(1) Each Native American grantee shall develop a written agreement with worksite employers which complies with Sections 142 and 143 of the Act and which assures:

(i) Adequate supervision of each participant;

(ii) Adequate accountability for participant time and attendance; and

(iii) Adherence to the rules and regulations governig the summer program.

(2) Such written agreements may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions governing the program at the worksite.

(b) Each Native American grantee shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(c) No participant shall be required to work, or be compensated for work with JTPA funds, for more than 40 hours of work per week.

§ 632.261 Reporting requirements.

(a) Each Native American grantee shall submit an end of summer report which will include both financial and characteristics information. The report format will be issued to grantees under separate instructions.

(b) The report in this section is to be submitted to Chief, DINAP by registered mail no later than 45 days after the end of the summer program.

§ 632.262 Termination date for the summer program.

Participants may not be enrolled in the summer program beyond September 30, or beyond the date they resume school full-time, whichever occurs earlier. Allowable activities after September 30 include report and record preparation and submittal, completion of evaluations and assessments of worksite employers and the overall program or other elements of the summer program.

§ 632.263 Administrative costs.

Administrative costs for this subpart are limited to and shall not exceed 20 percent of the funds available.

PART 633—MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Subpart A—Introductory Provisions

Subpart B—Grant Planning and Application Procedures

Subpart C—Program Design and Administrative Procedures

Authority: Job Training Partnership Act, Sec.169 (29 U.S.C. 1501 *et seq.*, Pub. L. 97-300, 96 Stat. 1322), unless otherwise noted.

Subpart A—Introductory Provisions

§ 633.102 Scope and purpose of Title IV, Section 402 programs.

(a) It is the purpose of Title IV, Section 402, of the Act to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization resulting in displacement and contribute significantly to the Nation's rural employment problem. These factors substantially affect the entire national economy.

(b) Because of farmworker employment and training problems, such programs shall be centrally administered at the national level. Programs and activities supported under this section shall in accordance with Section 402(c)(3) of the Act:

(1) Enable farmworkers and their dependents to obtain or retain employment;

(2) Allow participation in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment;

(3) Allow activities leading to stabilization in agricultural employment; and

(4) Include related assistance and supportive services.

§ 633.103 Format for these regulations.

(a) Regulations promulgated by the Department to implement the provisions of Title IV Section 402 of the Act are set forth in 20 CFR Part 633 and Part 636. These Parts contain all the regulations under the Act applicable to migrant and other seasonally employed farmworker programs.

(b) Should the regulations at this part conflict with regulations at other parts of this title of the Code of Federal Regulations, the regulations at this part shall prevail with respect to programs and activities governed by this Part.

§ 633.104 Definitions.

The following definitions are applicable to Section 402 programs.

Accrued expenditures shall mean total costs incurred during the reporting period for: (a) Goods and other tangible property received; (b) services performed by employees, contractors, subgrantees and other payees; and (c) other amounts becoming owed under programs for which no current services or performance is required such as annuities, insurance claims, and other benefit payments.

Act shall mean the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*).

Allocation shall mean the amount of funds calculated in accordance with § 633.105(b)(1) for Section 402 programs in each State and distributed in accordance with the requirements of this part.

Chief, DFREP shall mean the Chief of the Division of Farmworker and Rural Employment Programs in the Employment and Training Administration, Department of Labor.

Construction shall mean the erection, installation, assembly, or painting of a new structure or a major addition, expansion, or extension of an existing structure, and the related site preparation, excavation, filling and landscaping or other land improvements.

Department shall mean the United States Department of Labor (DOL), including its agencies and organizational units.

DOL shall mean the United States Department of Labor.

Employment shall mean the situation wherein a person(s) provides work or services for an employer for wages or salary. This includes self-employment. The satisfaction of workfare requirements does not constitute employment.

Entered employment shall mean the act of securing unsubsidized employment for or by a participant. Seasonal agricultural placements will not be considered as unsubsidized employment secured for or by a participant for purposes of this definition unless it can be substantiated that the placement represents an upgraded position within agriculture and will not result in the continued underemployment of the individual.

Entered employment, direct shall mean unsubsidized employment secured for or by a participant after receiving direct placement services not associated with training or subsidized employment.

Entered employment, indirect shall mean unsubsidized employment secured for or by a participant after participation in training or subsidized employment.

Family (a) shall mean one or more persons related by blood, marriage, or adoption. A step-child or a step-parent is considered to be related by marriage.

(b) (1) For purposes of paragraph (a) of this definition, a person claimed as a dependent on another person's Federal Income Tax return for the previous year is presumed to be part of the other person's family.

(2) A handicapped individual may be considered a family of one when applying for programs under the Act.

(3) An individual 18 years of age or older, except as provided in (a) or (b) above, who receives less than 50 percent of support from the family, and who is not the principal earner nor the spouse of the principal earner, is not considered a member of the family. Such an individual is considered a family of one.

Family income shall mean all income received from all sources for the eligibility determination period by persons who are family members at the time of eligibility determination.

(a) For the purpose of determining eligibility (and not for allocations), family income includes:

(1) Gross wages and salaries (before deductions);

(2) Net self-employment income (gross receipts minus operating expenses); and

(3) Other money income received from sources such as net rents, Old Age and Survivors Insurance, Social Security benefits, pensions, alimony, periodic income from insurance policy annuities, and other sources of income.

(b) Earned family income does not include:

(1) Non-cash income such as food stamps, or compensation received in the form of food or housing;

(2) Rental value of owner-occupied property;

(3) Public assistance payments;

(4) Cash payments received pursuant to a State plan approved under Titles I, IV, X or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(5) Federal, State or local unemployment benefits;

(6) Payments made to participants in employment and training programs;

(7) Capital gains and losses;

(8) One-time unearned income, such as, but not limited to:

(i) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(ii) One-time or fixed-term scholarship and fellowship grants;

(iii) Accident, health, and casualty insurance proceeds;

(iv) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;

(v) One-time awards and gifts;

(vi) Inheritance, including fixed term annuities;

(vii) Fixed-term workers' compensation awards;

(viii) Terminal leave pay;

(ix) Soil bank payments; and

(x) Agriculture crop stabilization payments.

(9) Pay or allowances received by any veteran while he/she was serving on active duty in the Armed Forces;

(10) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36 of Title 38, United States Code;

(11) Payments received under the Trade Act of 1974 as amended;

(12) Black Lung payments received under the Benefits Reform Act of 1977, Pub. L. 95-239, 30 USC 901; and

(13) Child support payments.

Farmwork shall mean, for eligibility purposes, work performed for wages in agricultural production or agricultural services as defined in the most recent edition of the Standard Industrial Classification (SIC) Code definitions included in industries 01—Agricultural Production—Crops; 02—Agricultural Production—Livestock excluding 027—Animal Specialties; 07—Agricultural Services excluding 074—Veterinary Services, 0752—Animal Speciality Services, and 078—Landscape and Horticultural Services.

Grantee shall mean any person, organization or other entity which receives JTPA funds directly from the Department.

JTPA shall mean the Job Training Partnership Act.

Migrant farmworker shall mean a seasonal farmworker who performs or has performed farmwork during the eligibility determination period (any consecutive 12-month period within the 24-month period preceding application for enrollment) which requires travel such that the worker is unable to return to his/her domicile (permanent place of residence) within the same day.

Participant shall mean an individual who is:

(a) Eligible for participation; and

(b) Enrolled within 45 days of eligibility determination; and

(c) Enrolled and receiving employment, training or services (except post-termination services) funded under the Act.

Planning estimates shall mean the preliminary allocations announced for the purpose of providing target funding levels for each State.

Program income shall mean net income earned from grant or agreement supported activities. Such earnings include, but are not limited to: income from service fees, sale of commodities, usage or rental fees, and royalties on patents or copyrights.

Poverty level shall mean the annual income level at, or below which families are considered to live in poverty, as annually determined by HHS.

Seasonal farmworker shall mean a person who during the eligibility determination period (any consecutive 12-month period within the 24-month period preceding application for enrollment) was employed at least 25 days in farmwork or earned at least $400 in farmwork; and who has been primarily employed in farmwork on a seasonal basis, without a constant year round salary.

Section 402 programs shall mean the Migrant and Seasonal Farmworker Program, under Section 402 of Title IV of the Job Training Partnership Act.

The term *subsidized employment* shall mean employment created in the private or public sector and in private nonprofit agencies financed by the recipient's program funds or by other DOL funded programs, e.g., work experience and tryout employment.

Supplemental funds shall mean any funds allocated in excess of that amount announced as a "planning estimate."

Target area shall mean a geographic area to be served by a Section 402 grantee. Such an area may be a county, multicounty area, a State, or a multistate area.

Target population shall mean farmworkers and their dependents who meet the requirements of § 633.107.

Underemployed persons shall mean:

(a) Persons who are working part-time but seeking full-time work; or

(b) Persons who are working full-time but whose current annualized wage rate (for a family of one), or whose family's current annualized income, is not in excess of:

(1) The poverty level, or

(2) 70 percent of the lower living standard income level.

Unemployed individuals shall mean individuals who are without jobs and who want and are available for work. The determination of whether individuals are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department in defining individuals as unemployed.

§ 633.105 Allocation of funds.

(a) *National Account.* (1) Up to 6 percent of the statutory reserves for Section 402 activities may be set aside for the National Account to be used for technical assistance and for special projects funded at the discretion of the Department.

(2) Funds from the National Account may be obligated by the Department by means of either contracts or grants to private nonprofit agencies, to private profitmaking organizations, to States and local units of government, or public agencies.

(b) *State allocations (allocable funds).* (1) No less than 94 percent of the funds received for Section 402 activities shall be allocated for farmworker programs in individual States in an equitable manner using the best data available as to the farmworker population as determined by the Department. The formula used to determine State allocations will be published in the Federal Register for review and comment, along with the rationale for such formula and proposed allocations, no later than 30 days prior to the publication of the final allocations

of available funds in the Federal Register.

(2) *Allocation Exceptions.* (i) The Department reserves the right not to allocate any funds for use in a State whose allocation is less than $120,000.

(ii) Those funds not allocated will be available for technical assistance and special projects funded at the discretion of the Department.

(iii) Current grantees which are unsuccessful applicants for new grant funds shall be given notice that funds will expire and that a reasonable period will be given to phase out their operations. Such notice will not bind the Department to obligate additional funds. The notification of nonselection shall be the notice of termination of funds and departmental closeout requirements are to be followed.

(3) *Allocation Adjustment.* In situations where the Department determines that the formula allocation will result in severe disruption of funding levels from one year to the next, a hold harmless or other factor to minimize such disruption may be used.

(4) *Funding cycle.* Projects will be funded in accordance with a schedule to be specified by the Department in the Federal Register:

(i) Announcement of State planning estimates and an invitation to submit applications for State(s) or area(s) open for competition as provided in the Solicitation for Grant Application (SGA).

(ii) Deadline for submission of Preapplication for Federal Assistance Forms.

(iii) Deadline for submission of applications.

§ 633.106 Eligibility for allocable funds.

The following organizations and units of government shall be eligible to receive funds under Section 402.

(a) A public agency;

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide employment and training or such other services as are permitted by this Subpart.

§ 633.107 Eligibility for participation in Section 402 programs.

(a) Eligibility for participation in Section 402 programs is limited to those individuals who have, during any consective 12-month period within the 24-month period preceding their application for enrollment:

(1) Been a seasonal farmworker or migrant farmworker as defined in § 633.104; and,

(2) Received at least 50 percent of their total earned income or been employed at least 50 percent of their total work time in farmwork; and,

(3) Been identified as a member of a family which receives public assistance or whose annual family income does not exceed the higher of either the proverty level or 70 percent of the lower living standard income level.

(4) Dependents of the above individuals are also eligible.

(b) The 24-month period preceding application for enrollment shall be extended for persons who have been in the armed forces, incarcerated, hospitalized, or physically or mentally disabled. The extended period of time shall be not more than 24 months plus the amount of time the person was in the armed forces, incarcerated, detained at any Federal or State facility, hospitalized, or physically or mentally disabled. Such conditions shall be positively demonstrated by the applicant. This can be done by producing documentary evidence satisfactory to the grantee.

(c) To be eligible for participation, individuals shall meet the requirements of Sections 167(a)(5) and 504 of the Act.

(d) A participant in another program or title under JTPA who met the eligibility criteria for Section 402 at the time of enrollment into such other program or title may be transferred into, or enrolled concurrently, in the Section 402 program. A Section 402 participant who met the eligibility criteria for another program or title under JTPA at the time of enrollment into the Section 402 program may also be transferred into or enrolled concurrently in such other program or title.

(e) The grantee shall establish the necessary procedures for identifying and selecting participants and for eligibility determination and verification.

(f) The provisions of Section 181(k) of the Act are applicable to Section 402 programs.

Subpart B—Grant Planning and Application Procedures

§ 633.201 Grant planning and application procedures in general.

Precondition for grant application: The Department will not consider an application for funding from any applicant in cases where it is established that:

(a) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful; or

(b) Fraud or criminal activity has been proven to exist within the organization.

§ 633.202 Announcement of State planning estimates and invitation to submit a grant application.

(a) *Announcements.* The Department, through a notice in the Federal Register, will announce State Planning estimates of Section 402 funds and will publish an SGA for all areas open to competition. The SGA will contain all information needed by an applicant to apply for funding; i.e., general program description, rating criteria, and dates for submission of applications.

(b) *Intention to apply.* Any eligible applicant intending to apply for funds shall submit a Preapplication for Federal Assistance to DOL by a specified date as announced in the Federal Register.

(c) Applications for statewide programs are encouraged; however, the Department reserves the right to award grant funds to less than statewide areas.

(d) Executive Order 12372, "Intergovernmental Review of Federal Programs," and the implementing regulations at 30 CFR Part 46 generally apply to this program. Pursuant to these requirements, in States which have established a consultation process expressly covering this program, applications shall be provided to the State for comment. Since States may also participate as competitors for this program, applications shall be submitted to the State upon the deadline for submission to the Department, instead of the usual 30-day period for review.

§ 633.203 Review of funding request.

The SGA will identify all review standards including:

(a) An understanding of the problems of migrant and seasonal farmworkers;

(b) A familiarity with the area to be served;

(c) A previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers.

(d) General administrative and financial management capability.

(e) Prior performance with respect to financial management, audit and program outcomes.

§ 633.204 Responsibility review.

(a) Prior to final selection as a potential grantee the Department will conduct a review of the available records to determine whether or not the organization has failed any responsibility test. This review is intended to establish overall responsibility to administer Federal funds. With the exceptions of paragraphs (a)(1) and (a)(3) of this section, the failure to meet any one of

the tests would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are as follows:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.

(2) Serious administrative deficiencies identified in final findings and determinations—such as failure to maintain a financial management system as required by Federal regulations.

(3) Established fraud or criminal activity within the organization.

(4) Wilfull obstruction of the audit process.

(5) Substantial failure to provide services to applicants as agreed to in a current or recent grant or to meet performance standard requirements as provided at § 633.321 of this subpart.

(6) Failure to correct deficiencies brought to the grantees' attention in writing as a result of monitoring activities, reviews, assessments, etc.

(7) Failure to return a grant closeout package or outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to properly report and dispose of government property as instructed by DOL.

(10) Failure to have maintained cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any two year period when required by DOL.

(12) Failure to audit a subrecipient within the required period when applicable.

(13) Final disallowed costs in excess of five percent of the grant or contract award.

(14) Failure to establish a mechanism to resolve subrecipient's audit within established time frames.

(b) This responsibility review is independent of the competitive process. Applicants failing to meet the requirements of this section will not be selected as potential grantees irrespective of their standing in the competition.

§ 633.205 Notification of selection.

(a) Respondents to the SGA which are selected as potential grantees shall be so notified by the Department. The notification shall invite each potential grantee to negotiate the final terms and conditions of the grant, shall establish a reasonable time and place for the negotiation, and shall indicate the State or area to be covered by the grant. Funds may be awarded for two program years.

(b) In the event that no grant applications are received for a specific State or area or that those received are deemed to be unacceptable, or where a grant agreement is not successfully negotiated, the Department may give the Governor first right to submit an acceptable application pursuant to § 633.201. Should the Governor not accept the offer within fifteen days, the Department may then (1) designate another organization or organizations, (2) reopen the area for competitive bidding, or (3) use the funds for national-account activities.

(c) An applicant whose grant application is not selected by the Department to receive Section 402 funds shall be notified in writing.

(d) Applicants who submit grant applications which have been rejected may not resubmit a new grant application for the State(s) or area(s) in which they are interested in providing services until the area(s) is announced by the Department as reopened for competition.

(e) Any applicant whose grant application is denied in whole or in part by the Department may request an administrative review as provided in Part 636, with respect to whether there is a basis in the record to support the Department's decision. This appeal will not in any way interfere with the Department's designation and funding of another organization to service the area in question during the appeal period. The available remedy under such an appeal will be the right to be designated in the future rather than a retroactive or immediately effective selection status. Therefore, in the event the ALJ rules that the organization should have been selected and the organization continues to meet the requirements of this Part, the Department will select and fund the organization within 90 days of the ALJ's decision unless the end of the 90-day period is within 6 months of the end of the funding period. Any organization selected and/or funded prior to the ALJ's decision will be affected in a manner prescribed by the Department. All parties will agree to the provisions of this paragraph as a condition for funding.

Subpart C—Program Design and Administrative Procedures

§ 633.301 General responsibilities.

(a) This subpart sets forth the program operation requirements for grantees under Section 402, including program and fiscal management, coordination and consultation, allowable activities, participant benefits, and duration of participation. Unless otherwise indicated, grantees shall follow procedures as prescribed in DOL administrative regulations a 41 CFR Part 29–70 and OMB Circular A–122.

(b) *Basic program design responsibilities of grantees.* A grantee shall be responsible for:

(1) Designing training which, to the maximum extent feasible, is consistent with every participant's fullest capabilites and will lead to employment opportunities enabling every participant to become economically self-sufficient.

(2) Designing program activities which will, to the maximum extent feasible, contribute to the occupational development and upward mobility of every participant;

(3) Providing training only to participants who are legally able to accept gainful employment in the occupation for which training is being provided; and

(4) Making maximum efforts to achieve the goals and the performance standards set forth in the grant.

§ 633.302 Training activities and services.

(a) A grantee may provide assistance to eligible individuals to obtain or retain employment, to participate in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment, and to participate in activities leading to stabilization in agricultural employment through training and supportive services which may include, but are not limited to:

(1) Job search assistance, including job clubs;

(2) Job development;

(3) Training, such as classroom, on-the-job, work experience, and tryout employment, in jobs skills for which demand exceeds supply;

(4) Training related and non-training related supportive services, including commuting assistance and financial and personal counseling;

(5) Relocation assistance; and

(6) Programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of the disruption of employment opportunities.

(b) Public service employment is not an allowable activity under Section 402 programs.

(c) Tryout employment shall conform to Section 205(d)(3)(B) and Section 141(k) of the Act.

(d) A participant's enrollment in work experience shall not exceed 1,000 hours in a one-year period.

§ 633.303 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of the recipient.

(b) Unless otherwise indicated below, direct and indirect costs shall be charged in accordance with 41 CFR Part 29–70 and OMB Circular A–122.

(c) Funds may be used for construction activities only to:

(1) Provide compensation to participants employed by public or private nonprofit agencies;

(2) Reimburse OJT costs to private-for-profit employers;

(3) Purchase equipment, materials, and supplies for use in the training of such participants; and

(4) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and needs-based payments and compensation to participants.

(d) Costs associated with capital improvements (as defined in OMB Circular A–122, Attachment B, Sections 13 and 22) of existing facilities used primarily for programs under the Act are allowable with prior approval of the Department.

(e) Unemployment compensation costs are allowable for administrative and program staff hired in accordance with the administrative provisions of the regulations, and for participants required by State law to be covered for unemployment compensation purposes.

(f) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

(1) Is for classroom training;

(2) Is fixed unit price; and

(3) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

(g) *Travel costs.* (1) The cost of participant and staff travel necessary for the operation or administration of programs under the Act is allowable as provided herein.

(2) Travel costs of section 402 administrative staff or members of governing boards of grantee organizations are allowable without the prior approval of the Department if the travel specifically relates to programs under Section 402. All other travel to be charged to JTPA Section 402 grants shall require the prior approval of the Department. These costs shall be charged to administration.

(3) Travel costs of other grantee officials of multifunded programs changed with overall grantee responsibilities are allowable only if costs specifically relate to programs under Section 402.

(4) Travel costs to enable participants to obtain or retain employment, access other services or to participate in programs under this Act are allowable as direct costs but shall be limited to the grantee's jurisdiction or within daily commuting distance, unless part of an approved component of the grantee's program. These costs shall be charged to training-related supportive services.

(5) Travel costs for participants in administrative or programmatic positions using their personal or other forms of transportation in the performance of their jobs are allowable and shall be charged appropriately.

(6) Travel policies of all grantees, subgrantees and contractors shall be generally consistent with those set forth in the Department's Travel and Transportation Manual.

(h) *Association membership.* Grantees are permitted to use grant funds to join those associations which provide technical and administrative services in support of Section 402 program efforts. The activities of such associations must be designed to contribute to the enhancement of professional and technical program knowledge. No financial assistance in the form of membership dues or other membership-related costs can involve political or lobbying activities.

(1) The cost shall be for a Section 402 grantee's membership rather than an individual person's membership.

(2) The cost of a membership shall be reasonably related to the value of the services or benefits received and shall not exceed $850 annually.

(3) Association-related costs shall be incorporated in the grantee's Section 402 grant budget, charged to the administrative category, and as such, shall be subject to the overall administrative cost ceiling.

(i) *Allowances and reimbursements for board and advisory council members*—(1) *General.* A reasonable allowance to members who attend meetings of any board, council, or committee for Section 402 program purposes, and reimbursement of actual expenses connected with those meetings, are allowable costs, and may be paid for attendance at no more than six meeting days per grantee per quarter.

(2) *Allowances and loss of wages.* Any individual or family member who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council is eligible to be paid and allowance provided:

(i) such individual's family income does not exceed either 70 percent of the lower living standard income level or the poverty level as established by HHS.

(ii) Allowances may not be paid for attendance in excess of ten dollars per meeting, unless approved in advance by the Department.

(3) *Reimbursement for expenses.* (i) All board members shall be eligible for receiving reimbursement for actual expenses of travel, meals, and lodging incurred in attending board meetings, or a per diem in lieu of actual expenses.

(ii) Any individual or family member where family income does not exceed 70 percent of the lower living standard income level and who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council shall also be eligible for reimbursement of actual wages lost, if supported by a statement from the employer.

(iii) The grantee shall define which expenses may be reimbursed, whether incurred as the result of actual meeting attendances or in performance of other official duties and responsibilities in connection with the program, and shall establish procedures for the reimbursement of such expenses.

§ 633.304 Section 402 cost allocation.

(a) *General.* Allowable costs for Section 402 programs shall be charged against the following four cost categories: Administration; training; training-related supportive services; and nontraining-related supportive services.

(1) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(3) All grantees are responsible for ensuring that subgrantees and

contractors plan, control, and report expenditures against the aforementioned cost categories.

(b) *Limitation on certain costs.* (1) Costs for administration of the grant shall not exceed 20 percent of the total amount of the grant.

(2) Costs for nontraining-related supportive services shall not exceed 15 percent of the total amount of the grant.

(3) Costs for training shall be no less than 50 percent of the total amount of the grant.

(c) *Classification of costs by category.* All grant costs shall be charged to the four cost categories listed above. Within each category costs shall be assigned and accounted for as follows:

(1) *Administration.* Administration costs consist of all direct and indirect costs associated with the management of the program. Administrative costs shall be limited to those necessary to effectively operate the program. These costs include but are not limited to: the salaries and fringe benefits of personnel engaged in executive, fiscal, data collection, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions; and related materials, supplies, equipment, office-space costs, and staff training.

(i) Also included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel that are identifiable with these program-administration positions are charged to administration.

(ii) Allowances and reimbursement costs for governing boards and advisory councils shall be prorated wherever applicable as administrative costs among all the grants, from whatever source, administered by the grantee.

(2) *Training.* (i) Instruction and related costs consist of goods and services which affect those program participants who are in either a work environment, or classroom setting (including classroom training in conjunction with Vocational Exploration or Job Readiness or tryout employment) and shall be charged to training, i.e., salaries, fringe benefits, space, utility, travel and equipment. Training costs include, but are not limited to, the following: The costs associated with on-the-job training services; employer outreach necessary to obtain job listings or job-training opportunities, salaries; fringe benefits; equipment and supplies of personnel engaged in providing training, including remedial education; job-related counseling for participants; employability assessment and job development; tuition fees, books and other teaching aids; equipment and materials used in providing training to participants, classroom space and utility costs; job search assistance, labor market orientation, and job referral costs. In addition:

(ii) Wages and fringe benefits for participants in work experience, tryout employment, classroom training, shall be charged to training. Cost-of-living increases are considered wages.

(iii) Allowances shall be charged to training.

(iv) Any single cost which is properly chargeable to training and to one or more other categories shall be prorated among training and other appropriate cost categories.

(3) *Training-related supportive services.* Costs of services which are necessary to enable an eligible individual to participate in training or subsidized employment under section 402 and to obtain subsequent unsubsidized employment shall be charged to training-related supportive services. Such supportive services may include but are not limited to transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the program and may be provided in-kind or through cash assistance. Training-related supportive services costs and related costs shall be charged to this cost category.

(4) *Nontraining-related supportive services.* "Services only" are the costs of the goods and services provided to participants who are not engaged in work experience, tryout employment or training activities, including but not limited to such goods and services as: transportation, health care, temporary shelter, meals and other nutritional assistance, legal or paralegal assistance and emergency assistance.

(d) *Cost categories assignable to program activities.* (1) Classroom training. Cost categories are: Training and training-related supportive services.

(2) On-the-job training. Cost categories are: Training and training-related supportive services.

(3) Work Experience: Cost categories are: Training and training-related supportive services.

(4) Tryout employment: Cost categories are: Training and training-related supportive services.

(5) Training assistance: Cost categories are: Training and training-related supportive services.

(6) Services only (no referral to employment): Cost category is: Nontraining-related supportive services.

§ 633.305 General benefits and working conditions for program participants.

(a) Payments for on-the-job training (OJT) shall be made in accordance with Sections 141(g) and 142(a)(2) of the Act.

(b) Participants employed in work experience activities shall be paid wages in accordance with Section 142(a)(3) of the Act.

(c) Payments to individuals participating in programs under Section 402 shall conform to the provisions of Section 142(b) of the Act.

(d) Section 402 grantees shall not assist any activity under the Act unless the activity conforms to provisions of Sections 142 and 143 of the Act.

(e) A basic hourly allowance for regularly enrolled classroom training participants shall not exceed the higher of the State or Federal minimum hourly wage.

§ 633.306 Retirement benefits.

No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans (Sec. 143(a)(5)).

§ 633.307 Packages of benefits.

(a) Where non-JTPA, similarly employed employees are covered under a benefits package which includes retirement, JTPA participants shall receive the non-retirement benefits (e.g., health, death, and disability-benefit coverage), at the same level and to the same extent as other employees. JTPA funds may be used to pay for those benefits.

(b) JTPA funds may be used to purchase a package of benefits including retirement, provided the retirement portion of the package can be factored out of the package and adjusted accordingly.

§ 633.308 Non-Federal status of participants.

Except where specifically provided to the contrary, participants in a program under the Act shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those related to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 633.309 Recordkeeping requirements.

(a) Each grantee shall ensure maintenance of systems whose financial management and participant data components provide federally-required

records and reports that are accurate, uniform in definition, accessible to authorized Federal staff, and verifiable for monitoring, reporting, and evaluation purposes.

(b) The grantee shall ensure that systems:

(1) Maintain data elements used in required Federal reports in accordance with established program definitions contained in the Act and these regulations;

(2) Follow consistent rules for aggregation of detailed data to summary levels;

(3) Are able to track data from detailed records to summary reports;

(4) Maintain procedures to ensure that information is current, complete, consistent, and accurate;

(5) Meet generally accepted accounting principles as prescribed in 41 CFR Part 29–70;

(6) Provide for adequate control of Federal funds and other assets;

(7) Trace the funds to a level of expenditures adequate to demonstrate that funds have been spent lawfully;

(8) Maintain internal controls to avoid conflict-of-interest situations and prevent irregular transactions or activities;

(9) Support accounting records with source documentation such as cancelled checks, paid bills, contracts, grants, and agreements; and

(10) Establish procedures that will minimize the time elapsing between the receipt of advanced funds and their disbursement.

§ 633.310 Bonding.

The grantee and all subgrantees shall ensure that every officer, director, agent, or employee authorized to act on their behalf in receiving or depositing funds into program accounts or in issuing financial documents, checks, or other instruments of payment for program costs shall be bonded to provide protection against loss. Those costs are chargeable to administration.

§ 633.311 Management information systems.

All grantees shall establish and maintain a program and financial management system which meets Departmental standards and the requirements of § 633.314.

§ 633.312 Grantees contracts and subgrants.

(a) *Grantee responsibility.* (1) The grantee is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable laws as required by DOL.

(2) The grantee shall require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(3) Each grantee, subgrantee and contractor shall establish and use internal program management procedures sufficient to prevent fraud and abuse.

(4) The grantee shall ensure that contractors and subgrantees maintain and make available for review by the grantee and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of record requirements.

(5) Subgrantees are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants.

(b) In the event an agreement or subgrant is cancelled, in whole or in part, the grantee may be required to develop procedures for ensuring continuity of service to participants.

(c) Grantees are authorized to enter into classroom training or on-the-job training contracts or subgrants which extend past the expiration date of the grant, but such extension shall not exceed six months. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants, unless, should the grant be terminated, such contract or subgrant is transferred to a successor grantee.

§ 633.313 Administrative staff and personnel standards.

The following provisions shall be applicable only to private nonprofit grantees and to private nonprofit subgrantees receiving Section 402 funds:

(a) Personnel policies of grantees and subgrantees shall be stated in written form and available to the Department upon request.

(b) Each grantee and subgrantee shall insure that its staff recruiting procedures afford adequate opportunity for the hiring and promotion of persons in the target population.

(c) Grantees and subgrantees shall include the following provisions in their published personnel policies relating to outside employment of their employees in Section 402 programs.

(1) Such employment shall not interfere with the efficient performance of the employee's duties in the DOL-assisted programs;

(2) Such employment shall not involve conflict of interest or conflict with the employee's duties in the DOL-assisted program;

(3) Such employment shall not involve the performance of duties which the employee should perform as part of employment in the DOL-assisted program; and

(4) Such employment shall not occur during the employee's regular or assigned working hours in the DOL-assisted program, unless the employee during the entire day on which such employment occurs is on annual leave, compensatory leave, or leave without pay.

(d) *Salaries and wages.* (1) Administrative and staff employees in Section 402 programs shall be paid at a rate no lower than the applicable Federal, State, or local minimum wage rate, whichever is highest. The salary for each position shall be justified and documented by the grantee to the satisfaction of the Department.

(2) Notwithstanding paragraph(d)(1) of this section, where a grantee or subgrantee has an established system, it may compensate its Section 402 program employees at existing rates in effect for comparable positions under such merit system. However, in order to use this methodology, the Section 402 program employees must be filling types of positions in existence before the grantee or subgrantee received financial assistance under the Section 402 program, and the salary scale must not have been changed as a result of such financial assistance.

(e) *Prorating salaries.* Where an individual performs functions under several grants, his or her time shall be prorated among the different grants and the portion of the salary charged to the Section 402 grant shall not exceed the percentage of time spent performing Section 402 functions.

(f) *Employee benefits.* Employee benefits shall be at the same level and to the same extent as those positions in public or private nonprofit agencies in the area where the program is carried out.

(g) *Position responsibilities.* (1) Each grantee and subgrantee shall maintain a written detailed job description identifying job functions and responsibilities for each administrative and staff position under its Section 402 program.

(2) Each position shall have specific hiring qualifications. Positions requiring higher salaries or wages shall include higher level of responsibilities commensurate with the salary.

(h) *Personnel procedures.* (1) Each grantee and subgrantee shall maintain a personnel manual containing detailed

procedures for hiring new employees, promoting present employees and granting salary increases.

(2) Each grantee and subgrantee shall maintain documentation as to any personnel action (including hiring, promotion, and salary increases) involving its Section 402 program employees.

§ 633.314 Reports required.

Grantees shall report pursuant to instructions issued by the Department. Reports shall be submitted quarterly within 45 days after the end of the report period (Sec. 165(a)(2)). Accuracy of all reports must be verified by the chief executive officer or financial officer. When estimates are used, the verification statement will so state.

§ 633.315 Replacement, corrective action, termination.

(a) The Department may replace any grantee who during the grant period has been terminated by first offering the Governor the opportunity to submit an acceptable application. When such an offer is made and should the Governor decline, within 15 days, or should the Governor or his agent have been the terminated grantee, the Department may replace the grantee by (1) designating another organization or organizations, or (2) opening the area for competitive bidding.

(b) The Department may also require appropriate corrective action as a condition of continued funding of a grantee whose performance has been found deficient, but not sufficient to warrant termination for cause or emergency treatment. Such appropriate corrective actions may include but are not limited to termination of subrecipient agreements, development of and compliance with corrective action plans, etc.

(c) In cases where deficiencies are identified and efforts at corrective action have failed, the Department may apply sanctions, e.g., suspension of Letter of Credit, incremental funding, etc.

(d) Termination for cause can occur whenever there is a violation of the governing rules and regulations, failure to comply with the grant terms and conditions and in such cases as:

(1) Inability to meet Federal standards related to such debt collection requirements as:

(i) Failure to respond to demand letters from DOL for repayment of debts within the stated timeframe;

(ii) Failure to comply with approved repayment agreement;

(2) Nonperformance related to such requirements as:

(i) Failure to submit required quarterly financial reports for two successive periods within 30 days after they are due;

(ii) Failure to submit required quarterly performance report for two successive periods within 30 days after they are due;

(iii) Failure to develop a plan of action to correct deficiencies identified in a final audit finding and determination or by an onsite monitoring review;

(3) Nonperformance related to such requirements as:

(i) Failure to comply with formal corrective action after due notice;

(ii) Failure to comply with the requirements of the Act related to a grievance procedure and other requirements;

(e) In addition, the Department, by written notice, may terminate a grant in whole or in part in the event of reduction in the funds available for JTPA Title IV, Section 402 programs by reason of congressional action, whether by authorization, appropriation, deferral, rescission or otherwise, or by reason of other legislative action, such as changes in service deliverers, program content or services to be provided, which makes it impracticable to continue the agreement under its original terms. In the event of a congressional reduction in funds, the reduction shall be apportioned on an equitable basis among Section 402 grantees. In the case of termination pursuant to this provision, the Department shall be liable for payment, in accordance with the payment provisions of this agreement, for services rendered and noncancellable obligations properly incurred prior to the effective date of termination.

(f) Notwithstanding the provisions of Part 636 the Department may terminate a grantee under emergency termination procedures in accordance with Section 164(f) of the Act.

(i) Instances under which emergency termination can occur include but are not limited to: Final audit findings and determinations identifying numerous adverse findings in the area of financial management; information gathered through onsite monitoring which substantiates serious management, fiscal and/or performance problems; documented information from the Inspector General or gained through incident reports of poor performance, serious administrative problems and/or inability to protect and account for Federal funds.

(ii) Within 30 days of written termination notification to a grantee, the Department will secure applicable documents onsite, seize bank accounts relating to the program, arrange for the payment of legitimate bills and debts and arrange, to the degree feasible, for the continued provision of services to program enrollees.

§ 633.316 Closeout procedures.

Grant closeout will conform to the requirements at 41 CFR Part 29–70. As necessary, the Department shall issue supplementary closeout requirements.

§ 633.317 Reallocation of funds.

(a) In a limited number of circumstances, the Department may reduce a portion of a grant when it can be reasonably projected that the funds will not be used during the grant performance period or that they will not be used for DOL authorized carryover purposes. Such reduction of funds will only be undertaken after 30-days advance notice to the grantee.

(b) Funds recaptured as a result of these grant reductions will be available for technical assistance or special projects funded at the discretion of the Department.

§ 633.318 Nondiscrimination and nonsectarian activities.

Pursuant to Section 167(a) of the Act:

(a) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32 and will be administered by the Office of Civil Rights.

(b) The employment or training of participants in sectarian activities is prohibited.

§ 633.319 Lobbying, political activities and unionization.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress.

(b) To attempt to influence in any manner State or local legislators to favor or oppose any legislation or appropriation by such legislators.

(c) Which involves political activities (Sec. 141(a)).

(d) Which will assist, promote, or deter union organizing (Sec. 143(c)(1)).

§ 633.320 Nepotism.

(a) No grantee, subgrantee, or employing agency may hire a person in an administrative capacity, staff position, or on-the-job training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity

for that grantee, subgrantee, or employing agency.

(b) No subgrantee or employing agency may hire a person in an administrative capacity, staff position or on-the-job training position funded under the Act, if a member of that person's immediate family is engaged in an administrative capacity for the grantee from which that subgrantee or employing agency obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed.

(c) For purposes of this section the term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

§ 633.321 Performance standards for Section 402 programs.

(a) The Secretary shall issue performance standards for Section 402 programs.

(b) To issue performance standards, the Secretary shall:

(1) Select the measures against which the standards will be set.

(2) Prescribe the pre- and post-program measurement periods.

(3) Determine standards for each of the measures, from which specific grantee standards can be determined in accordance with the parameters established by the Secretary.

(c) No grantee shall be penalized for not meeting performance standards for the program years 1984–1986.

§ 633.322 Sanctions for violation of the Act.

(a) Pursuant to Sections 164 (d), (e), (f), (g), and (h) of the Act, the Secretary may impose appropriate sanctions and corrective actions for violations of the Act, regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the grantee is or may be entitled under the Act, except as provided in Section (e)(1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the grantee by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the grantee or its subgrantee or contractor in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under Section 164(f) and 167 of the Act, to establish a debt or violation subject to sanction and/or corrective action, the Secretary shall utilize initial and final determination procedures outlined in 20 CFR Part 636.

(c) To impose a sanction or corrective action regarding a violation of section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR Part 31.

(d) (1) The Secretary shall hold the grantee responsible for all funds under the grant. The grantee shall hold its subgrantees and contractors responsible for JTPA funds received through the grant.

(2) The Secretary shall determine the liability of the grantee for misexpenditures of grant funds in accordance with Section 164(e) of the Act, including the requirement that the grantee shall have taken prompt and appropriate corrective actions for misexpenditures by a subgrantee or contractor.

(3) Prompt, appropriate, and aggressive debt collection action to recover any funds misspent by subgrantees or contractors ordinarily shall be considered a part of the corrective action required by Section 164(e)(2)(D) of the Act.

(4) In making the determination required by Section 164(e)(2) of the Act, the Secretary may determine, based on a request from the grantee, that the grantee may forego certain collection actions against a subgrantee or contractor where that subgrantee or contractor was not at fault with respect to the liability criteria set forth in Section 164(e)(2)(A) through Section 164(e)(2)(D) of the Act. The Secretary shall consider such requests in assessing whether the grantee's corrective action was appropriate in light of Section 164(e)(2)(D) of the Act.

(5) The grantee shall not be released from liability for misspent funds under the determination required by Section 164(e) of the Act until the Secretary determines that further collection action, either by the grantee or subgrantee or contractor, would be inappropriate or would prove futile.

(e) Nothing in this section shall preclude the Secretary from imposing a sanction directly against a subgrantee or contractor as authorized in Section 164(e)(3) of the Act. In such a case, the Secretary shall inform the grantee of the Secretary's action.

PART 634—LABOR MARKET INFORMATION PROGRAMS UNDER TITLE IV, PART E OF THE JOB TRAINING PARTNERSHIP ACT

Comprehensive Labor Market Information System

Sec.

Authority: Job Training Partnership Act, Sec. 169, (29 U.S.C. 1510 *et seq.*, Pub. L. 97–300, 96 Stat. 1322), unless otherwise noted.

Comprehensive Labor Market Information System

§ 634.1 General.

Pursuant to Title IV, Part E of the Job Training Partnership Act, the Secretary, in cooperation with the States, shall maintain a comprehensive system of Labor Market Information (LMI). This subpart contains regulations governing the comprehensive LMI system.

§ 634.2 Availability of funds.

(a) The Secretary shall make available, from the amounts appropriated pursuant to Section 461(a) of the Act and Sections 3(a) and 14 of the Wagner-Peyser Act, funds to support LMI activities and Federal-State cooperative statistical programs.

(b) LMI programs may be funded through reimbursable agreements between the Secretary and the States.

§ 634.3 Eligible recipients.

(a) For funds appropriated pursuant to JTPA Title IV, Part E, eligible recipients shall be the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) For funds appropriated pursuant to the Wagner-Peyser Act, as amended, eligible recipients shall be the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

§ 634.4 Statistical standards.

Recipients shall agree to provide required data following the statistical standards prescribed by the Bureau of Labor Statistics for cooperative statistical programs.

§ 634.5 Federal oversight.

The Secretary shall take such action as necessary to ensure satisfactory recipient performance.

PART 636—COMPLAINTS, INVESTIGATIONS AND HEARINGS

Sec.
636.1 Scope and purpose.
636.2 Protection of informants.
636.3 Complaint and hearing procedures at the grantee level.
636.4 Grievance procedures at the employer level.
636.5 Exhaustion of grantee level procedure.
636.6 Complaints and investigations at the Federal level.
636.7 Subpoenas.
636.8 Initial and final determination; request for hearing at the Federal level.
636.9 Opportunity for informal review.
636.10 Hearings before the Office of Administrative Law Judges.
636.11 Final action.

Authority: Job Training Partnership Act, Sec. 169 (29 U.S.C. 1501 *et seq.*, Pub. L. 97-300, 96 Stat. 1322), unless otherwise noted.

§ 636.1 Scope and purpose.

(a) *General.* This part establishes the procedures to receive, investigate and resolve complaints, and conduct hearings to adjudicate disputes under Title IV of the Act. It governs grievance procedures at the recipient or subrecipient level, the receipt and investigation of complaints at the Federal level, the procedures for resolving investigative findings, the rules of practice for adjudicative hearings, and the rendering of decisions pursuant to the Act. Judicial review of final action of the Department after opportunity for an administrative hearing has been exclusively established in the United States Courts of Appeals for the Circuits in which the affected parties reside or transact business.

(b) *Initiation of investigations.* JTPA investigations may be initiated upon the request of any person or organization or by the Department on its own initiative.

(c) *Non-JTPA remedies.* Whenever any person, organization or agency believes that a recipient or subrecipient has engaged in conduct that violates the Act and that such conduct also violates a Federal statute other than JTPA, or a State or local law, that person, organization or agency may, with respect to the non-JTPA cause of action, institute a civil action or pursue other remedies authorized under other Federal, State, or local law against the recipient or subrecipient without first exhausting the remedies in this subpart. For example, if a subrecipient believes that a grantee has breached the subgrant agreement between the grantee and itself, the subrecipient may institute a civil action for breach of contract in a State court if so authorized by State law. Nothing in the Act or this paragraph, shall:

(1) Allow any person or organization to join or sue the Secretary with respect to his or her responsibilities under JTPA except after exhausting the remedies in this subpart.

(2) Allow any person or organization to file a suit which alleges a violation of JTPA or these regulations without first exhausting the administrative remedies described in this subpart, or

(3) Be construed to create a private right of action with respect to alleged violations of JTPA or the regulations.

(d) Complaints of discrimination pursuant to Section 167(a) of the Act will be handled under 29 CFR Parts 31 and 32.

§ 636.2 Protection of informants.

(a) *Informants.* Where possible the identity of any person who has furnished information relating to, or assisted in an investigation of a possible violation of the Act will be held in confidence. Where disclosure of the person's identity is essential to assure a fair determination of the issues, or where necessary to effectively accomplish responsibilities under the Act, the Department may disclose such identity upon such conditions as will promote the continued receipt of confidential information by the Department and effectuate the protections and policies stated in paragraph (b) of this section. Any such disclosure shall be consistent with the Freedom of Information Act, the Privacy Act and other applicable law.

(b) *Retaliation prohibited.* No person or agency may discharge, or in any other manner discriminate or retaliate against any person, or deny to any person a benefit to which that person is entitled under the provisions of the Act or the regulations because such person has filed any complaint, instituted or caused to be instituted any proceeding under or related to the Act, has testified or is about to testify in any such proceeding or investigation, or has provided information or assisted in an investigation.,

§ 636.3 Complaint and hearing procedures at the grantee level.

(a) *Policy.* (1) Each grantee shall establish and maintain a procedure for resolving any complaint alleging a violation of the Act, regulations, grant or other agreements under the Act, including any complaint arising in connection with the JTPA programs operated by the grantee or its subrecipients. Such complaint procedures must meet the requirements of this section. The complaint procedure shall provide for final resolution of complaints within 60 days after filing the complaint. Where existing complaints or grievance procedures include the elements set forth in this section, grantees may adopt such mechanism as, or as part of, their JTPA procedure.

(2) Participants shall be provided, upon enrollment into employment or training, with a written description of the complaint procedures including notification of their right to file a complaint and instructions on how to do so. Grantees should designate an individual to monitor the operation of the complaint procedures, to ensure that complaints and related correspondence are logged and filed, to ensure that assistance is available for properly filling complaints, and to ensure the availability, coordination, and promptness of all elements of the procedures. Upon filing a complaint, and at each stage thereafter, each complaint shall be notified in writing of the next step in the procedure.

(3) Complaints may be brought by any individual or organization including, but not limited to, program participants, subrecipients, contractors, staff of the grantee or subrecipient, applicants for participation or financial assistance, labor unions, and community-based organizations.

(4) With the exception of complaints alleging fraud or criminal activity, the filing of a complaint pursuant to this section must be made within one year of the alleged occurrence.

(5) The grantee may delegate the authority to operate and maintain the complaint and hearing procedure to its subrecipients except for complaints between the grantee and its subrecipients (e.g., audit disallowances), complaints involving more than one of its subrecipients, or complaints directly involving the operations or responsibilities of the grantee. Where the procedure is delegated, the grantee may provide for an appeal to itself from the decision of the subrecipient or the grantee may provide that the subrecipient's decision is the final decision of the grantee. Where the procedure is delegated, the grantee shall ensure that the procedures specified in this section are followed and a decision issued promptly within 60 days after a complaint is filed.

(6) When a participant is an employee of a grantee or subrecipient and alleges that an occurrence constitutes a violation of the Act, regulations, grant, or other agreements under the Act, as well as a violation of the terms and conditions of employment under a State or local law or a collective bargaining agreement, the participant may pursue

the complaint and hearing procedures under the State or local law or the collective bargaining agreement, pursuant to § 636.4. A participant who selects the procedures provided in this section is not precluded from filing a complaint under § 636.4, unless otherwise prohibited by State or local law, or applicable collective bargaining agreement.

(b) *Complaint procedures.* The complaint resolution procedure shall include:

(1) Opportunity to file a complaint. All complaints shall be in writing.

(2) Opportunity for informal resolution of the complaint.

(3) Written notification of an opportunity for a hearing when an informal resolution has not been accomplished. The notice shall state the procedures for requesting a hearing and shall describe the elements in the hearing procedures including those set forth in paragraph (c) of this section.

(4) Opportunity to amend the complaint prior to a hearing.

(5) Opportunity for a hearing pursuant to paragraph (c) of this section within 30 days of filing the complaint.

(6) A final written decision to the complainant which shall be made within 60 days of the filing of the complaint and provided to the parties by certified or registered mail, return receipt requested. The decision shall include:

(i) A statement of facts and reason(s) for the decision.

(ii) A statement that the procedures delineated in this section have been completed.

(iii) A statement of any remedies to be applied.

(iv) Notice of the right to file a complaint with the Grant Officer pursuant to § 636.6 where any party disagrees with the decision.

(c) *Hearing procedure.* A hearing shall be provided within 30 days after filing a complaint. The hearing procedure shall include:

(1) Written notice of the date, time and place of the hearing, the manner in which it will be conducted, and the issues to be decided. Other interested parties may apply for notice. Such other interested party is a person or organization potentially affected by the outcome. The notice to other interested parties shall include the same information furnished to the complainant and shall further state whether such interested parties may participate in the hearing and if applicable, the method by which they may request such participation.

(2) Opportunity to withdraw the request for hearing in writing before the hearing.

(3) Opportunity to request rescheduling of the hearing for good cause.

(4) Opportunity to be represented by an attorney or other representative of the complainant's choice.

(5) Opportunity to call witnesses and introduce documentary evidence. Recipients or subrecipients shall cooperate in making available any persons under their control or employ to testify, if such persons are requested to testify by the complainant.

(6) Opportunity to have records or documents relevant to the issues produced by their custodian when such records or documents are kept by or for the grantee or its subrecipient in the ordinary course of business.

(7) Opportunity to question any witnesses or parties.

(8) The right to an impartial hearing officer.

(9) A verbatim record of the proceeding.

(10) A written decision from the hearing officer to the complainant(s) and any other interested parties within 60 days of the filing of the complaint. This period may be extended with the written consent of all of the parties for good cause. The written decision shall include a statement of facts, a statement of reasons for the decision and a statement of any remedies to be applied. Where the hearing officer's decision is the grantee's final decision it shall be provided to the parties by certified or registered mail, return receipt requested.

(11) Where a complaint procedure provides for a grantee's review of the hearing officer's decision, the grantee shall complete its review and provide a final written decision to the complainant(s), and any other parties, by certified or registered mail, return receipt requested, as provided in paragraph (c)(10) of this section within 60 days after the complaint is filed.

(12) Where local law, personnel rules or other applicable requirements specify procedures in addition to those specified above, similarly employed JTPA participants shall be notified of their right to use the same procedures.

§ 636.4 Grievance procedures at the employer level.

(a) *Policy.* (1) Whenever the grantee or subrecipient is an employer, it shall continue to operate or shall establish and maintain for its participants a grievance procedure relating to the terms and conditions of JTPA employment. The employer who does not have a grievance procedure may use the complaint procedure established under § 636.3. Employers shall inform participants of the procedures they are to follow.

(2) A participant who elects the grievance procedure in this section, may also pursue a complaint under § 636.3 where there is an alleged violation of the Act, regulations, grant or other agreement under the Act.

(b) *Equal benefits.* Where local law, personnel rules, or other applicable requirements specify procedures (including procedures for any adverse action or for termination of employment), similarly employed JTPA participants shall be notified of their right to use the same procedures, as well as JTPA procedures.

§ 636.5 Exhaustion of grantee level procedure.

(a) *Exhaustion required.* No complainant may file a complaint with the Department until the grantee level procedures specified in § 636.3 have been exhausted.

(b) *Exhaustion exceptions.* Complainants who have not exhausted the procedures at the grantee level may file the complaint at the Federal level, and the Department may accept such complaint if it determines that:

(1) The grantee or subrecipient has not acted within the time frames specified in § 636.3; or

(2) The grantee's or subrecipient's procedures are not in compliance with § 636.3; or

(3) An emergency situation exists.

§ 636.6 Complaints and investigations at the Federal level.

(a) *General; final determination of reliable and probative evidence.* Where local administrative remedies have been exhausted, Section 144(c) of the Act requires that a final determination of the complaint shall be made within 120 days after the Department receives the complaint. The Department's resolution of non-criminal matters pursuant to Section 144(c) of the Act consists of the final determination under § 636.8(e) of whether there is reliable and probative evidence to support the allegation or belief that a grantee or subrecipient is failing to comply with the requirements of the Act, regulations, grant or other agreement under the Act.

(b) *Complaints.* (1) Every complaint shall be filed in writing before the commencement of any investigation or corrective action shall be required. Complaints alleging discrimination under Section 167, will be filed with the Regional Director, Office of Civil Rights (OCR). All other JTPA complaints will be filed with the appropriate Grant Officer. However, a complaint timely

filed with either the Grant Officer or the Regional OCR Director shall be deemed properly filed and shall be referred (as necessary) to the appropriate office. The complaint shall be filed only after the grantee level procedures in § 636.3 have been exhausted and no later than 30 days from the date of receipt of the written decision or notice required by § 636.3. The complaint should contain the following:

(i) The full name, telephone number (if any), and address of the person making the complaint.

(ii) The full name and address of the respondent (the grantee or subrecipient or person against whom the complaint is made).

(iii) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

(iv) Where known, the provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated.

(v) A statement disclosing whether proceedings involving the subject of the complaint have been commenced or concluded before any Federal, State or local authority, and, if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case.

(vi) A copy of the final decision of the recipient or subrecipient issued pursuant to § 636.3.

(2) A complaint will be considered to have been received upon receipt by the appropriate Grant Officer. To be acceptable, the complaint must be a written statement sufficiently precise to both identify those against whom the allegations are made and to fairly afford the respondent an opportunity to prepare a defense. A complaint may be amended to cure defects or omissions, or to clarify and amplify allegations made therein, and such amendments relate back to the original filing date for purposes of timely filing.

(3) A complaint once filed may be withdrawn only with the consent of the Grant Officer. If the complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the complainant.

(c) *Investigation of complaints.* Whenever the Grant Officer receives a complaint filed in accordance with paragraphs (a) and (b) of this section, the complaint shall be investigated if it alleges that any person, grantee or subrecipient has failed to comply with the requirements of the Act, regulations, grant or other agreements under the Act. The Grant Officer shall promptly issue a notice to the grantee or subrecipient which shall include a copy or summary of the complaint and which shall direct the grantee or subrecipient to forward a copy of the complete administrative file, including a copy of the certified verbatim transcript of the hearing, within 15 days of receipt of such notice to the Grant Officer. Such investigation shall be completed and a conclusion made pursuant to § 636.8(e) within 120 days of the filing of the complaint, except that the time may be extended with the written consent of all the parties.

(d) *Onsite review and other bases for investigation.* If after an onsite review, monitoring visit, review of reports, data or other information, the Grant Officer has reason to believe that a grantee or subrecipient is failing to comply with the requirements of the Act, regulations, grant or other agreements under the Act, the Grant Officer or other designated authority shall inquire into the matter.

(e) *Utilizing other services.* With the consent and cooperation of State agencies charged with the administration or enforcement of State laws, the Secretary may elect for the purpose of carrying out this part, to utilize the services of State, local and Tribal agencies and their employees, and notwithstanding any other provision of law, may reimburse, in whole or in part, such State and local agencies and their employees for services rendered for such purposes.

(f) *Criminal investigation.* Notwithstanding any other provision of this part, investigation by the Department of any matter concerning a potential Federal criminal violation shall be conducted as the Inspector General shall direct pursuant to the powers granted by the Inspector General Act of 1978, Pub. L. 95–452, 92 Stat. 1101.

§ 636.7 Subpoenas.

(a) *Subpoenas in non-Inspector General investigations.* (1) The Department, through the appropriate Assistant Secretary, may issue a subpoena directing the person named therein to appear before a designated representative at a designated time and place to verify or to produce documentary evidence, or both, relating to any matter arising under the Act being investigated. The Assistant Secretary, Solicitor or the Associate Solicitor for Employment and Training Legal Services, for good cause shown, may extend the time prescribed for compliance with such subpoenas.

(2) Any motion to limit or quash any investigational subpoena shall be filed with the Chief Administrative Law Judge within 10 days after service of the subpoena, or, if the return date is less than 10 days after service of the subpoena, within such other time as may be allowed by the assigned Administrative Law Judge.

(3) The timely filing of a motion to limit or quash an investigational subpoena shall stay the requirement of a return on the portion challenged. If the Administrative Law Judge rules subsequent to the return date, and the ruling denies the motion in whole or in part, the Administrative Law Judge shall specify a new return date.

(4) All motions to limit or quash subpoenas, and the responses thereto, shall be part of the public record of the Office of the Administrative Law Judges except as otherwise ordered or provided under these regulations.

(b) *Noncompliance.* (1) In cases of failure to comply with compulsory processes, appropriate action may be initiated including actions for enforcement, forfeiture, penalties or criminal actions.

(2) The Solicitor of Labor, with the consent of the Attorney General, may:

(i) Institute in the appropriate district court on behalf of the Department an enforcement proceeding in connection with the failure or refusal of a person, partnership, corporation, recipient or other entity to comply with or to obey a subpoena if the return date or any extension thereof has passed; or

(ii) Request on behalf of the Department the institution of civil actions, as appropriate, if the return date or any extension thereof has passed including seeking civil contempt in cases where a court order enforcing compulsory process has been violated.

§ 636.8 Initial and final determination; request for hearing at the Federal level.

(a) *Initial determination.* Upon the conclusion of a review of the entire administrative record of an investigation conducted pursuant to § 636.6 or after the conclusion of the comment period for audits, the Grant Officer shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grants or other agreements, under the Act. The determination may conclude either:

(1) That based upon the entire record there is no violation of the Act, regulations, grants or other agreements under the Act; or

(2) That there is evidence to support the allegation, or finding of questioned costs or activities.

(b) *Contents of initial determination.* (1) In the event that the Grant Officer makes a finding that there is evidence to

support the allegation of a violation the initial determination shall:

(i) Be in writing;

(ii) State the basis of the determination, including factual findings and conclusions;

(iii) Specify the costs or activities disallowed;

(iv) Specify the corrective actions required and/or that sanctions may be imposed; and

(v) Give notice of an opportunity for informal resolution of the matters as necessary to the appropriate parties, which should include all interested parties specified by the Grant Officer.

(2) In the event that the Grant Officer makes a finding of no violation the initial determination shall:

(i) Be in writing;

(ii) State the bases of the determination (factual findings and conclusions); and

(iii) Give notice of the opportunity to present additional information within 30 days of receipt of the initial determination.

(3) The initial determination shall be mailed by certified mail return receipt requested to the parties and interested parties.

(c) *Allowability of certain questioned costs.* In any case in which the Grant Officer determines that the recipient meets the requirements of Section 164(e)(2)(A)–(D) of the Act, the Grant Officer may waive the imposition of sanctions (Sec. 164(e)(3)). It is the responsibility of the grantee to request such waiver by the Grant Officer and to submit the evidence to be used to make the finding.

(d) *Informal resolution.* Except as provided by Section 164(f) of the Act, the Grant Officer shall not revoke a grant, in whole or in part, nor institute corrective action or sanctions against a grantee without first providing the grantee with an opportunity to informally resolve those matters contained in the Grant Officer's initial determination. If all matters are informally resolved, the Grant Officer shall notify the parties in writing of the nature of the resolution, which shall constitute final agency action, not subject to appeal, and shall close the file.

(e) *Final determination.* (1) If all the parties and the Grant Officer cannot informally resolve any matter pursuant to paragraph (d) of this section, the Grant Officer shall provide each party with a final written determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Grant Officer of the final approved audit report.

(2) The final determination shall:

(i) Indicate that efforts to informally resolve matters contained in the initial determination pursuant to paragraph (a) of this section have been unsuccessful;

(ii) List those matters upon which the parties continue to disagree;

(iii) List any modifications to the factual findings and conclusions set in the initial determination;

(iv) List any sanctions, and required corrective actions, including any other alteration or modification of the plan, grant, agreement or program ordered by the Grant Officer; and

(v) Inform the parties of their opportunity to request a hearing pursuant to these regulations.

(3) If it is determined in the final notice that the complaint does not allege and/or the evidence does not indicate that there is reason to believe there may have been a violation of the Act, regulations, grants or other agreements under the Act, the Grant Officer shall dismiss the complaint without an offer of a hearing. Such dismissal shall constitute final agency action.

§ 636.9 Opportunity for informal review.

(a) Parties to a complaint under § 636.10 may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to Section 166(b) of the Act.

§ 636.10 Hearings before the Office of Administrative Law Judges.

(a) *Jurisdiction.* (1) Within 21 days of receipt of the Grant Officer's final determination, except for determinations under § 636.8(e)(3) dismissing the complaint without an opportunity to request a hearing, or on the expiration of 120 days of the filing of a complaint with the Grant Officer upon which no extensions have been mutually agreed, any affected grantee, subrecipient of complainant may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, with a copy to the Grant Officer.

(2) The request for hearing shall be accompanied by a copy of the Grant Officer's final determination, if issued, and shall specifically state those issues of the determination upon which review is requested. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to further review.

(3) Except as otherwise provided by these regulations, only alleged violations of the Act, regulations, grants or other agreements under the Act fairly raised in grantee level proceedings under § 636.3, alleged violations of recipient level procedures fairly raised before the Grant Officer, or complaints identified in Sections 164(f) and 166(a) of the Act are subject to review.

(4) The same procedure set forth in paragraphs (a) (1) through (3) of this section applies in the case of a complainant who has not had a dispute adjudicated by the informal review process of § 636.9 within the 60 days, except that the request for hearing before the OALJ must be filed within 15 days of the conclusion of the 60-day period. In addition to including the determination upon which review is requested, the complainant must include a copy of any Stipulation of Facts and a brief summary of proceedings.

(5) *Discretionary hearing.* An opportunity for a hearing may also be extended when the appropriate Assistant Secretary determines that fairness and the effective operation of JTPA programs would be furthered.

(b) *Service and filing.* Copies of all papers required to be served on a party or filed with the OALJ shall be filed simultaneously with the OALJ and served upon the parties of record or their representatives, and shall contain proof of such service.

(c) *Rules of Procedure.* The rules of practice and procedure promulgated by the OALJ shall govern the conduct of hearings under this section.

(d) *Prehearing procedures.* In all cases, the OALJ should encourage the use of prehearing procedures to simplify and clarify facts and issues.

(e) *Subpoenas.* Subpoenas necessary to secure the attendance of witnesses and the production of documents or things at hearings shall be obtained from the OALJ and shall be issued

pursuant to the authority contained in Section 163(b) of the Act, incorporating 15 U.S.C. Section 49.

(f) *Timely submission of evidence.* The OALJ shall not permit the introduction at the hearing of documentation relating to the allowability of costs if such documentation has not been made available for review either at the time ordered for any prehearing conference, or, in the absence of such an order, at least three weeks prior to the hearing date.

(g) *Burden of production.* The Department shall have the burden of production to support the Grant Officer's decision. To this end, the Grant Officer shall prepare and file an administrative file in support of the decision. Thereafter, the party or parties seeking to overturn the Grant Officer's decision shall have the burden of persuasion.

(h) *Review.* (1) In all cases proceeding under § 636.6, the Administrative Law Judge shall review the Administrative File and the request for hearing and shall determine whether there has been a full and fair hearing at the grantee level and whether there are no material factual issues unresolved. If the Administrative Law Judge determines that these two conditions are met, the case shall be decided upon the record and upon such briefs as the parties may submit. The Administrative Law Judge shall determine from the record whether there exists reliable and probative evidence to uphold the decision of the Grant Officer and shall, as appropriate, either affirm or remand the decision.

(2) If the Administrative Law Judge determines that either of the two conditions is not met, he or she shall hold a hearing. In such cases, the Office of Administrative Law Judges shall have the full authority of the Secretary under Section 164 of the Act, except with respect to the provisions of subsection (e) of that section.

(3) Nothing in this subsection shall be construed to limit the right of the parties to seek a dismissal of the request for hearing or to seek summary judgment.

(i) *Termination of grant.* When the decision terminates the grant in whole or in part after hearing pursuant to this subpart, the decision shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of this notice, the grantee shall:

(1) Discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant.

(2) Promptly cancel all subgrants, agreements and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant.

(3) Settle, with the approval of the Secretary, all outstanding claims arising from such termination.

(4) Submit, within a reasonable period of time, after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant.

(j) *Alternative provision of services.* If the final decision specifies suspension or termination of the grant, the Grant Officer shall determine how services shall be maintained in the grantee's area. As part of the determination, the Grant Officer shall determine whether any funds shall be reallocated to another recipient to serve the area formerly served by the terminated or suspended grant. The Grant Officer may also consider the desirability of providing direct Federal services to the area through appropriate means.

(k) *Timing of decisions.* The Office of Administrative Law Judges should render a written decision not later than 90 days after the closing of the record.

§ 636.11 Final action.

The final decision of the Secretary pursuant to Section 166(b) of the Act in cases heard by the Administrative Law Judges or decided by an informal reviewer, or the Grant Officer's final determination where there has been no such hearing, constitutes final agency action within the meaning of the Act and the Administrative Procedure Act, 5 U.S.C. 704.

PART 684—JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT

20 CFR Part 684 is amended as follows:

1. The authority citation for Part 684 is revised to read as follows:

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et. seq.) unless otherwise noted.

2. Part 684 is amended by removing the words "Comprehensive Employment and Training Act" and inserting in their places "Job Training Partnership Act," whereever they appear in the part. The heading of this part is revised to read as set forth above.

3. Section 684.22 is amended by removing paragraph (b)(11) and by revising paragraphs (b)(2) and (b)(5) through (b)(10) to read as follows:

§ 684.22 Funding procedures.

* * * * *

(b) * * *

(2) The quality of proposed outreach/screening and placement support and direct placement;

* * * * *

(5) The quality of proposed corpsmember support;

(6) The quality of proposed health services;

(7) The quality of proposed residential living and support;

(8) The quality of proposed administration and financial management;

(9) Past program and financial performance; and

(10) Reasonableness of cost.

4. Section 684.34 revised to read as follows:

§ 684.34 Extensions of enrollment.

(a) The Center Director shall see that the total length of enrollment of a corpsmember does not exceed 2 years (Section 426(a)] except that the Regional Office may approve an extension:

(1) When a course of instruction to qualify a corpsmember for placement, including one provided through an extension program, can be completed in 4 months or less, or

(2) For a period not to exceed one additional year when required to allow a corpsmember who is progressing satisfactorily to complete an advanced career training program.

(b) In extraordinary circumstances, the Regional Office may request approval of a longer extension from the National Office:

(1) For such time as a corpsmember is under pending criminal charges; or

(2) For such time as it takes to stabilize a health condition pending medical termination and referral.

(c) The Center Director shall note the date and reason for approval of such extensions in writing and make the written approval a part of the corpsmembers' personnel record.

5. Section 684.95 is amended by revising paragraph (a) to read as follows:

§ 684.95 Disclosure of information.

(a) The Center Director shall respond to all requests for information or records during a corpsmember's enrollment. After termination, the Center Director or the Regional Office, whichever is the custodian of the corpsmembers' personnel record, shall respond. Center Directors shall treat the requests in accordance with the Privacy Act of 1974. Civilian Conservation Center Directors shall handle such requests in accordance with the Freedom of

Information Act and the Privacy Act of 1974.

* * * * *

6. Section 684.123 is amended by revising paragraph (e) to read as follows:

§ 684.123 Corpsmember records management.

* * * * *

(e) Except in the event of a corpsmember's death, when the entire terminated Corpsmember Personnel Record shall be sent to the national health office within 10 days, the Center Director shall be the custodian of the official records unless otherwise notified by the Regional Director.

Signed at Washington, D.C. this 13th day of October 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-28419 Filed 10-19-83; 8:45 am]

BILLING CODE 4510-30-M

federal register

Thursday
October 20, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 985]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 14, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED OCTOBER 14, 1983

VOLUME 985

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
**** MONTANA BOARD OF OIL & GAS CONSERVATION ****									
-MONTANA PACIFIC OIL & GAS CO				RECEIVED: 09/27/83		JA: MT			
8357152	6-83-94	2510100000		102-4		BARGER #6 - T34N - R1W	KEVIN SUNBURST	90.0	OIL INTERNATIONAL
-S & J OPERATING CO				RECEIVED: 09/27/83		JA: MT			
8357154	7-83-97	2507121164		108		MIAMI-STATE 617-16 1652-2	EAST LORING (BOWDOIN)	6.7	KN ENERGY INC
8357153	7-83-98	2507121789		108		MILTON OLSEN 1-2 0242-2	BOWDOIN AREA	13.0	KN ENERGY INC
**** WEST VIRGINIA DEPARTMENT OF MINES ****									
-ASHLAND EXPLORATION INC				RECEIVED: 09/26/83		JA: WV			
8356983		4700500958		108		CASEY #1 - 155840	TASA	4.0	ROARING FORK GAS
8356986		4700500968		108		CASEY #4 - 155850	TASA	2.0	ROARING FORK GAS
8356982		4700501397		103		F W PRICHARD #4 - 095011	COAL RIVER	16.0	CONSOLIDATED GAS
8356985		4701900504		103		J F B PEYTON #6 - 095241	PAINT CREEK	10.0	COLUMBIA GAS TRAN
8356981		4704700882		103		LON B ROBERS #25 - 94931	VIRGINIA	190.0	CONSOLIDATED GAS
8356984		4700501412		103		PARDEE LAND CO #73 - 096311	LOGAN/WYOMING	14.0	CONSOLIDATED GAS
8356987		4700503263		103		SOUTHERN LAND CO #13 - 093681	LOGAN WYOMING	8.0	
-DEVON ENERGY CORP				RECEIVED: 09/26/83		JA: WV			
8357003		4707901103		107-DV		A R BAILEY #1035	EAST MIDWAY	16.0	ROARING FORK GAS
8357013		4701703170		103		ALBERS #1 #2328	SAINT CLARA	48.0	CONSOLIDATED GAS
8357015		4701703187		103		ALBERS #2 #2327	SAINT CLARA	36.0	CONSOLIDATED GAS
8357006		4707901107		107-DV		BOYD MCDANIEL #1039	EAST MIDWAY	21.0	ROARING FORK GAS
8357000		4709901765		107-DV		C C CZOMPO #1026	GRAGSTON CREEK	5.0	TENNESSEE GAS PIP
8357004		4707901104		107-DV		ETHEL HILL #1036	EAST MIDWAY	20.0	ROARING FORK GAS
8357002		4707901082		107-DV		F L GARNES #1 #1024	EAST MIDWAY	16.0	ROARING FORK GAS
8357018		4704102964		108		G BUTLER #2B	LITTLE COVE	20.6	CONSOLIDATED GAS
8357005		4707901106		107-DV		GARNES #2 #1037	EAST MIDWAY	10.5	ROARING FORK GAS
8357021		4701700779		108		GRAHAM-DOAK #1P	FALLEN TIMBER	3.0	CONSOLIDATED GAS
8357008		4701703160		103		I R SCHMIDT #1 #2322	SAINT CLARA	17.0	CONSOLIDATED GAS
8357009		4701703161		103		I R SCHMIDT #2 #2323	SAINT CLARA	54.0	CONSOLIDATED GAS
8357014		4701703172		103		I R SCHMIDT #3 #2336	SAINT CLARA	17.0	CONSOLIDATED GAS
8357007		4707901109		107-DV		JOHNSON #1038	EAST MIDWAY	20.0	ROARING FORK GAS
8357022		4701702961		108		KREEN #3	ST CLAIR	10.0	CONSOLIDATED GAS
8357011		4701703167		103		KRENN #4 #2325	SAINT CLARA	17.0	CONSOLIDATED GAS
8357012		4701703168		103		KRENN #5 #2326	SAINT CLARA	60.0	CONSOLIDATED GAS
8357017		4704102948		108		L L D PETERS #2A	INDIAN FORK	20.0	CONSOLIDATED GAS
8357001		4707901096		107-DV		L M BOWLING #2 #1034	EAST MIDWAY	16.0	ROARING FORK GAS
8357010		4701703162		103		M SPRAY #1 #2324	SAINT CLARA	5.0	CONSOLIDATED GAS
8357016		4701702956		108		SCHULTE #2	ST CLAIR	3.0	COLUMBIA GAS TRAN
8357019		4701702955		108		VANWERTH #1	ST CLAIR	17.6	CONSOLIDATED GAS
8357020		4701702890		108		WYSONG #4	ST CLAIR	18.5	CONSOLIDATED GAS
-FRANKLIN ADKINS				RECEIVED: 09/26/83		JA: WV			
8357053		4709902168		108		PERRY #2	LINCOLN DISTRICT	6.0	COLUMBIA GAS TRAN
8357052		4709921711		108		SMITH #1	LINCOLN DISTRICT	15.0	COLUMBIA GAS TRAN
8356980		4709921698		108		WATTS #1	LINCOLW DISTRICT	15.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED: 09/26/83		JA: WV			
8357023		4701900483		107-DV		LESLIE MCINTYRE SW-406	VALLEY	0.2	ROARING FORK GAS

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PENNZOIL COMPANY			RECEIVED: 09/26/83 JA: WV						
8357043		4704301623		108		A C BELCHER #2	GRIFFITHSVILLE NE	1.0	CONSOLIDATED GAS
8357036		4704302321		108		A E SMITH #6	GRIFFITHSVILLE NE	2.2	CONSOLIDATED GAS
8356976		4704301570		108		ARTIE WINROW #1	GRIFFITHSVILLE NE	1.5	COLUMBIA GAS TRAN
8357035		4704302470		108		B P MCKINNEY #4	GRIFFITHSVILLE NE	1.7	CONSOLIDATED GAS
8357039		4704302471		108		B P MCKINNEY #5	GRIFFITHSVILLE NE	1.7	CONSOLIDATED GAS
8357029		4704302149		108		C O WAGGONER #1	GRIFFITHSVILLE NE	1.3	CONSOLIDATED GAS
8357026		4704301596		108		DOLIVER HILL #4	GRIFFITHSVILLE NE	1.2	COLUMBIA GAS TRAN
8357027		4704301641		108		E I TYREE #2	GRIFFITHSVILLE NE	0.6	COLUMBIA GAS TRAN
8357038		4704302472		108		E S ALFORD #4	GRIFFITHSVILLE NE	1.5	CONSOLIDATED GAS
8357032		4704301489		108		E T SPURLOCK #10	GRIFFITHSVILLE NE	0.8	CONSOLIDATED GAS
8357047		4708701994		108		ELMORE-SNODGRASS #2	TARIFF	2.5	CONSOLIDATED GAS
8357048		4704302300		108		GORDON R CRAGO #1	GRIFFITHSVILLE NE	4.7	CONSOLIDATED GAS
8357049		4704301778		108		HAMLIN-BIAS #1	GRIFFITHSVILLE NE	1.3	CONSOLIDATED GAS
8356990		4704301806		108		HILBERT ESTATE #1	GRIFFITHSVILLE NE	2.0	COLUMBIA GAS TRAN
8356989		4704301807		108		HILBERT ESTATE #2	GRIFFITHSVILLE NE	2.0	COLUMBIA GAS TRAN
8356997		4704301735		108		HORSE CREEK TR "C" #1	GRIFFITHSVILLE NE	1.7	COLUMBIA GAS TRAN
8356964		4704301734		108		HORSE CREEK TR "C" #2	GRIFFITHSVILLE NE	1.7	COLUMBIA GAS TRAN
8356996		4704301736		108		HORSE CREEK TR "C" #3	GRIFFITHSVILLE NE	1.7	COLUMBIA GAS TRAN
8356995		4704301767		108		HORSE CREEK TR "C" #4	GRIFFITHSVILLE NE	1.7	COLUMBIA GAS TRAN
8356993		4704301769		108		HORSE CREEK TR "C" #6	GRIFFITHSVILLE NE	1.7	COLUMBIA GAS TRAN
8356992		4704301770		108		HORSE CREEK TR "C" #7	GRIFFITHSVILLE NE	1.7	COLUMBIA GAS TRAN
8357044		4704301601		108		J A PAULEY #3	GRIFFITHSVILLE NE	2.4	CONSOLIDATED GAS
8357034		4704301783		108		J R CHANEY #1	GRIFFITHSVILLE NE	1.2	CONSOLIDATED GAS
8356967		4708702568		108		JOHN HUNT (TR #1) #2565	GRANNYS CREEK	0.7	CONSOLIDATED GAS
8357030		4704301840		108		JOSEPH E MARTIN #2	GRIFFITHSVILLE NE	3.0	CONSOLIDATED GAS
8356966		4708702674		108		KATE H NIXON #1	GRANNYS CREEK	2.2	CONSOLIDATED GAS
8356973		4708702675		108		KATE H NIXON #2	GRANNYS CREEK	0.5	CONSOLIDATED GAS
8356968		4708702676		108		KATE H NIXON #3	GRANNYS CREEK	2.3	CONSOLIDATED GAS
8356969		4708702677		108		KATE H NIXON #4	GRANNYS CREEK	2.3	CONSOLIDATED GAS
8356970		4708702681		108		KATE H NIXON #9	GRANNYS CREEK	0.0	CONSOLIDATED GAS
8356991		4704301805		108		KYLE DUNLAP #1	GRIFFITHSVILLE NE	4.7	COLUMBIA GAS TRAN
8356994		4704301705		108		LAURA HILL #1	GRIFFITHSVILLE NE	4.1	COLUMBIA GAS TRAN
8357045		4708700443		108		M J SNODGRASS #23	TARIFF	17.2	CONSOLIDATED GAS
8357033		4704301786		108		MITCHELL HEIRS #4 (BEREA)	GRIFFITHSVILLE NE	0.9	CONSOLIDATED GAS
8356972		4708702935		108		O D STOCKLEY #100	GRANNYS CREEK	1.3	CONSOLIDATED GAS
8357025		4708702936		108		O D STOCKLEY #101	GRANNY'S CREEK	1.3	CONSOLIDATED GAS
8357046		4708702073		108		O D STOCKLEY #62	GRANNY'S CREEK	1.8	CONSOLIDATED GAS
8356971		4708702933		108		O D STOCKLEY #89	GRANNYS CREEK	1.1	CONSOLIDATED GAS
8356965		4708702096		108		O D STOCKLEY #90	GRANNYS CREEK	1.1	CONSOLIDATED GAS
8356975		4708703185		108		P A TALLMAN #35	TARIFF	2.4	CONSOLIDATED GAS
8357042		4704301627		108		R A ESCUE #1	GRIFFITHSVILLE NE	1.9	CONSOLIDATED GAS
8357041		4704301642		108		R A ESCUE #3	GRIFFITHSVILLE NE	1.9	CONSOLIDATED GAS
8357031		4704301766		108		R H ADKINS #5	GRIFFITHSVILLE NE	0.1	CONSOLIDATED GAS
8357037		4708700196		108		SNODGRASS F P #1	TARIFF	7.1	CONSOLIDATED GAS
8357028		4704301670		108		SWEETLAND L & M #12	GRIFFITHSVILLE NE	1.3	COLUMBIA GAS TRAN
8356988		4704301712		108		SWEETLAND L & M #15	GRIFFITHSVILLE NE	1.2	COLUMBIA GAS TRAN
8356998		4704301582		108		SWEETLAND L & M #3	GRIFFITHSVILLE NE	1.3	COLUMBIA GAS TRAN
8356974		4708703083		108		W M LOONEY #14	TARIFF	2.7	CONSOLIDATED GAS
8357040		4704301647		108		W T HARRIS #7	GRIFFITHSVILLE NE	0.7	CONSOLIDATED GAS
8356977		4704301689		108		WOODRUM-DANIELS #1	GRIFFITHSVILLE NE	1.5	COLUMBIA GAS TRAN
8357024		4704301698		108		WOODRUM-DANIELS #2	GRIFFITHSVILLE NE	1.5	COLUMBIA GAS TRAN
-PRENCO			RECEIVED: 09/26/83 JA: WV						
8356979		4708505814		103		HODGE P-8	FLANAGAN	12.0	CONSOLIDATED GAS
-R & B PETRDLEUM INC			RECEIVED: 09/26/83 JA: WV						
8356978		4700101292		107-DV		O HATHAWAY #1	VALLEY DISTRICT	10.0	PARTNERSHIP PROPE
-SWIFT ENERGY CO			RECEIVED: 09/26/83 JA: WV						
8356999		4704103073		103		GARTON #1	FINSTER-ASPINALL	50.0	
-UNITED PETRO LTD			RECEIVED: 09/26/83 JA: WV						
8357050		4701303333		108		DENVER-CHENOWETH #1 - UPL	MINNORA GAS	14.0	CONSOLIDATED GAS
8357051		4701303308		108		SARAH TAYLOR #1	MINNORA GAS	6.0	CONSOLIDATED GAS
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
**********									
-AMOCO PRODUCTION CO			RECEIVED: 09/27/83 JA: LA 3						
8357192 G2-3139		1771040890		102-5		OCS-G-0987 WELL #C-1	EUGENE ISLAND	1825.0	COLUMBIA GAS TRAN
-CHEVRON U S A INC			RECEIVED: 09/27/83 JA: LA 3						
8357269 G2-3408		1770940508		102-5		OCS-G-3148 NO 5	EUGENE ISLAND	2190.0	
-CNG PRODUCING COMPANY			RECEIVED: 09/27/83 JA: LA 3						
8357167 G3-3445		1770240635		102-5		A-852	WEST CAMERON	736.0	COLUMBIA GAS TRAN
-CONOCO INC			RECEIVED: 09/27/83 JA: LA 3						
8357165 G2-3248		1770840304		102-5		S MARSH ISLAND 136 B-1 SIDETRACK #1	SOUTH MARSH ISLAND	536.0	MICHIGAN WISCONSI
8357215 G2-3250		1770840403		102-5		SOUTH MARSH ISLAND 136 B-3	SOUTH MARSH ISLAND	456.0	MICHIGAN WISCONSI
8357207 G2-3251		1770840409		102-5		S MARSH ISLAND 136 B-4 SIDETRACK #1	SOUTH MARSH ISLAND	1481.0	MICHIGAN WISCONSI
8357213 G2-3253		1770840452		102-5		SOUTH MARSH ISLAND 136 B-6	SOUTH MARSH ISLAND	604.0	MICHIGAN WISCONSI
8357173 G2-3254		1770840465		102-5		SOUTH MARSH ISLAND 136 B-7	SOUTH MARSH ISLAND	1652.0	MICHIGAN WISCONSI
8357196 G2-3255		1770840492		102-5		SOUTH MARSH ISLAND 136 B-9	SOUTH MARSH ISLAND	1139.0	MICHIGAN WISCONSI
-EXXON CORPORATION			RECEIVED: 09/27/83 JA: LA 3						
8357193 G2-3213		1771540495		102-5		OCS-G 019 #G-2	SOUTH TIMBALIER	165.0	TENNESSEE GAS PIP
8357225 G2-3367		1770940372		102-5		OCS-G 3331 #A-3	EUGENE ISLAND	4000.0	COLUMBIA GAS TRAN
8357175 G2-3318		1771540507		102-5		OCS-019 #G-1	SOUTH TIMBALIER	40.0	TENNESSEE GAS PIP
8357204 G2-3363		1771540514		102-5		OCS-019 #G-11	SOUTH TIMBALIER	1035.0	TENNESSEE GAS PIP
8357223 G2-3316		1771540509		102-5		OCS-019 #G-13	SOUTH TIMBALIER	70.0	TENNESSEE GAS PIP
8357211 G3-3538		1771540520		102-5		OCS-019 #G-14	SOUTH TIMBALIER	110.0	TENNESSEE GAS PIP
8357168 G3-3640		1771540528		102-5		OCS-019 #G-18	SOUTH TIMBALIER	73.0	TENNESSEE GAS PIP
8357198 G3-3759		1771540523		102-5		OCS-019 #G-7	SOUTH TIMBALIER	16.2	TENNESSEE GAS PIP
8357183 G3-3436		1771540518		102-5		OCS-019 #G-8	SOUTH TIMBALIER	30.0	TENNESSEE GAS PIP
8357191 G3-3572		1771540508		102-5		OCS-020 #G-3	SOUTH TIMBALIER	36.0	TENNESSEE GAS PIP
8357156 G3-3679		1771540522		102-5		OCS-020 #G-6	SOUTH TIMBALIER	44.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION			RECEIVED: 09/27/83 JA: LA 3						
8357227 G3-3840		1770440572		102-1		E CAMERON BLK 338 FIELD OCS-G 3540	EAST CAMERON	60.0	TEXAS EASTERN TRA
8357184 G3-3647		1770940432		102-5		EUGENE ISL BLK 252 OCS-G 0983 #G-14	EUGENE ISLAND	3000.0	SEA ROBIN PIPELIN
8357187 G3-3614		1770940543		102-5		EUGENE ISL BLK 252 OCS-G 0983 #I-20	EUGENE ISLAND	2920.0	SEA ROBIN PIPELIN
8357169 G2-3323		1770940326		102-5		EUGENE ISL BLK 252 OCS-G 0983 #G-5	EUGENE ISLAND	1825.0	SEA ROBIN PIPELIN
8357195 G3-3517		1771540462		102-5		OCS-G 1256 #C-4	SOUTH TIMBALIER	64.0	TEXAS EASTERN TRA
-HUNT OIL COMPANY			RECEIVED: 09/27/83 JA: LA 3						
8357172 G3-3810		1770940562		107-DR		WELL #5	EUGENE ISLAND	1674.0	MICHIGAN WISCONSI
-MESA PETROLEUM CO			RECEIVED: 09/27/83 JA: LA 3						
8357180 G2-3170		1770640424		102-5		VERMILION BLOCK 397 #A-8	VERMILION	800.0	MICHIGAN WISCONSI
8357216 G2-2929		1770640440		102-5		VERMILION BLOCK 397 WELL #A-10	VERMILION	2920.0	MICHIGAN WISCONSI
8357174 G2-3133		1770640478		102-5		VERMILION BLOCK 397 WELL #A-13	VERMILION	1825.0	MICHIGAN WISCONSI
8357170 G2-3109		1770640361		102-5		VERMILION BLOCK 397 WELL #A-3	VERMILION	2920.0	MICHIGAN WISCONSI
-MOBIL OIL EXPLORATION & PRODUCING S			RECEIVED: 09/27/83 JA: LA 3						
8357176 G3-3446		1770140117		102-5		OCS-G-3275 #A-4A WEST CAMERON 331	WEST CAMERON	930.0	UNITED GAS PIPE L

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ODECO OIL & GAS CO				RECEIVED:	09/27/83	JA: LA 3			
8357178	G3-3447	1771140652		102-5		OCS-064 #46A	SHIP SHOWL 113 FIELD	182.0	TRANSCONTINENTAL
-SHELL OFFSHORE INC				RECEIVED:	09/27/83	JA: LA 3			
8357208	G2-3430	1781740125		102-5		MC 194 FLD OCS-G 2638 #A-26	MISSISSIPPI CANYON	22.0	SOUTHERN NATURAL
8357212	G2-3096	1781740149		102-5		MC 194 FLD OCS-G 2639 #A-48	MISSISSIPPI CANYON	220.0	SOUTHERN NATURAL
8357163	G3-3822	1771640033		102-1		ST 300 OCS-G 4240 #A-12 S/T2	SOUTH TIMBALIER	0.0	TRANSCONTINENTAL
8357164	G3-3823	1771640032		102-1		ST 301 OCS-G 3594 #A-10	SOUTH TIMBALIER	0.0	TRANSCONTINENTAL
8357160	G2-3359	1771901024		102-4		WD 105 FLD OCS 0841 #C-11-8	WEST DELTA	60.0	SOUTHERN NATURAL
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	09/27/83	JA: LA 3			
8357222	G3-3872	1770240687		102-1		OCS-G-4268 #A-1	WEST CAMERON	8.0	TEXAS EASTERN TRA
8357229	G3-3875	1770240708		102-1		OCS-G-4268 #A-11	WEST CAMERON	363.0	TEXAS EASTERN TRA
8357221	G3-3876	1770240709		102-1		OCS-G-4268 #A-12	WEST CAMERON	1885.0	TEXAS EASTERN TRA
8357226	G3-3877	1770240713		102-1		OCS-G-4268 #A-13	WEST CAMERON	1909.0	TEXAS EASTERN TRA
8357159	G3-3868	1770240659		102-1		OCS-G-4268 #A-3	WEST CAMERON	439.0	TEXAS EASTERN TRA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/27/83	JA: LA 3			
8357220	G3-3866	1770240646		102-1		OCS-G-4268 #A-1	WEST CAMERON	1636.0	TEXAS EASTERN TRA
8357166	G3-3874	1770240705		102-1		OCS-G-4268 #A-10	WEST CAMERON	1870.0	TEXAS EASTERN TRA
8357155	B3-3878	1770240710		102-1		OCS-G-4268 #A-14	WEST CAMERON	1882.0	TEXAS EASTERN TRA
8357158	G3-3867	1770240656		102-1		OCS-G-4268 #A-2	WEST CAMERON	357.0	TEXAS EASTERN TRA
8357189	G3-3869	1770240662		102-1		OCS-G-4268 #A-4	WEST CAMERON	2157.0	TEXAS EASTERN TRA
8357161	G3-3870	1770240665		102-1		OCS-G-4268 #A-5	WEST CAMERON	1919.0	TEXAS EASTERN TRA
8357162	G3-3871	1770240677		102-1		OCS-G-4268 #A-6	WEST CAMERON	317.0	TEXAS EASTERN TRA
8357194	G3-3873	1770240698		102-1		OCS-G-4268 #A-8	WEST CAMERON	2924.0	TEXAS EASTERN TRA
-TENNECO OIL COMPANY				RECEIVED:	09/27/83	JA: LA 3			
8357185	G2-3113	1770440421		102-5		EAST CAMERON 280 #C-2	EAST CAMERON	0.0	TENNESSEE GAS PIP
8357181	G3-3768	1773140030		102-1		SABINE PASS 13 #B-2	SABINE PASS	410.0	TENNESSEE GAS PIP
8357177	G3-3779	1770640510		102-1		VERMILION 253 #E-2	VERMILION	3530.0	CAJUN NATURAL GAS
8357157	G3-3750	1770540445		107-DP		VERMILION 75 #A-1	VERMILION	1825.0	TEXAS EASTERN TRA
-TEXACO INC				RECEIVED:	09/27/83	JA: LA 3			
8357206	G3-3815	1770740380		102-1		OCS-G-4437 S MARSH ISL 236 #1	SOUTH MARSH ISLAND	119.0	NATURAL GAS PIPEL
-TRANSCO EXPLORATION COMPANY				RECEIVED:	09/27/83	JA: LA 3			
8357205	G3-3828	1770940418		102-1		#1	EUGENE ISLAND	2929.0	TRANSCONTINENTAL
8357200	G3-3844	1770040419		102-1		WEST CAMERON BLOCK 215 #A-1	WEST CAMERON	182.5	TRANSCONTINENTAL
8357201	G3-3845	1770040423		102-1		WEST CAMERON BLOCK 215 #A-2 S/T	WEST CAMERON	219.0	TRANSCONTINENTAL
8357202	G3-3846	1770040424		102-1		WEST CAMERON BLOCK 215 #A-3	WEST CAMERON	200.0	TRANSCONTINENTAL
8357203	G3-3847	1770040553		102-1		WEST CAMERON BLOCK 215 #A-4	WEST CAMERON	210.4	TRANSCONTINENTAL
8357214	G3-3848	1770040565		102-1		WEST CAMERON BLOCK 215 #A-6	WEST CAMERON	155.3	TRANSCONTINENTAL
8357224	G3-3849	1770040512		102-1		WEST CAMERON BLOCK 215 #A-7	WEST CAMERON	219.0	TRANSCONTINENTAL
8357182	G3-3850	1770040536		102-1		WEST CAMERON BLOCK 215 #A-8	WEST CAMERON	821.3	TRANSCONTINENTAL
8357219	G3-3851	1770040526		102-1		WEST CAMERON BLOCK 215 #A-11	WEST CAMERON	1277.5	TRANSCONTINENTAL
8357197	G3-3852	1770040596		102-1		WEST CAMERON BLOCK 215 #A-12	WEST CAMERON	365.0	TRANSCONTINENTAL
-UNION OIL COMPANY OF CALIF				RECEIVED:	09/27/83	JA: LA 3			
8357188	G2-3527	1770540245		102-5		OCS 0549 #9	VERMILION	500.0	TRANSCONTINENTAL
8357190	G3-3645	1770540421		102-5		OCS-G-1357 #A-1	VERMILION	5400.0	
8357199	G3-3646	1770540423		102-5		OCS-G-1357 #A-2	VERMILION	5400.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/27/83	JA: TX 3			
8357171	G3-3709	4270540056		107-DP		OCS G-2664 BRAZOS A-132 #A-1	BRAZOS	5000.0	TRANSCO GAS SUPPL
8357210	G3-3751	4270540073		107-DP		OCS G-2664 BRAZOS A-132 #A-2	BRAZOS	4000.0	TRANSCO GAS SUPPL
-MESA PETROLEUM CO				RECEIVED:	09/27/83	JA: TX 3			
8357218	G2-3136	4271140524		102-5		HIGH ISLAND BLOCK A-315 WELL #A-3	HIGH ISLAND	1825.0	MICHIGAN WISCONSI
8357217	G2-3137	4271140538		102-5		HIGH ISLAND BLOCK A-315 WELL #A-8	HIGH ISLAND	1825.0	MICHIGAN WISCONSI
8357186	G2-3343	4271140538		102-5		HIGH ISLAND BLOCK A-315 WELL A-8	HIGH ISLAND BLOCK A-3	1950.0	MICHIGAN WISCONSI
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/27/83	JA: TX 3			
8357179	G2-3187	4271140172		102-5		OCS-G-2418 #A-8Z	EAST HIGH ISLAND	167.0	TRUNKLINE GAS CO
8357228	G2-3188	4271140174		102-5		OCS-G-2418 A-5Z	EAST HIGH ISLAND	29.0	TRUNKLINE GAS CO
**********									
NM DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	09/26/83	JA: NM 4			
8357076	NM-0244-83	3004507832		108		GALLEGOS CANYON UNIT COM "D" #160	BASIN DAKOTA	19.0	EL PASO NATURAL G
8357135	NM 0354-83	3004524886		103		GALLEGOS CANYON UNIT COM "E" #161E	BASIN DAKOTA	30.0	EL PASO NATURAL G
8357071	NM 0503-83	3003923105		103		JICARILLA APACHE 118A #7	GAVILAN-PICTURED CLIF	25.0	EL PASO NATURAL G
8357134	NM-0236-83	3003906112		108		JICARILLA CONTRACT 146 #3	SOUTH BLANCO PICTURED	15.0	NORTHWEST PIPELIN
8357069	NM 0502-83-A	3003922570		103		JICARILLA CONTRACT 155 #30	GONZALES MESAVERDE	32.0	
8357068	NM 0502-83-B	3003922570		103		JICARILLA CONTRACT 155 #30	OTERO-CHACRA	0.0	EL PASO NATURAL G
8357136	NM 0329-83-A	3003922553		103		JICARILLA GAS COM 155A #1	GONZALES MESAVERDE	29.0	
8357137	NM-0329-83-B	3003922553		103		JICARILLA GAS COM 155A #1	OTERO-CHACRA	29.0	EL PASO NATURAL G
8357080	NM-0248-83	3004520392		108		L C KELLY #6	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8357079	NM-0247-83	3004524339		108		SHANE GAS COM "A" #1	BLANCO PICTURED CLIFF	20.0	EL PASO NATURAL G
8357078	NM-0245-83	3004522564		108		UTE MTN TRIBAL "L" #1	UTE DOME PARADOX	19.0	EL PASO NATURAL G
-BEARTOOTH OIL & GAS CO				RECEIVED:	09/26/83	JA: NM 4			
8357133	NM-0234-83	3004524834		108		ELLEDGE FEDERAL 34 #11	AZTEC FRUITLAND-UNDES	6.0	GAS CO OF NEW MEX
-CONSOLIDATED OIL & GAS INC				RECEIVED:	09/26/83	JA: NM 4			
8357146	NM-0327-83	3004500000		108		LANGENDORF	BASIN-DAKOTA	17.0	SOUTHERN UNION GA
8357143	NM-035283103	3004525514		103		PAYNE #4	NORTHWEST BLANCO AREA	54.0	SOUTHERN UNION GA
-DOME PETROLEUM CORP				RECEIVED:	09/26/83	JA: NM 4			
8357117	NM-0119-83	3004520663		107-TF		DOME NAVAJO 33-22-6 #1	RUSTY CHACRA	40.1	SOUTHWEST GAS COR
8357116	NM-0118-83	3004520664		107-TF		DOME NAVAJO 33-22-6 #2	RUSTY CHACRA	55.0	SOUTHWEST GAS COR
-DUGAN PRODUCTION CORP				RECEIVED:	09/26/83	JA: NM 4			
8357119	NM-0171-83	3004525255		103	107-TF	GREEK'S FETE #2	BASIN DAKOTA	54.0	NORTHWEST PIPELIN
8357084	NM-0269-83	3004524346		107-TF		HORACE SMITH #1-R	BASIN DAKOTA	36.0	NORTHWEST PIPELIN
8357085	NM-0268-83	3004523942		107-TF		JACOBS #2	BASIN DAKOTA	22.0	EL PASO NATURAL G
-EL PASO EXPLORATION CO				RECEIVED:	09/26/83	JA: NM 4			
8357145	NM-0325-83	3004506478		108		SAN JUAN 27-8 A #1	SOUTH BLANCO-PICTURED	20.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/26/83	JA: NM 4			
8357097	NM-0296-83	3003920790		108		CANYON LARGO UNIT #228	SOUTH BLANCO - PICTUR	23.0	EL PASO NATURAL G
8357086	NM 0270-83	3003922083		107-TF		CARSON #2	BASIN DAKOTA	80.0	EL PASO NATURAL G
8357096	NM-0293-83	3004520907		108		DAY A #14	BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
8357094	NM-0290-83	3003906851		108		HARRINGTON #2	SOUTH BLANCO - PICTUR	19.0	EL PASO NATURAL G
8357093	NM-0289-83	3004511748		108		LACKEY B #20	AZTEC - PICTURED CLIF	20.0	EL PASO NATURAL G
8357095	NM-0291-83	3004513259		108		LACKEY B #3	AZTEC - PICTURED CLIF	18.0	EL PASO NATURAL G
8357106	NM-0310-83	3004509246		108		LUDWICK #17	BASIN-DAKOTA	18.0	EL PASO NATURAL G
8357110	NM-031383	3004512168		108		OMLER #8	FULCHER KUTZ-PICTURED	24.0	EL PASO NATURAL G
8357112	NM-0324-83	3003906985		108		RINCON UNIT #113	BLANCO-MESA VERDE	17.0	EL PASO NATURAL G
8357111	NM-0323-83	3003921720		108		RINCON UNIT #97 A	BLANCO-MESA VERDE	14.0	EL PASO NATURAL G
8357087	NM-0271-83	3003907442		108		SAN JUAN 28-5 UNIT #27	BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
8357090	NM-0286-83	3003920106		108		SAN JUAN 28-5 UNIT #77	BASIN DAKOTA	17.0	EL PASO NATURAL G
8357091	NM-0287-83	3003920038		108		SAN JUAN 28-6 UNIT #136	BASIN - DAKOTA	16.0	EL PASO NATURAL G
8357059	NM-0373-83	3003907291		108		SAN JUAN 28-7 UNIT #27	BLANCO - MESA VERDE	21.0	EL PASO NATURAL G
8357100	NM-0297-83	3003907431		108		SAN JUAN 28-7 UNIT #5	BLANCO - MESA VERDE	19.0	EL PASO NATURAL G
8357109	NM-0322-83	3003907869		108		SAN JUAN 30-6 UNIT #33	BLANCO-MESA VERDE	16.0	EL PASO NATURAL G
8357104	NM-0308-83	3004505460		108		SHEETS C #2	BALLARD - PICTURED CL	16.0	EL PASO NATURAL G
8357105	NM-0309-83	3004506962		108		STOREY C #10 MV & PC	BLANCO -MESAVERDE/SOU	22.0	EL PASO NATURAL G
8357107	NM-0311-83	3004505660		108		WHAN JONES #1	BALLARD-PICTURED CLIF	19.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8357092	NM-8288-83	3004520489		108		WOODRIVER #3	BLANCO - PICTURED CLI	19.0	EL PASO NATURAL G
-INTEGRATED ENERGY INC				RECEIVED:	09/26/83	JA: NM 4			
8357147	NM-1452-82	3004320282		108		NAVAJO 21 #1	RUSTY CHACRA EXTENSIO	171.6	SOUTHWEST GAS COR
8357149	NM-1449-82	3004320319		108		RUSTY 20-22-7 #1	RUSTY CHACRA EXTENSIO	175.9	SOUTHWEST GAS COR
-JEROME P MCHUGH				RECEIVED:	09/26/83	JA: NM 4			
8357077	NM-0761-83PB	3004520683		108-PB		NASSAU #1	BASIN DAKOTA	0.0	EL PASO NATURAL G
8357148	NM-0760-83PB	3003920348		108-PB		TIGER #1	TAPACITO	0.0	NORTHWEST PIPELIN
-KEN BLACKFORD				RECEIVED:	09/26/83	JA: NM 4			
8357151	NM-1781-82	3003922504		108		WELL 13 #3 LEASE NO 09-000013	BALLARD PICTURED CLIF	6.0	EL PASO NATURAL G
-KIMBARK OIL & GAS CO				RECEIVED:	09/26/83	JA: NM 4			
8357062	NM 0420-83	3004525257		103		GOTUR #1	UTE DOME	87.5	EL PASO NATURAL G
-MERRION OIL & GAS CORP				RECEIVED:	09/26/83	JA: NM 4			
8357067	NM 0467-83	3004525134		103		CHACO LIMITED #1-J	WAW FRUITLAND/PICTURE	4.0	EL PASO NATURAL G
8357139	NM 0341-83	3003923136		103		OLD ROCK COM #3	DEVILS FORK GALLUP	61.0	
8357055	NM-0363-83	3004523886		108		SOUTHLAND #7	WAW FRUITLAND/PICTURE	6.6	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	09/26/83	JA: NM 4			
8357122	NM-0196-83	3004526493		107-RT		TWIN MOUNDS FEDERAL 33 #1	BASIN DAKOTA	15.0	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	09/26/83	JA: NM 4			
8357082	NM-0266-83	3003907057		108		JICARILLA 'E' #2	BLANCO MESAVERDE GAS	10.2	NORTHWEST PIPELIN
8357089	NM-0272-83	3003921811		108		JICARILLA 'E' #2A	BLANCO MESAVERDE GAS	10.2	NORTHWEST PIPELIN
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	09/26/83	JA: NM 4			
8357121	NM-0183-83	3004320608		102-2	107-TF	NATANI #25	UNDESIGNATED RUSTY CH	13.5	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	09/26/83	JA: NM 4			
8357113	NM-1906-82	3004506768		108		BLANCO #3	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8357118	NM-0144-83	3004521163		108		COX CANYON UNIT 11	BLANCO PICTURED CLIFF	21.5	NORTHWEST PIPELIN
8357141	NM 0344-83	3003922919		103		JICARILLA 92 #11	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8357114	NM-1907-82	3003922467		108		SAN JUAN 29-5 UNIT #103	GOBERNADOR PICTURED C	0.0	NORTHWEST PIPELIN
8357081	NM-0254-83	3003907567		108		SAN JUAN 29-5 UNIT 16	BLANCO MESAVERDE	22.0	NORTHWEST PIPELIN
8357140	NM 0345-83	3003922995		103		SAN JUAN 29-6 UNIT 114	BASIN DAKOTA	44.7	NORTHWEST PIPELIN
8357144	NM-0347-83	3003907792		108		SAN JUAN 30-5 UNIT 27	BLANCO/MESAVERDE BASI	0.0	EL PASO NATURAL G
8357083	NM-0256-83	3003907754		108		SAN JUAN 30-5 UNIT 7	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8357138	NM-0345-83	3004560243		108		SAN JUAN 32-7 #17	BLANCO MESAVERDE	17.8	NORTHWEST PIPELIN
8357065	NM 0436-83-A	3004525393		103		SAN JUAN 32-7 UNIT 46 MV	BLANCO MESAVERDE	83.4	NORTHWEST PIPELIN
8357066	NM 0436-83B	3004525393		103		SAN JUAN 32-7 UNIT 46 PC	LOS PINOS PICTURED CL	313.2	NORTHWEST PIPELIN
8357063	NM 0436-83-A	3004525394		103		SAN JUAN 32-8 UNIT 49 MV	BLANCO MESAVERDE	48.5	NORTHWEST PIPELIN
8357064	NM 0435-83-B	3004525394		103		SAN JUAN 32-8 UNIT 49 PC	UNDESIGNATED PICTURED	233.6	NORTHWEST PIPELIN
-OXOCO PRODUCTION CORP				RECEIVED:	09/26/83	JA: NM 4			
8357142	NM-0353-83	3004524622		107-TF		TRAIL CANYON #3	BASIN DAKOTA	26.0	NORTHWEST PIPE LI
-SHERMAN F WAGENSELLER				RECEIVED:	09/26/83	JA: NM 4			
8357096	NM 0300-83	3003922200		107-TF		MOBIL APACHE #15	SOUTH BLANCO PC	13.8	EL PASO NATURAL G
8357099	NM-0301-83	3003922201		107-TF		MOBIL APACHE #16	SOUTH BLANCO PC	21.5	EL PASO NATURAL G
8357101	NM-0302-83	3003922863		107-TF		MOBIL APACHE #17	SOUTH BLANCO PC	32.5	EL PASO NATURAL G
8357102	NM-0303-83	3003922862		107-TF		MOBIL APACHE 18 #1	SOUTH BLANCO PC	24.9	EL PASO NATURAL G
8357108	NM-0304-83	3003923107		107-TF		MOBIL APACHE 18 #2	SOUTH BLANCO PC	31.8	EL PASO NATURAL G
8357103	NM-0305-83	3003923106		107-TF		MOBILE APACHE #19	SOUTH BLANCO PC	39.4	EL PASO NATURAL G
8357054	NM-0306-83	3004320665		107-TF		MOBIL APACHE 21 #1	SOUTH BLANCO PC	32.9	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	09/26/83	JA: NM 4			
8357132	NM 0227-83	3003905756		108		ARIZONA JICARILLA #4	BLANCO	13.6	GAS CO OF NEW MEX
8357130	NM-0223-83	3003905699		108		ARIZONA JICARILLA #6	BLANCO	10.0	GAS CO OF NEW MEX
8357127	NM-0213-83	3003905905		108		ARIZONA JICARILLA A #1	BLANCO	10.9	GAS CO OF NEW MEX
8357128	NM-0214-83	3003905957		108		ARIZONA JICARILLA A #2	BLANCO	10.7	GAS CO OF NEW MEX
8357072	NM 0570-83	3003923056		103		CAPULIN MESA #1	GAVILAN	92.0	NORTHWEST PIPELIN
8357058	NM-0367-83	3004520548		108		CRANDELL #5	BLANCO	18.0	SOUTHERN UNION GA
8357129	NM-0226-83	3004323981		108		DAVIS #11E	BASIN	6.3	SOUTHERN UNION GA
8357056	NM0366 83	3004523372		108		DAVIS #18	BLANCO	19.0	SOUTHERN UNION GA
8357125	NM-0204-83	3004520348		108		GRENIER B #6	AZTEC	16.0	SOUTHERN UNION GA
8357074	NM-0759-83PB	3004508787		108-PB		HARE #1	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8357057	NM-0368-83	3004507279		108		MCCLANAHAN #8	FULCHER KUTZ	12.0	SOUTHERN UNION GA
8357060	NM-0369-83	3004507430		108		MCCLANAHAN #9	AZTEC	9.8	SOUTHERN UNION GA
8357126	NM-0205-83	3004507440		108		REID #16	AZTEC	8.0	SOUTHERN UNION GA
8357075	NM-0756-83PB	3004507292		108-PB		REID #8	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8357088	NM-0274-83	3004510185		108		THOMPSON #5	BASIN AND BLANCO	17.0	SOUTHERN UNION GA
-TENNECO OIL COMPANY				RECEIVED:	09/26/83	JA: NM 4			
8357124	NM 0193-83	3004525191		103		HUGHES 2E	BASIN DAKOTA	126.0	EL PASO NATURAL G
8357123	NM-0190-83	3004525264		103		HUGHES 4E	BASIN DAKOTA	116.0	EL PASO NATURAL G
8357070	NM 0567-83	3004525550		103		LODEWICK 4E	BASIN DAKOTA	71.0	GAS CO OF NEW MEX
8357120	NM-0189-83	3004525185		103		TAPP 1E	BASIN DAKOTA	180.0	EL PASO NATURAL G
8357061	NM 0387-83	3004525555		103		WARREN COM 1R	BASIN DAKOTA	56.0	NORTHWEST PIPELIN
8357073	NM 0568-83	3004525567		103		WARREN COM 2E	BASIN DAKOTA	66.0	EL PASO NATURAL G
-TURNER PRODUCTION CO				RECEIVED:	09/26/83	JA: NM 4			
8357131	NM-022883103	3003923119		103	107-TF	TURNER 21 #1	SOUTH BLANCO-PICTURED	22.0	EL PASO NATURAL G
-UNICON PRODUCING CO				RECEIVED:	09/26/83	JA: NM 4			
8357150	NM-0092-83	3004524823		107-TF		USA #1	BASIN DAKOTA	370.0	SOUTHERN UNION GA
8357115	NM-0090-83	3004534503		107-TF		USA #2	BASIN DAKOTA	147.0	SOUTHERN UNION GA

[FR Doc. 83-28514 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-C

Reader Aids

Federal Register

Vol. 48, No. 204

Thursday, October 20, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093-45218....3
45219-45370....4
45371-45522....5
45523-45752....6
45753-46004....7
46005-46258....11
46259-46486....12
46487-46730....13
46731-46962....14
46963-48214....17
48215-48438....18
48439-48642....19
48643-48792....20

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III....45266, 46795
Ch. IV....47976
305....45266

3 CFR

Executive Orders:
July 15, 1875 (Revoked in part by PLO 6479)....45559
11459 (Superseded by EO 12445)....48441
12002 (See EO 12444)....48215
12214 (See EO 12444)....48215
12444....48215
12445....48441
12446....48443

Proclamations:
5110....45219
5111....45221
5112....45371
5113....45523
5114....45753
5115....46259
5116....46963
5117....46965
5118....48217
5119....48439

5 CFR

Ch. XIV....45373
213....46261
752....45525
1255....45373

Proposed Rules:
Ch. I....47990
Ch. III....47982

7 CFR

Ch. IV....48449
2....46261, 48449
51....46487
247....46731
301....46262, 48449
319....46732
752....45526
906....45374
908....45526, 46488, 48643
910....45374, 45755, 46961
919....45374
929....45374
981....45374
991....45374, 48219
1205....48451
1435....45374
1901....45532
1951....46967
1955....46967
1962....46967
1965....46967

Proposed Rules:
Subtitle A....47236
Ch. I....47236
Ch. II....47236
Ch. III....47236
Ch. IV....47236
Ch. V....47236
Ch. VI....47236
Ch. VII....47236
Ch. IX....47236
Ch. X....47236
Ch. XI....47236
Ch. XII....47236
Ch. XIV....47236
Ch. XV....47236
Ch. XVI....47236
Ch. XVII....47236
Ch. XVIII....47236
Ch. XXI....47236
Ch. XXIV....47236
Ch. XXV....47236
Ch. XXVI....47236
Ch. XXVII....47236
Ch. XXVII....47236
Ch. XXIX....47236
226....45779
402....46062
411....48675
441....45782
781....46065
904....45786
910....45565
966....46544
1065....45117
1131....46343
1139....46797
1446....48471
1701....48472

8 CFR

103....45093
214....45093, 48452
238....45093
248....45093

Proposed Rules:
Ch. 1....47530
103....48242

9 CFR

166....48643

Proposed Rules:
Ch. I....47236
Ch. II....47236
Ch. III....47236
Ch. IV....47236
92....46355
101....48679
113....48679
317....45118
318....48242
319....45118

325.....46996
350.....45755
362.....45755
381.....45118, 46996, 48224

10 CFR

2.....46489
50.....46489
55.....45223
71.....45381
95.....48644
761.....45746
710.....46499

Proposed Rules:

Ch. I.....48156
Ch. II.....47324
Ch. III.....47324
Ch. X.....47324
50.....45787
60.....48473
140.....48474

11 CFR

114.....48650

12 CFR

5.....48452
7.....46502, 48452
29.....45532
204.....46005, 46262
207.....45533, 48219
217.....45756, 46262
220.....45533, 48219
221.....45533, 48219
224.....45533
226.....48219
561.....45382
563.....45382, 48455
760.....46006

Proposed Rules:

Ch. I.....47716
Ch. II.....46996
Ch. V.....48110
Ch. VI.....48074
Ch. VII.....48150
29.....47001

13 CFR

101.....45224
123.....45225
133.....46008

Proposed Rules:

Ch. I.....48020
Ch. III.....47254

14 CFR

39.....45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222
71.....45094, 45095, 45536, 45537, 46010, 46503
95.....46504
97.....45096
205.....46264
248.....46265
294.....46265
320.....45236
380.....46265
389.....45758

Proposed Rules:

Ch. I.....46358, 47582, 48681
Ch. II.....47003, 48038
Ch. V.....47972
21.....45214, 45565
25.....46218, 46250
29.....46250
39.....46070
43.....48364
61.....45214
65.....45214
71.....45118, 45566, 48244
91.....48364
107.....45214
109.....45214
121.....45214, 46218, 46250, 48364
127.....48364
135.....45214, 48364
145.....45214

15 CFR

Proposed Rules:

Subtitle A.....47254
Ch. I.....47254
Ch. II.....47254
Ch. III.....47254
Ch. IV.....47254
Ch. VIII.....47254
Ch. IX.....47254
Ch. XXIII.....47254

16 CFR

13.....48651
453.....45537

Proposed Rules:

Ch. I.....48120
Ch. II.....48064
300.....48682
301.....48682
303.....48683
1212.....45405
1500.....45567
1513.....45567

17 CFR

145.....46010, 48223
146.....46010, 48223
147.....46010, 48223
229.....46012
230.....46012, 46736
231.....46012, 46969
239.....45386, 46012
240.....46012, 46736
241.....46012
270.....46012
274.....46012

Proposed Rules:

Ch. I.....48056
Ch. II.....48190
33.....46797
230.....46801
240.....45119, 48245
249.....48245

18 CFR

2.....46012
35.....46012, 46970
157.....46021
270.....48223
271.....45097, 46266–46268, 48223
274.....45097
282.....45758
301.....46970
385.....45388

Proposed Rules:

Ch. I.....48104
101.....46361
104.....46361
141.....46361
154.....46361, 47003
157.....47003
159.....46361
201.....46361
204.....46361
260.....46361
271.....46071
275.....47003
282.....45787
410.....45568

19 CFR

4.....46510, 46978, 48653
7.....46740
10.....46510, 46740
18.....48655
22.....46740
101.....45538
103.....45538
113.....46740
134.....48657
145.....46740
148.....46978
158.....46740
191.....46740
210.....45544

Proposed Rules:

Ch. I.....46805, 47724
4.....46808, 46810
18.....46812
101.....45409
123.....46812
144.....46812

20 CFR

404.....46142
626.....48744
632.....48744
633.....48744
634.....48744
636.....48744
684.....48744

Proposed Rules:

Ch. I.....47538
Ch. II.....48012
Ch. III.....47340
Ch. IV.....47538
Ch. V.....47538
Ch. VI.....47538
Ch. VII.....47538
10.....48249
416.....48684
422.....46072, 47008

21 CFR

81.....45237, 45760, 46022
109.....45544
131.....45545
175.....48228
178.....46773, 46774
179.....46022
184.....48456, 48457
186.....48456, 48457
193.....45547
211.....46979
430.....46270
436.....46270
442.....46270
520.....46979, 48229
522.....46023, 48229, 48659
540.....45760
558.....45102, 46023, 46024, 46514, 46515, 48659
700.....46979
800.....46979
1308.....46516

Proposed Rules:

Ch. I.....47340
182.....45121
184.....45121
211.....47008
341.....48576
351.....46694
610.....46815, 47009
620.....47009
630.....47009
640.....47009
650.....47009
660.....47009
680.....47009
700.....47008
800.....47008

22 CFR

41.....48660

Proposed Rules:

Ch. I.....47578
Ch. II.....47970

23 CFR

655.....46775

Proposed Rules:

Ch. I.....47582
Ch. II.....47582
658.....46545

24 CFR

26.....46980
201.....46980
215.....46980
221.....46980
236.....46980
570.....45760, 46778, 46980
841.....46980
882.....46980
888.....45547, 46980
890.....476980

Proposed Rules:

Subtitle A.....47418
Subtitle B.....47418
24.....46072, 46817

25 CFR

71.....45103

Proposed Rules:

Ch. I.....47472
140.....45789

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362

Proposed Rules:

Ch. I.....47730
1.....47010, 48255
5f.....48255
31.....47010

27 CFR

4.....45549
5.....45549, 46518
7.....45549
9.....45238, 45239, 46518–46524
170.....46526
240.....46526

Proposed Rules:

Ch. I.....47708

9 ..... 46387, 48685

28 CFR

2 48230

Proposed Rules:
Ch. I 47530

29 CFR

1601 46298

Proposed Rules:
Subtitle A 47538
Ch. II 47538
Ch. IV 47538
Ch. V 47538
Ch. XII 47946
Ch. XIV 47928
Ch. XVII 47538
Ch. XXV 47538
Ch. XXVI 48004
1908 45411
1910 45956
1926 45872

30 CFR

223 48661
251 46025
913 46528
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46028

Proposed Rules:
Ch. I 47538
Ch. II 47472
Ch. VII 47472
55 45336
56 45336
57 45336
58 45336
917 48255
935 45420
938 46817

31 CFR

1 48460
51 46982

Proposed Rules:
Subtitle A 47702
Ch. I 47702
Ch. II 47702
390 48688

32 CFR

251 45242

Proposed Rules:
Ch. I 47302
Ch. V 47302
Ch. VI 47302
Ch. VII 47302
Ch. XVI 48018
199 45791

33 CFR

100 ..... 45244, 46531
117 ..... 45245, 46532, 48662
130 46178
131 46178
132 46178
151 45704
155 45704
157 ..... 45718, 46985
163 48230
165 ..... 46533, 46534, 46779, 48663, 48664

Proposed Rules:
Ch. I 47582
Ch. II 47302
Ch. IV 47582
117 48690
146 48475
150 48475
162 45798
164 46819

34 CFR

668 45670
690 45670

Proposed Rules:
Subtitle A 47308
Ch. I 47308
Ch. II 47308
Ch. III 47308
Ch. IV 47308
Ch. V 47308
Ch. VI 47308
Ch. VII 47308
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

35 CFR

Proposed Rules:
Ch. I 47998

36 CFR

7 ..... 46779, 46780
60 46306

Proposed Rules:
Ch. I 47472
Ch. II 47236
Ch. III 47302
Ch. VIII 47858
Ch. IX 48002
7 48257
216 45421
1190 47860

37 CFR

Proposed Rules:
Ch. I 47254
1 45424
2 45424

38 CFR

1 46985

Proposed Rules:
Ch. I 48024
21 ..... 45123, 45268, 45572, 47011

39 CFR

111 ..... 45761, 46031
447 ..... 48230, 48231

Proposed Rules:
111 45269
3001 46545

40 CFR

52 ..... 45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665
60 ..... 46535, 46536, 48328, 48368, 48669
61 46535
81 ..... 46537, 46782
86 48598
87 46481
180 46310
192 45926
256 46787
420 46942
433 45105
469 45249
717 45765

Proposed Rules:
Ch. I 47864
51 ..... 45269, 46152
52 ..... 46081, 46391–46393, 46548, 46823
60 ..... 45701, 46224, 46472
81 ..... 46082, 46085, 46393, 46549–46553
141 45502
162 46397
180 ..... 45573, 46395, 46396, 48476, 48477
228 45798
261 45210
271 ..... 46824, 48690
403 46944
420 46944
464 45573
465 45573
1502 ..... 46554, 47862
1508 46554

41 CFR

Ch 1 ..... 45392, 45557, 48462
Ch. 101 45105
9–1 46987
9–7 46987
9–4 45766
9–51 45766
101–11 46310
101–25 48231
101–41 46788
105–61 45392

Proposed Rules:
Ch. 1 47948
Ch. 4 47236
Ch. 9 47324
Ch. 12 47582
Ch. 13 47254
Ch. 14 47472
Ch. 25 47980
Ch. 29 47538
Ch. 60 47538
Ch. 101 47948
Ch. 105 47948
101–41 46554

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 ..... 45766, 48467
409 48467
489 48467

Proposed Rules:
Ch. I 47340
Ch. II 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45664

Public Land Orders:
44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050

Proposed Rules:
Subtitle A 47472
Ch. I 47472
Ch. II 47472
2620 48400
2880 48478

44 CFR

61 46789
62 46789
64 ..... 46988, 46989
65 ..... 46990, 48233
67 ..... 46050, 46312, 46992

Proposed Rules:
Ch. I 46934
65 48258
67 ..... 45425, 46085, 47014–47020, 48259

45 CFR

13 45251

Proposed Rules:
Subtitle A 47340
Ch. II 47340
Ch. III 47340
Ch. VI 47980
Ch. XI 47978
Ch. XII 47856
Ch. XIII 47340

46 CFR

160 45113
162 45727
380 45559
530 48469
542 46175
543 46175
544 46175

Proposed Rules:
Ch. I 47582
Ch. III 47582
Ch. IV 48114
Ch. IV 45269
7 45574
10 46556
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
157 46556
163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
298 46825
508 45800
524 45270
531 45270
536 45270
538 45272

47 CFR

0 45652
1 ..... 45652, 48234
2 45560
61 46791
63 46791
69 48234
73 ..... 45401–45403, 46994, 48234
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 45652

Proposed Rules:
Ch. I 47020, 48080
67 ..... 46556, 47021
73 ..... 45428–45438, 47023–47031, 48264
83 45439

48 CFR

Ch. I 46541

Proposed Rules:
Ch. 9 47324

49 CFR

192 48669
195 48669
350 48469
567 46994
571 ..... 46053, 46793, 48235
1033 45257
1043 45775
1162 46542
1307 ..... 46542, 46794

Proposed Rules:
Ch. X 46399
27 46399
171 48483
172 48483
173 48483
195 46589
218 45272
571 ..... 48483, 48622
1039 45137
1155 45440

Proposed Rules:
Subtitle A 47582
Ch. I 47582
Ch. II 47582
Ch. III 47582
Ch. IV 47582
Ch. V 47582
Ch. VI 47582
Ch. X 48134
571 47032

50 CFR

17 ..... 46053, 46328–46337
23 ..... 45259, 45775
258 48619
285 46995
611 ..... 45403, 46542
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263
663 48241
672 46542
681 46342

Proposed Rules:
Ch. I 47472
Ch. II 47254
Ch. III 47254
Ch. IV 47254, 47472
Ch. V 47254
17 ..... 45574, 46086, 46590
23 45575
611 ..... 45804, 45806
663 ..... 45274, 48265

LIST OF PUBLIC LAWS

Last Listing October 19, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 3835/Pub. L. 98–131 To designate the United States Post Office Building in Oshkosh, Wisconsin, as the "William A. Steiger Post Office Building". (Oct. 17, 1983; 97 Stat. 848) Price: $1.50.

S. 1894/Pub. L. 98–132 To designate the Foundation for the Advancement of Military Medicine as the "Henry M. Jackson Foundation for the Advancement of Military Medicine", and for other purposes. (Oct. 17, 1983; 97 Stat. 849) Price: $1.50.