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Federal Register

Thursday
November 10, 1983

Selected Subjects

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Selected Subjects

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List of Separate Parts in This Issue

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

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Presidential Documents

Title 3—

The President

Proclamation 5127 of November 8, 1983

National Christmas Seal Month, 1983

By the President of the United States of America

A Proclamation

Chronic diseases of the lung afflict well over 17 million Americans, cause more than 200,000 deaths annually, and cost the Nation more than $29.4 billion in lost wages and medical expenses plus untold dollars in lost productivity.

Chronic obstructive pulmonary diseases have been among the fastest rising causes of death. Almost seven million Americans, including over two million children, suffer from asthma. Two and one-half million Americans have emphysema, while almost eight million suffer from chronic bronchitis. Furthermore, it is expected that deaths from lung cancer will surpass breast cancer as the leading cause of cancer deaths among American women during this decade.

Leading the fight in the voluntary sector to prevent illness, disability, and death from lung disease is the American Lung Association—the Christmas Seal people—a nonprofit public health organization supported by individual contributions to Christmas Seals and other donations.

The Nation's first national voluntary public health organization, the Association was founded in 1904 to combat tuberculosis. Since 1907, Christmas Seals have been used to raise funds through private contributions to help educate Americans about this disease. In its early years, the National Tuberculosis Association pioneered school programs aimed at motivating young people to establish healthful living patterns. That tradition remains strong, as the American Lung Association continues to give high priority to its health education activities in the schools.

In addition, the American Lung Association, through its community lung Associations, helps educate the public, patients and their families about lung diseases; sponsors community action programs for good lung health; underwrites medical research; supports education for physicians and other health care workers; and wages vigorous campaigns against cigarette smoking and air pollution. The primary source of funding for more than 70 years has been Christmas Seals. This year, Christmas Seals will be in 60 million homes.

In recognition of the American Lung Association's continuing efforts to eliminate all chronic diseases of the lung, the Congress, by Senate Joint Resolution 188, has designated the month of November 1983 as "National Christmas Seal Month" and has requested the President to issue a proclamation in observance of that month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim November 1983 as National Christmas Seal Month, and I call upon all Government agencies and the people of the United States to observe this month with appropriate activities and by supporting the Christmas Seal program.

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

Ronald Reagan

[FR Doc. 83-30547
Filed 11-8-83; 2:55 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 83–10 of September 30, 1983

Economic Support Fund Assistance for Dominican Republic and Sudan

Memorandum for the Honorable George P. Shultz, the Secretary of State

By virtue of the authority vested in me by Section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) determine that the furnishing of up to $8.0 million for the Dominican Republic and of up to $12.0 million for Sudan in assistance under Chapter 4 of Part II of the Act from funds earmarked under Section 539 of the Act, and without regard to the provisions of Section 539, is important to the security interests of the United States; and

(2) authorize the furnishing of such assistance.

You are requested to report this determination to the Congress immediately, and none of the assistance provided for herein shall be furnished until after such report has been made.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, September 30, 1983.

[FR Doc. 83-30556
Filed 11-8-83; 3:13 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regs. 579 and 580.]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These regulations establish the quantity of fresh California-Arizona navel oranges that may be shipped to market during the periods, November 11–17, 1983 and November 18–24, 1983. Such actions are needed to provide for orderly marketing of fresh navel oranges for these periods due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: November 11, and November 18, 1983.

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

SUPPLEMENTARY INFORMATION:

Findings

These rules have been reviewed under USDA procedures and Executive Order 12291 and have been designated "non-major" rules. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

These regulations are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of Calfornia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on November 8, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is uncertain.

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 these regulations are based and the effective dates necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulations at an open meeting. It is necessary to effectuate the declared policy of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

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

PART 907—[AMENDED]

1. Section 907.879 is added as follows:

§ 907.879 Navel orange regulation 579.

The quantities of navel oranges grown in California and Arizona which may be handled during the period November 11 through November 17, 1983, are established as follows:

(a) District 1: 943,529 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: 120,004 cartons;
(d) District 4: Unlimited cartons.

2. Section 907.880 is added as follows:

§ 907.880 Navel orange regulation 580.

The quantities of navel oranges grown in California and Arizona which may be handled during the period November 18 through November 24, 1983, are established as follows:

(a) District 1: 644,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: 56,000 cartons;
(d) District 4: Unlimited cartons.

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

Dated: November 9, 1983.

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

[FR Doc. 83-30711 Filed 11-9-83; 12:16 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 23807; Amdt. No. 1255]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

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

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

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

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

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

** * * Effective January 19, 1984*

Barrow, AK—Wiley Post-Will Rogers Mem. VOR RWY 24, Amdt. 2
Marksville, LA—Marksville Muni, VOR/DME-A, Amdt. 1, Cancelled
Marksville, LA—Marksville Muni, VOR/DME-B, Orig.

** * * Effective December 22, 1983*

Hanford, CA—Hanford Muni, VOR-A Amdt. 5
Marion, IL—Williamson County, VOR-A, Amdt. 3, Cancelled
Marion, IL—Williamson County, VOR RWY 2, Amdt. 9
Marion, IL—Williamson County, VOR RWY 20, Amdt. 13
Mason City, IA—Mason City Muni, VOR RWY 35, Amdt. 3
Louisville, KY—Standiford Field, VOR or TACAN RWY 29, Amdt. 17
Paducah, KY—Barkley Regional, VOR RWY 4, Amdt. 14
Caribou, ME—Caribou Muni, VOR-A, Amdt. 8
Hastings, MI—Hastings, VOR RWY 12, Amdt. 6
Toms River, NJ—Robert J. Miller Air Park, VOR RWY 6, Amdt. 6
Plattsburgh, NY—Clinton County, VOR-A, Amdt. 16
Fostoria, OH—Fostoria Metropolitan, VOR-A, Amdt. 3
Grove, OK—Grove Muni, VOR-A, Amdt. 1
Burns, OR—Burns Muni, VOR RWY 30, Amdt. 1
Lebanon, TN—Lebanon Muni, VOR/DME-A Amdt. 5
College Station, TX—Easterwood Field, VOR RWY 28, Amdt. 7
College Station, TX—Easterwood Field, VOR or TACAN RWY 10, Amdt. 15
Granbury, TX—Granbury Muni, VOR-B Amdt. 1
Hawkins, TX—Holly Lake Ranch, VOR/DME-A, Amdt. 1, Cancelled
Pampa, TX—Perry LeFors Field, VOR/DME-A, Amdt. 1

** * * Effective December 8, 1983*

Clinton, IA—Clinton Muni, VOR RWY 3, Amdt. 10
Clinton, IA—Clinton Muni, VOR/DME RWY 21, Amdt. 5

** * * Effective November 24, 1983*

Corvallis, OR—Corvallis Muni, VOR-A, Amdt. 6
Corvallis, OR—Corvallis Muni, VOR/DME RWY 17, Amdt. 4
Corvallis, OR—Corvallis Muni, VOR/DME RWY 35, Amdt. 7

** * * Effective November 2, 1983*

Naples, FL—Naples Muni, VOR RWY 4, Amdt. 3
Naples, FL—Naples Muni, VOR RWY 22, Amdt. 3
Naples, FL—Naples Muni, VOR/DME-A, Amdt. 5

** * * Effective October 24, 1983*

Fergus Falls, MN—Fergus Falls Muni-Einar Mickelson Fld, VOR RWY 17, Amdt. 4

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

** * * Effective January 19, 1984*

Barrow, AK—Wiley Post-Will Rogers Mem, LOC/DME BC RWY 24, Amdt. 1

** * * Effective December 22, 1983*

Toms River, NJ—Robert J. Miller Air Park, LOC RWY 6, Amdt. 1
Wildwood, NJ—Cape May County, LOC RWY 19, Amdt. 1
Plattsburgh, NY—Clinton County, LOC RWY 1, Amdt. 2
Rocky Mount, NC—Rocky Mount-Wilson, LOC BC RWY 22, Amdt. 1
Greenville, SC—Donaldson Center, LOC RWY 4, Amdt. 1
College Station, TX—Easterwood Field, LOC BC RWY 16, Amdt. 1
Springfield, VT—Hartness State (Springfield), LOC/DME RWY 5, Amdt. 2

** * * Effective December 8, 1983*

Clinton, IA—Clinton Muni, LOC RWY 3, Amdt. 2

** * * Effective November 24, 1983*

Corvallis, OR—Corvallis Muni, LOC RWY 17, Amdt. 1

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

** * * Effective January 19, 1984*

Barrow, AK—Wiley Post-Will Rogers Mem, NDB RWY 6, Amdt. 5
Barrow, AK—Wiley Post-Will Rogers Mem, NDB RWY 24, Amdt. 5
Marksville, LA—Marksville Muni, NDB RWY 4, Orig., Cancelled
Marksville, LA—Marksville Muni, NDB RWY 22, Orig.
Natchitoches, LA—Natchitoches Muni, NDB RWY 34, Amdt. 3
Babelthuap Island, Caroline Is., TT—Babelthuap/Koror, NDB RWY 9, Amdt. 1
Majuro Atoll, TT—Marshall Islands Intl, NDB RWY 25, Amdt. 3
Moen Island, TT—Truk Intl, NDB-A, Orig.
Moen Island, TT—Truk Intl, NDB-B, Amdt. 2
Yap Island, TT—Yap, NDB RWY 7, Amdt. 4

** * * Effective December 22, 1983*

Carmi, IL—Carmi Muni, NDB RWY 36, Amdt. 4
Fairfield, IL—Fairfield Muni, NDB RWY 9, Amdt. 1
Marion, IL—Williamson County, NDB RWY 20, Amdt. 7
Clinton, IA—Clinton Muni, NDB RWY 14, Amdt. 3, Cancelled
Clinton, IA—Clinton Muni, NDB RWY 14, Orig.
Storm Lake, IA—Storm Lake Muni, NDB RWY 35, Amdt. 1
Louisville, KY—Standiford Field, NDB RWY 1, Amdt. 4
Louisville, KY—Standiford Field, NDB RWY 29, Amdt. 14
Fryeburg, ME—Eastern Slopes Regional, NDB-A, Amdt. 3
Grant, NE—Grant Muni, NDB RWY 32, Orig.
Rocky Mount, NC—Rocky Mount-Wilson, NDB RWY 4, Amdt. 4
Wilson, NC—Wilson Muni, NDB RWY 3, Amdt. 3
Bryan, OH—Williams County, NDB-A, Amdt. 4
Celina, OH—Lakefield, NDB RWY 8, Amdt. 1
Defiance, OH—Defiance Meml, NDB RWY 12, Amdt. 8
Fostoria, OH—Fostoria Metropolitan, NDB RWY 27, Amdt. 4
Greenville, SC—Donaldson Center, NDB RWY 4, Amdt. 1
Greenville, SC—Greenville Downtown, NDB RWY 36, Amdt. 19
Greer, SC—Greenville-Spartanburg, NDB RWY 3, Amdt. 13
Dayton, TN—Mark Anton, NDB RWY 3, Orig.
College Station, TX—Easterwood Field, NDB RWY 34, Amdt. 6
Pampa, TX—Perry LeFors Field, NDB RWY 17, Amdt. 3
Sherman-Denison, TX—Grayson County, NDB RWY 17L, Amdt. 5
Springfield, VT—Hartness State (Springfield), NDB-A, Amdt. 4

** * * Effective December 8, 1983*

Clinton, IA—Clinton Muni, NDB RWY 3, Amdt. 2

** * * Effective November 24, 1983*

Eugene, OR—Mahlon Sweet Field, NDB RWY 16, Amdt. 27

** * * Effective November 2, 1983*

Naples, FL—Naples Muni, NDB RWY 4, Amdt. 4
Naples, FL—Naples Muni, NDB RWY 22, Amdt. 5

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

** * * Effective December 22, 1983*

Marion, IL—Williamson County, ILS RWY 20, Amdt. 8
Lexington, KY—Blue Grass, ILS RWY 22, Amdt. 6
Louisville, KY—Standiford Field, ILS RWY 1, Amdt. 6
Louisville, KY—Standiford Field, ILS RWY 19, Amdt. 5
Louisville, KY—Standiford Field, ILS RWY 29, Amdt. 15
Paducah, KY—Barkley Regional, ILS RWY 4, Amdt. 6
St. Louis, MO—Lambert-St. Louis, Intl, ILS RWY 30L, Amdt. 9
Rocky Mount, NC—Rocky Mount-Wilson, ILS RWY 4, Amdt. 9
Greenville, SC—Greenville Downtown, ILS RWY 36, Amdt. 24
Greer, SC—Greenville-Spartanburg, ILS RWY 3, Amdt. 16
College Station, TX—Easterwood Field, ILS RWY 34, Amdt. 6

** * * Effective November 24, 1983*

Grand Canyon, AZ—Grand Canyon National Park, ILS/DME RWY 3, Orig.
San Francisco, CA—San Francisco Intl, ILS RWY 28R, Amdt. 4
Eugene, OR—Mahlon Sweet Field, ILS RWY 16, Amdt. 31

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

** * * Effective December 22, 1983*

Louisville, KY—Standiford Field, RADAR-1, Amdt. 21
Caribou, ME—Caribou Muni, RADAR-1, Amdt. 2
Rochester, NY—Rochester-Monroe County, RADAR-1, Amdt. 12

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

** * * Effective December 22, 1983*

Chester, CT—Chester, RNAV RWY 35, Orig.
Evansville, IN—Evansville Dress Regional, RNAV RWY 4, Amdt. 7, Cancelled
Columbus, IN—Columbus Muni, RNAV RWY 22, Amdt. 6, Cancelled
Indianapolis, IN—Indianapolis Intl, RNAV RWY 4L, Amdt. 6, Cancelled
Ann Arbor, MI—Ann Arbor Muni, RNAV RWY 24, Amdt. 4
Minneapolis, MN—Minneapolis-St Paul Intl/Wold-Chamberlain, RNAV RWY 29R, Amdt. 6, Cancelled
Celina, OH—Lakefield, RNAV RWY 26, Amdt. 3
Grove, OK—Grove Muni, RNAV RWY 18, Amdt. 1
Grove, OK—Grove Muni, RNAV RWY 36, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3).)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Issued in Washington, D.C. on November 11, 1983.

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

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 83-30374 Filed 11-9-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 82F-0370]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the food additive regulations to provide for the safe use of an octyltin stabilizer in polyvinyl chloride and vinyl chloride copolymers intended for use in contact with food. This document corrects two errors in 21 CFR 178.2650 (a)(4) and (b)(1)(ii).

EFFECTIVE DATE: September 21, 1983.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-11192 in the **Federal Register** of Wednesday, September 21, 1983, the following corrections are made in § 178.2650 *Octyltin stabilizers in vinyl chloride plastics* on page 42972 in the third column:

1. In paragraph (a)(4), third column, eleventh line, the words "percent by weight total alkyltin" are changed to read "percent by weight total of other eight (8) carbon isomeric alkyltin".

2. In paragraph (b)(1)(ii), second line, the words "0.5 per" are changed to read "0.5 parts per".

Dated: October 14, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-30387 Filed 11-8-83; 8:45 am]

BILLING CODE 4150-01-M

21 CFR Parts 182 and 184

[Docket No. 81N-0280]

Gras Status of Malt Syrup (Malt Extract)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that malt syrup (malt extract) is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1982 (47 FR 34158), FDA published a proposal to affirm that malt syrup (malt extract) is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on malt syrup (malt extract) and the report of the Select Committee on GRAS Substances (the Select Committee) on malt syrup (malt extract) are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of malt syrup (malt extract), FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of malt syrup (malt extract) recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for malt syrup (malt extract) were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of malt syrup (malt extract) under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on malt syrup (malt extract). The agency is therefore issuing the proposal as a final rule with a minor editorial change.

In the proposal, FDA stated that it would work with the Committee on Codex Specifications (now known as the Committee on Food Chemicals Codex) of the National Academy of Sciences to develop acceptable specifications for malt syrup (malt extract) used as a direct food ingredient and would incorporate those specifications into the regulation when they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, malt syrup (malt extract) for direct food uses must comply with the description in § 184.1445 and be of food-grade purity (21 CFR 182.1(b)(3) and 170.30(h)(1)).

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.20 [Amended]

1. Section 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* is amended by removing the entry "Malt (extract)" from the list of substances.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1445, to read as follows:

§ 184.1445 Malt syrup (malt extract).

(a) Malt is the product of barley (*Hordeum vulgare* L.) germinated under controlled conditions. Malt syrup and malt extract are interchangeable terms for a viscous concentrate of water extract of germinated barley grain, with or without added safe preservative. Malt syrup is usually a brown, sweet, and viscous liquid containing varying amounts of amylolytic enzymes and plant constituents. Barley is first softened after cleaning by steeping operations and then allowed to germinate under controlled conditions. The germinated grain then undergoes processing, such as drying, grinding, extracting, filtering, and evaporating, to produce malt syrup (malt extract) with 75 to 80 percent solids or dried malt syrup with higher solids content.

(b) FDA is developing food-grade specifications for malt syrup (malt extract) in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 12, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30115 Filed 11-9-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 80G-0306]

GRAS Status of Potassium Chloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that potassium chloride is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 12, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1622 effective on December 12, 1983.

FOR FURTHER INFORMATION CONTACT: John Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-426-9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 20, 1982 (47 FR 36440), FDA published a proposal to affirm that potassium chloride is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on potassium chloride and the report of the Select Committee on GRAS Substances (the Select Committee) on potassium chloride are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of potassium chloride, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of potassium chloride recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for potassium chloride were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of potassium chloride under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on potassium chloride. The agency is therefore issuing the proposal as a final rule with a minor editorial change.

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

a. In § 182.5622 by revising paragraph (b), to read as follows:

§ 182.5622 Potassium chloride.

* * * * *

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with current good manufacturing practice. Preparations containing amounts equal to or greater than 100 milligrams of potassium per tablet or capsule, or 20 milligrams of potassium per milliliter, are drugs subject to the provisions of § 201.306 of this chapter.

§ 182.8622 [Removed]

b. By removing § 182.8622 *Potassium chloride.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1622, to read as follows:

§ 184.1622 Potassium chloride.

(a) Potassium chloride (KCl, CAS Reg. No. 7447–40–7) is a white, odorless solid prepared from source minerals by fractional crystallization or flotation. It is soluble in water and glycerol and has a saline taste at low concentration levels.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 241, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavor enhancer as defined in § 170.3(o)(11) of this chapter; as a flavoring agent as defined in § 170.3(o)(12) of this chapter; as a nutrient supplement as defined in § 170.3(o)(20) of this chapter; as a pH control agent as defined in §170.3(o)(23) of this chapter; and as a stabilizer or thickener as defined in § 170.3(o)(28) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. Potassium chloride may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 12, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 21, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30113 Filed 11-9-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 78P-0404]

GRAS Status of Pyridoxine Hydrochloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that pyridoxine hydrochloride is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Effective December 12, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1676 effective on December 12, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–426–9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 8, 1982 (47 FR 44572), FDA published a proposal to affirm that pyridoxine hydrochloride is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on pyridoxine hydrochloride and the report of the Select Committee on GRAS Substances (the Select Committee) on pyridoxine hydrochloride are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of pyridoxine hyrochloride, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of pyridoxine hydrochloride recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for pyridoxine hydrochloride were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of pyridoxine hydrochloride under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on pyridoxine hydrochloride. The agency is therefore issuing the proposed

regulation as a final rule with a minor editorial change.

The agency has previously determined under (21 CFR 25.24(d)(6)) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.8676 [Removed]

1. Part 182 is amended by removing § 182.8676 *Pyridoxine hydrochloride.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1676, to read as follows:

§ 184.1676 Pyridoxine hydrochloride.

(a) Pyridoxine hydrochloride ($C_8H_{11}NO_3$·HCl, CAS Reg. No. 58–56–0) is the chemical 3-hydroxy–4,5-dihydroxymethy–2-methylpyridine hydrochloride that is prepared by chemical synthesis.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 260, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; breakfast cereals as defined in § 170.3(n)(4) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; meat products as defined in § 170.3(n)(29) of this chapter; milk products as defined in § 170.3(n)(31) of this chapter; plant protein products as defined in § 170.3(n)(33) of this chapter; and snack foods as defined in § 170.3(n)(37) of this chapter. Pyridoxine hydrochloride may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 12, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30116 Filed 11-8-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 80N-0147]

GRAS Status of Urea

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that urea is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 13, 1982 (47 FR 35247), FDA published a proposal to affirm that urea is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on urea and the report of the Select Committee on GRAS Substances (the Select Committee) on urea are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of urea, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned

uses of urea recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for urea were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of urea under conditions different from those set forth in this final rule has been waived.

One comment, from a producer of urea, was received in response to the agency's proposal. The comment objected to the use of the word "crystalline" in the regulation to describe urea. The comment stated that the term "crystalline" results in an unnecessarily restrictive definition of urea because there are several forms of urea, including granular and prilled, that are also commonly used.

The agency has reviewed this comment and disagrees that the use of the term "crystalline" in the definition of urea is too restrictive and would exclude other physical forms of the substance. However, to avoid confusion the regulation has been modified to exclude the term "crystalline." The agency is therefore issuing the proposed regulation as a final rule with minor editorial changes.

In the proposal, FDA stated that it would work with the Committee on Codex Specifications (now known as the Committee on Food Chemicals Codex) of the National Academy of Sciences to develop acceptable specifications for urea used as a direct human food ingredient and would incorporate those specifications into the regulation when they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, urea for direct food uses must comply with the description in § 184.1923 and be of food-grade purity (21 CFR 182.1(b)(3) and 170.30(h)(1)).

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Urea."

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Urea."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1923, to read as follows:

§ 184.1923 Urea.

(a) Urea ($CO(NH_2)_2$, CAS Reg. No. 57-13-6) is the diamide of carbonic acid and is also known as carbamide. It is a white, odorless solid and is commonly produced from CO_2 by ammonolysis or from cyanamide by hydrolysis.

(b) FDA is developing food-grade specifications for urea in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a fermentation aid in the production of alcoholic beverages.

(2) The ingredient is used in alcoholic beverages as defined in § 170.3(n)(2) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 12, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 21, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30118 Filed 11-9-83; 8:45 am]

BILLING CODE 4160-50-M

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21 CFR Part 184

[Docket No. 82G-0197]

GRAS Status of Candelilla Wax

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that candelilla wax is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 12, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1976 effective on December 12, 1983.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Bureau of Foods

(HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-426-5487.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 17, 1982 (47 FR 35776), FDA published a proposal to affirm that candelilla wax is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on candelilla wax and the report of the Select Committee on GRAS Substances (the Select Committee) on candelilla wax are available for public review at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of candelilla wax, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of candelilla wax recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for candelilla wax were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of candelilla wax conditions different from those set forth in this final rule has been waived.

No comments were received in response to the proposal on candelilla wax. The agency is therefore issuing the proposed regulation as a final rule with minor editorial changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 348, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 184 is amended by adding new § 184.1976, to read as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

§ 184.1976 Candelilla wax.

(a) Candelilla wax (CAS Reg. No. 8006-44-8) is obtained from the candelilla plant. It is a hard, yellowish-brown, opaque-to-translucent wax. Candelilla wax is prepared by immersing the plants in boiling water containing sulfuric acid and skimming off the wax that rises to the surface. It is composed of about 50 percent hydrocarbons with smaller amounts of esters and free acids.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 67, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a lubricant as defined in § 170.3(o)(18) of this chapter and as a surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: in chewing gum as defined in § 170.3(n)(6) of this chapter and in hard candy as defined in § 170.3(n)(25) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 12, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 21, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30147 Filed 11-9-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 184

[Docket No. 80N-0245]

GRAS Status of Nickel

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that nickel is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: John Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200

C St. SW., Washington, DC 20204; 202-426-9463.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 19, 1982 (47 FR 46545), FDA published a proposal to affirm that nickel is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on nickel and the report of the Select Committee on GRAS Substances (the Select Committee) on nickel are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of nickel, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of nickel recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for nickel were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of nickel under conditions different from those set forth in this final rule have been waived.

No comments were received in response to the agency's proposal on nickel. The agency is therefore issuing the proposal as a final rule without change.

In the proposal, FDA stated that it would work with the Committee on Codex Specifications (now known as the Committee on Food Chemicals Codex) of the National Academy of Sciences to develop acceptable specifications for nickel used as a direct food ingredient and would incorporate those specifications into the regulation when they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, nickel for direct food uses must comply with the description in § 184.1537 and be of food-grade purity (21 CFR 182.1(b)(3) and 170.30(h)(1)).

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 184 is amended by adding new § 184.1537, to read as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

§ 184.1537 Nickel.

(a) Elemental nickel (CAS Reg. No. 7440-02-0) is obtained from nickel ore by transforming it to nickel sulfide (Ni_3S_2). The sulfide is roasted in air to give nickel oxide (NiO). The oxide is then reduced with carbon to give elemental nickel.

(b) The Food and Drug Administration is developing food-grade specifications for nickel in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a catalyst as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the hydrogenation of fats and oils as defined in § 170.3(n)(12) of this chapter at levels not to exceed current good manufacturing practice. Current good manufacturing practice includes the removal of nickel from fats and oils following hydrogenation.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 12, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30114 Filed 11-9-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 215, 221, and 236

[Docket No. R-83-989]

Prohibited Lease Terms; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction to a final rule.

SUMMARY: The Department published a final rule in the **Federal Register** on September 23, 1983 (48 FR 43310), which prohibited the use of specific lease provisions in certain HUD-subsidized multifamily housing programs. This document corrects an error appearing in the September 23, 1983 final rule.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management or Steve Silvert, Director, Office of State Agency and Bond Financed Programs; (202) 755-5654 and 755-8135, respectively. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: On September 23, 1983 (48 FR 43310), HUD published as final, with minor modifications, an interim rule which prohibited the use of specific lease provisions in certain HUD-subsidized multifamily housing programs. As adopted this final rule implemented a provision of Section 202(b)(3) of the Housing and Community Development Amendments of 1978, which required HUD to assure that leases approved by HUD in connection with these programs did not contain unreasonable terms and conditions.

PART 221—[AMENDED]

This document corrects an error in § 221.536a(b)(3) of that final rule.

Accordingly, the following correction is made in FR Doc. 83-25999 appearing on page 43310 and following in the issue of September 23, 1983:

§221.536 [Corrected]

1. On page 43313, at the bottom of column 2, in § 221.536a(b)(3) "Agreement by the tenant to hold the landlord * * * " is corrected to read "Agreement by the tenant not to hold the landlord * * * "

Dated: November 4, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-30381 Filed 11-9-83; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 890

[Docket No. R-83-1113]

Annual Contributions for Operating Subsidy—Performance Funding System; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction to interim rule.

SUMMARY: The Department published an interim rule in the **Federal Register** on September 20, 1983 (48 FR 42810) that amended the regulations governing the distribution of operating subsidies under the Performance Funding System by providing for the assessment of a five percent penalty as a one-time reduction of operating subsidy for those public housing agencies (including Indian Housing Authorities) that have experienced excessive utility consumption. This document corrects an erroneous date appearing in the September 20, 1983 interim rule.

DATES: Effective date: October 27, 1983. Comment due date: November 21, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this interim rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: J. Milton Slifkin, Fiscal Management Division, Office of Public Housing, telephone (202) 426-1872. (This is not a toll-free number.)

Accordingly, the following correction is made to FR Doc. 83-25636 appearing on page 42810 and following in the issue of September 29, 1983:

1. On page 42812, third column, lines ten and eleven, "October 1, 1983" is corrected to read "October 1, 1984."

Dated: November 4, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-30382 Filed 11-9-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Approval of Amendments and Removal of Certain Conditions on the Approval of the Illinois Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining, Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments and the removal of two conditions of the Secretary of the Interior's approval of the Illinois permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On August 11, 1983, OSM received regulatory amendments from the Illinois Department of Mines and Minerals intended to satisfy conditions (a) and (e) of the Secretary's approval of the Illinois program concerning (1) blasting notice and (2) extensions of the 90-day abatement period.

After providing opportunity for public review and comment and conducting a thorough review of the program amendments, the Secretary has determined that the modifications to the Illinois program satisfy the two conditions of approval and meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary is removing the two conditions and approving the regulatory amendments, contingent upon Illinois' adoption of the amendments. The Federal rules at 30 CFR Part 913 which codify decisions concerning the Illinois program are being amended to implement these actions.

EFFECTIVE DATE: November 10, 1983.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions,

modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register.**

In accepting the Secretary's conditional approval, Illinois agreed to satisfy conditions (a), (d) and (e) by December 1, 1982. On November 30, 1982, Illinois submitted to OSM amended regulations intended to satisfy conditions (a), (d) and (e). On May 25, 1983, the Secretary approved certain of the regulations and removed condition (d) and part of condition (a). The Secretary extended until August 15, 1983, the deadline for Illinois to meet condition (e) and the remaining part of condition (a).

II. Submission of Revisions

On August 11, 1983, the Illinois Department of Mines and Minerals (IDMM) submitted a proposed program amendment consisting of proposed regulations to satisfy conditions (a) and (e). The proposed rules were published in the May 20, 1983 *Illinois Register.* The IDMM intends to adopt the rules as they were proposed on May 20, 1983. However, the Illinois rules have not been promulgated as final rules.

Condition (a), as set forth in the June 1, 1982 **Federal Register,** requires the State to amend its regulations to require notification of surface owners or residents prior to *any* surface blasting event, consistent with 30 CFR 817.65(a). The Federal regulation was renumbered on March 8, 1983, as 30 CFR 817.62(a), but the substantive requirement remains unchanged.

The State submitted an amendment on November 30, 1982, which would have required such notice for a blasting program "in which blasts that use more than 25 pound of explosives or blasting agent are detonated." On May 25, 1983, the Secretary found that condition (a) had not been satisfied because the proposed Illinois amendment was not as effective as the Federal rule.

Therefore, the Secretary allowed the State until August 15, 1983 to submit revised provisions. Illinois submitted revised regulation 1817.65 to remove the language limiting notification to blasts using more than 25 pounds of explosives. The full text of the revised Illinois rule follows (deleted language is in brackets):

Section 1817.65 Use of explosives: Surface blasting requirements.

(a) A resident or owner of a dwelling or structure that is located within one-half mile of any area affected by any surface blasting event shall be notified in writing at least 30 days, but not more than 60 days, before beginning a blasting program [in which blasts that use more than 25 pounds of explosives or blasting agent are detonated]. Such notice shall be accompanied by information advising the owner or resident how to request a pre-blast or condition survey.

Condition (e), as set forth in the May 25, 1983 **Federal Register,** requires the State to amend its regulations to provide for extensions of the 90-day abatement period in accordance with 30 CFR 843.12(f) and 843.12(i). In the May 25, 1983 notice, the Secretary found that although the rule submitted by Illinois on November 30, 1982, was intended to be substantively identical to the Federal rule, several key words or phrases had been omitted.

Therefore, the Secretary allowed the State until August 15, 1983, to submit revised provisions. Illinois submitted revised regulation 1843.12 to add the omitted words and phrases. The full text of the revised Illinois rule follows (new language is italicized):

Section 1843.12 Notices of violation.

* * * * *

(f) Circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days are:

* * * * *

(4) Where climatic conditions preclude abatement within 90 days, *or where, due to climatic conditions, abatement within 90 days* clearly:

* * * * *

(i) No extension granted under paragraph (h) *may* exceed 90 days in length. Where the condition or circumstance which prevented abatement within 90 days exists at the expiration of any such extension, the permittee may request a further extension in accordance with the provisions of paragraph (h).

OSM published a notice in the **Federal Register** on September 12, 1983, announcing receipt of the amendments and requesting public comment on whether the proposed amendments are consistent with the Secretary's regulations and whether the amendments satisfy the conditions of approval. The public comment period ended October 12, 1983. A public hearing scheduled for September 29, 1983, was not held because no one expressed a desire to present testimony.

III. Secretary's Findings

The Secretary finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Illinois on August 11, 1983, meet the requirements of SMCRA and 30 CFR Chapter VII, as noted below. However, as noted above, the Illinois rules have not been promulgated as final rules. The Secretary is approving the rules provided that they are fully promulgated in identical form to the rules submitted to and reviewed by OSM.

Condition (a)

The Secretary found that in the Illinois program conditionally approved on June 1, 1982, Illinois rule 1817.65(a) limited surface owner notification of blasting to blasts using more than 25 pounds of explosives, thus making it inconsistent with 30 CFR 817.65(a) which requires such notification for *any* surface blasting event. On May 25, 1983, the Secretary found that a November 30, 1982, Illinois amendment did not satisfy the condition because the limiting language was not deleted. The Secretary now finds that Illinois has shown that it will amend its rule 1817.65(a) to remove the language limiting the notification requirement to blasts using more than 25 pounds of explosives. The revised rule is no less effective than 30 CFR 817.62(a) and satisfies condition (a).

Condition (e)

The Secretary found that in the Illinois program conditionally approved on June 1, 1982, Illinois rule 1843.12 did not provide for extensions of the 90-day abatement period consistent with 30 CFR 843.12. On May 25, 1983, the Secretary found that a November 30, 1982 Illinois amendment did not satisfy the condition because several words and phrases were omitted.

The Secretary now finds that Illinois has shown that it will amend its rule 1843.12 to add the necessary words and phrases. The revised rule is consistent with 30 CFR 843.12 and satisfies condition (e).

IV. Public Comments

No public comments were received on the proposed amendments. Acknowledgments were received from the following Federal agencies: Environmental Protection Agency and the Soil Conservation Service.

The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Secretary's Decision

The Secretary, based on the above findings, is approving the August 11, 1983, amendments to the Illinois program, and is removing conditions (a) and (e). Because the Illinois rules have not been fully promulgated, the rules will not take effect for purposes of the Illinois program until the revised rules

are promulgated as final rules by Illinois.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environment impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 913 is amended as set forth herein.

Dated: November 2, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 913—ILLINOIS

§ 913.11 [Amended]

1. 30 CFR 913.11 is amended by removing and reserving paragraphs (a) and (e).

2. 30 CFR 913.15 is amended by adding a new paragraph (d) as follows:

§ 913.15 Approval of regulatory program amendments.

* * * * *

(d) The following amendments submitted to OSM on August 11, 1983, are approved effective upon publication of the revised rules by the State, provided the rules are adopted in identical form as submitted to OSM: Illinois revised rules 1817.65 and 1843.12.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

[FR Doc. 83-30346 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 90

[CGD 83-011]

Interpretative Rule for Inland Navigation Rules; Composite Unit

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is creating a new Part 90 to Title 33 of the Code of Federal Regulations entitled: "Inland Navigation Rules: Interpretative Rules." There is some question over what is ment by "rigidly connected" for purposes of application of Rule 24(b) of the Inland Navigation Rules. Pushing vessels and vessels being pushed ahead are connected by various secure means. Not all of these, however, form a rigid connection which would make the vessel and its tow a "composite unit". Therefore, specific guidance is necessary to determine when a composite unit exists. These rules provide the necessary guidance.

EFFECTIVE DATE: The effective date of this regulation is December 12, 1983.

FOR FURTHER INFORMATION CONTACT: LCDR Kent Kirkpatrick, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593; (202) 245-0108.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published no May 26, 1983 (48 FR 23663). Interested persons were invited to comment. Six comments were received. Five favored the proposal, only one provided criticism

The various sets of navigation rules for the inland waters were unified into one set of rules in the Inland Navigational Rules Act 1980. On December 24, 1981, the new Inland Navigation Rules became effective upon the inland waters of the United States, except for the Great Lakes where the effective date was March 1, 1983. These rules are very similar to the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

Rule 24(b) of the 72 COLREGS prescribes lighting requirements for composite units and is identical to Inland Rule 24(b). Rule 24(b) states: "When a pushing vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23."

Part 82 of Title 33 contains an interpretative rule which clarifies the term "composite unit" as it is used in 72 COLREGS. This rule limits composite units to the combinations of those vessels which are connected by mechanical means so they react to sea and swell as one vessel and precludes the use of lines, wires, hawsers, or chains as the means of connection. The Rules of the Road Advisory Council, on December 7, 1982, recommended that the Coast Guard publish an interpretative rule for the Inland Rules similar to the one for 72 COLREGS. On July 20, 1983, the Towing Safety advisory Committee endorsed this recommendation. This rule is the result of these recommendations.

Drafting Information

The principal persons involved in drafting this rulemaking are LCDR Kent Kirkpatrick, Project Manager, Office of Navigation, and LT Mark Hanlon, Project Attorney, Office of Chief Counsel.

Discussion of Comments

Comments were received from 6 sources. One commenter offered criticism of the proposed rule. This commenter recalled discussions of the old Rules of the Road Advisory Committee (which assisted in drafting the new Inland Rules) which centered around the definition of "rigidly connected" and "composite unit". The commenter stated that the Committee was not concerned with relative up-and-down motion between the two vessels but did feel that relative side-to-side motion should be precluded. He further stated that since the up-and-down motion did not affect steering, it could be accepted that the operator was navigating and handling "one single vessel". A check of the minutes of past RORAC meetings did not support this comment. The Coast Guard considers the absence of movement between the two vessels to be extremely important since any movement could distort the aspect provided by required navigation light configurations. Specifically, if relative movement were allowed between a forward and after masthead light, the observer could become confused.

Regulatory Evaluation

These regulations were reviewed in accordance with the "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order

2100.5 of 22 May 1980) and were determined to be non-significant since there are no costs associated with these regulations. Since no economic impact is expected, no further evaluation was necessary. These regulations were also found to be non-major under the criteria established in Executive Order 12291 for the reasons stated above. Since no costs are imposed by these regulations, it is hereby certified pursuant to section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, Pub L. 96-354) that this rule will not have a significant economic impact upon a substantial number of small entities.

List of Subjects in 33 CFR Part 90

Navigation (water), Waterways.

In consideration of the foregoing, a new Part 90 of Title 33 of the Code of Federal Regulations is added to read as follow:

PART 90—INLAND RULES: INTERPRETATIVE RULES

Sec.
90.1 Purpose.
90.3 Pushing vessel and vessel being pushed: Composite unit.

Authority: 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

§ 90.1 Purpose.

This part contains the interpretative rules for the Inland Rules. These interpretative rules are intended as a guide to assist the public and promote compliance with the Inland Rules.

§ 90.3 Pushing vessel and vessel being pushed: Composite unit.

Rule 24(b) of the Inland Rules states that when a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit, they are regarded as a power-driven vessel and must exhibit the lights prescribed in Rule 23. A "composite unit" is interpreted to be the combination of a pushing vessel and a vessel being push ahead that are rigidly connected by mechanical means so they react to sea and swell as one vessel. Mechanical means does not include lines, wires, hawsers, or chains

Dated: October 12, 1983.

T. J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 83-30479 Filed 11-9-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD3-83-29]

Security Zone; New London Harbor, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Security Zone, designated "D", in a portion of the Thames River, New London Harbor, New London, Ct. The zone is needed to safeguard U.S. Naval and other vessels from sabotage or other subversive acts, accidents, or other incidents of a similar nature while they are moored at Piers Four and Seven at the Naval Underwater Systems Center (NUSC), New London, CT. Only those persons or vessels associated with United States Naval or Coast Guard operations or those vessels authorized by Captain of the Port New London are allowed to enter or remain within Security Zone "D".

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) K. L. King, Commander (mpv), Third Coast Guard District, at (212) 668-7179.

SUPPLEMENTARY INFORMATION: On 18 August 1983, the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (48 FR 37438). Interested persons were requested to submit comments; no comments were received.

Drafting Information

The drafters of this regulation are Lieutenant (junior grade) K. L. King, project officer for Commander (mpv), Third Coast Guard District, and Lieutenant Commander F. E. Couper, project attorney, Third Coast Guard District Legal Office.

Discussion of Comments

No comments were received.

Economic Assessment and Certification

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since Security Zone "D" does not encroach upon the shipping channel and only encompasses a relatively small water area around Piers Four and Seven at NUSC. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

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

Final Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new paragraph (4) to § 165.302(a) to read as follows:

PART 165—[AMENDED]

§ 165.302 New London Harbor, Connecticut-security zone.

(a) * * *

* * * * *

(4) Security Zone D. The waters of the Thames River east of the Naval Underwater Systems Center, New London, enclosed by a line beginning at 41°20''36.0''N, 72°05'34.1'' W; then to 41°20''36.0''N, 72°05'20''W; then to 41°20'41''N, 72°05'20''W; then to 41°20'43.7''N, 72°05'25.9''W; then to 41°20'41.6''N, 72°05'35.0''W; then along the shoreline to the points of beginning.

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

Dated: October 20, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 83-30480 Filed 11-9-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-003; A-4-FRL 2467-6]

Approval and Promulgation of Implementation Plans; Georgia: 1982 Revision of Atlanta CO Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 3, 1983 (48 FR 5038), EPA proposed to approve Georgia's revision to its carbon monoxide (CO) State Implementation Plan (SIP) for the Atlanta area since the revision meets the requirements of the Clean Air Act and EPA policy. No comments were received on this proposed action. Therefore, EPA today

approves the revision to the Atlanta area SIP.

DATE: This action is effective December 12, 1983.

ADDRESS: Copies of this revision are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

EPA, Region IV, Air Management Branch, 345 Courtland Street, Atlanta, Georgia 30365

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, Atlanta, Georgia 30334

Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Tom Lyttle, EPA, Region IV, Air Management Branch at 404/881-2864 (FTS: 257-2864).

SUPPLEMENTARY INFORMATION: The 1977 Amendments added a new Part D to Title I of the Clear Air Act. Under this Part, the States were required to revise their SIP's for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Sections 171-178 of the Act; Section 129(c) (uncodified) of Pub. L. 95-95). The revised plans were to provide for attainment by December 31, 1982, unless the State demonstrated that they could not attain either the ozone or CO standard by that date despite the implementation of all reasonably available control measures (Sections 1729(a)(1), 172(a)(2)), and requested an extension.

If EPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)). These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95-95).

Georgia submitted its initial SIP revision for the Atlanta CO and ozone nonattainment area in April 1979. The state requested that EPA extend the attainment date for the CO standard in this area to December 31, 1987. EPA granted this request and approved the initial plan revision on January 24, 1980 (45 FR 5698). Georgia submitted its 1982 CO SIP revision on July 30, 1982. A full discussion of this SIP revision and of EPA's evaluation was contained in the February 3, 1983, proposal notice and will not be repeated in detail here.

The 1982 revision used linear rollback modeling to determine that a CO emission reduction of 44% from the 1980 base year emission levels of 279,040 tons per year (TPY) would be necessary to attain the CO standard. By 1987, emissions are projected to fall to 146,688 TPY due to the Federal Motor Vehicle Control Program, an auto inspection/maintenance (I/M) program and various transportation control measures adopted in the Atlanta area. These emission reductions will allow the Atlanta area to attain the CO standard in early 1987.

The SIP revision meets all requirements for approval by EPA. The I/M program for Cobb, DeKalb, and Fulton Counties was initiated April 1, 1981, on a mandatory inspection and voluntary maintenance basis. The mandatory maintenance phase of the program began April 1, 1982. The SIP revision also contains commitments to adopt the TCM's which were included in the SIP. The remaining components of the SIP, including the reasonable further progress demonstration, emission inventories, stationary source controls, and demonstrations of basic transportation needs and conformity of Federal actions, are also approvable.

A 45-day public comment period was provided, ending March 21, 1983. During that time, no comments were received on the proposed action.

Final Action. EPA has found that Georgia's 1982 CO SIP revision for the Atlanta area meets all requirements of the Clean Air Act and EPA policy. Moreover, there were no public comments on EPA's proposal to approve these revisions. Therefore, EPA approves these revisions to the Georgia CO SIP.

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 (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

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

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: November 4, 1983.

William Ruckelshaus,

Administrator.

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

PART 52—[AMENDED]

Subpart L—Georgia

Section 52.570 is amended by adding paragraph (30) to paragraph (c) as follows:

§ 52.570 Identification of plan.

* * * * *

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

* * *

(30) Revisions to the Part D plan for the Atlanta CO nonattainment area, submitted on July 30, 1982, by the Georgia Department of Natural Resources.

[FR Doc. 83-30408 Filed 11-9-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-379; RM-4368]

FM Broadcast Station in Freedom, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Freedom, California, in response to a petition filed by Eric R. Hilding. The assignment could provide for a first FM service to Freedom.

EFFECTIVE DATE: January 3, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Freedom, California); MM Docket No. 83–379, RM–4368.

Adopted: October 11, 1983.
Released October 28, 1983.

By the Chief, Policy and Rules Divisions.

1. The Commission herein considers the Notice of Proposal Rule Making, 48 FR 18849, published April 26, 1983, proposing the assignment of Channel 240A to Freedom, California, as its first FM channel. The Notice was issued in response to a petition filed by Eric R. Hilding ("petitioner"). The petitioner submitted comments restating his interest in the channel.

2. After consideration of the proposal, the Commission is persuaded that the public interest would be served by assigning Channel 240A to Freedom, California, as its first FM channel. The transmitter site is restricted to 2.4 miles south of the city to avoid short-spacing to Stations KKHI (FM) (Channel 239), San Francisco, California, and KNTO (FM) (Channel 240A), Livingston, California.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it it ordered, That effective January 3, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Freedom, Calif.	240A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 83-30475 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83–367; RM–4380]

FM Broadcast Station in East Grand Forks, Minnesota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 282 for Channel 280A at East Grand Forks, Minnesota, and modifies the Class A license for Station KRRK–FM, in response to a petition filed by KRAD, Inc. The assignment could provide East Grand Forks with its first Class C station.

EFFECTIVE DATE: January 3, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (East Grand Forks, Minnesota); MM Docket No. 83–367, RM–4380.

Adopted: October 14, 1983.
Released: October 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the Notice of Proposed Rule Making, 48 FR 16918, published April 20, 1983, proposing the substitution of Class C Channel 282 for Channel 280A at East Grand Forks, Minnesota, in response to a request filed by KRAD, Inc.[1] ("petitioner"). The Notice also proposed to modify the license of Station KRRK–FM to specify operation on the Class C channel. Petitioner filed comments expressing his interest in applying for the channel, if assigned. No other comments were received.

2. The Commission has determined that the public interest could benefit from the proposal, since it could provide a signal to a wider coverage area. In addition, since no other interest in the Class C channel has been expressed, we shall modify petitioner's license to specify Channel 282. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). The channel can be assigned in compliance with the minimum distance separation requirements.

[1] Petitioner is the licensee of Station KRRK–FM (Channel 280A) at East Grand Forks, Minnesota.

3. Canadian concurrence has been received.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective January 3, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
East Grand Forks, Minn.	282

5. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of KRAD, Inc. for Station KRRD–FM, East Grand Forks, Minnesota, is modified, effective January 3, 1984, to specify operation on Channel 282 in lieu of Channel 280A, subject to the following conditions:

(a) At least 30 days before operating on Channel 282 the licensee shall submit to the Commission a minor change application for a construction permit (Form 301);

(b) Upon grant of the construction permit program tests may be conducted in accordance with § 73.1620;

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

6. It is further ordered, That the Secretary shall send a copy of this *Order* by certified mail, return receipt requested, to: KRAD, Inc., P.O. Box 560, East Grand Forks, Minnesota 56721.

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-30476 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83–410; RM–4389]

FM Broadcast Station in Soldotna, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 247 to Soldotna, Alaska, in response to a petition filed by King County Broadcasters. The assignment could provide Soldotna with its second local FM service.

EFFECTIVE DATE: January 3, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations (Soldotna, Alaska) MM Docket No. 83–410, RM–4389.

Report and Order; Proceeding Terminated

Adopted: October 14, 1983.
Released: October 28, 1983.

1. The Commission has under consideration its *Notice of Proposed Rule Making*, 48 FR 20960, published May 10, 1983, proposing the assignment of Class C Channel 247 to Soldotna, Alaska, as that community's second FM allocation, in response to a petition filed by King County Broadcasters ("petitioner"). Supporting comments were filed by petitioner in which it reaffirmed its intention to file for the channel, if assigned.

2. The Commission has determined that the public interest would be served by assigning Channel 247 to Soldotna. An interest has been shown for its use, and such an assignment could provide a second local FM service to that community. The channel can be assigned to Soldotna consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective January 3, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended as follows:

City	Channel No.
Soldotna, Alaska	247,269A

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–30448 Filed 11–9–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–239; RM–4360]

FM Broadcast Station in Springfield, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first FM channel to Springfield, Florida, in response to a petition filed by Matthew D. Wiggins, Jr.

EFFECTIVE DATE: January 3, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Springfield, Florida) MM Docket No. 83–239, RM–4360.

Adopted: October 11, 1983.
Released: October 28, 1983.
By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 14691, published April 5, 1983, proposing the assignment of Channel 240A to Springfield, Florida as its first FM assignment. The *Notice* was issued in response to a petition filed by Matthew D. Wiggins, Jr. ("petitioner"). Supporting comments were filed by the petitioner reaffirming his intention to apply for the channel, if assigned.

2. In view of the fact that the proposed assignment could provide for a first FM station at Springfield, the Commission believes that the public interest would be served by assigning Channel 240A to that community. The channel can be assigned in compliance with the minimum distance separation requirements.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is ordered, that effective January 3, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Springfield, Fla	240A

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–30447 Filed 11–9–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–413; RM–RM–4358]

FM Broadcast Station in Williston, North Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 266 to Williston, North Dakota, in response to a request by Dianna L. Simpson. The assignment could provide Williston with its third FM service.

EFFECTIVE DATE: January 3, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Williston, North Dakota) MM Docket No. 83–413, RM–4358.

Report and Order; Proceeding Terminated

Adopted: October 14, 1983.
Released: October 28, 1983.
By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 20964, published May 10, 1983, proposing the

assignment of Class C FM Channel 266 to Williston, North Dakota, as that community's third FM service, in response to a petition filed by Dianna L. Simpson. Petitioner filed supporting comments reiterating her intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. We believe the public interest would be served by a grant of petitioner's request since it could provide a third FM service to Williston.

3. As we indicated in the *Notice*, Class C Channel 266 can be assigned to Williston in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

4. Canadian concurrence in the proposal was obtained.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is ordered, that effective January 3, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Williston, N.D.	241, 253, and 266.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-30448 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 82-729; RM-4189]

FM Broadcast Stations in Cabo Rojo and Hormigueros, Puerto Rico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 272A to Cabo Rojo, Puerto Rico, and reassigns Channel 221A from Cabo Rojo to Hormigueros, Puerto Rico, in response to a petition fron Nestor Perez. The proposed assignment could provide a first local FM service to Cabo Rojo.

DATE: Effective: January 3, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cabo Rojo and Hormigueros, Puerto Rico); BC Docket No. 82-729 RM-4189.

Adopted: October 13, 1983.

Released: October 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 50723, published November 9, 1982, proposing the assignment of Channel 272A to Cabo Rojo, Puerto Rico, in response to a petition from Nestor Perez ("petitioner"). We also proposed reassignment of Channel 221A from Cabo Rojo to Hormigueros, Puerto Rico, where it is presently in use under the old § 73.203(b) of the Commission's Rules. Supporting comments were filed by the petitioner reaffirming his intention to apply for Channel 272A if assigned. Supporting comments were also filed by Julio Victor Ramirez, stating his intention to file for the channel.[1]

2. The *Notice* indicated that a transmitter site restriction of 7 miles southwest of Cabo Rojo was necessary to avoid short spacing. Perez's original petition specified a transmitter location at the 68 meter peak of a hill known as "Punta Melones" approximately 7.7 miles southwest. Our analysis indicated that serious shadowing over Cabo Rojo would be caused in the petitioner used his proposed transmitter site unless an unreasonably tall tower is used. Due to this distance the *Notice of Proposed Rule Making* requested that petitioner furnish information demonstrating that his proposed transmitter location site could provide a 70 dBu signal over Cabo Rojo. In comments, petitioner submitted an engineering report which did not mention signal levels but claimed that by using a 700 foot tower, a line of sight clearance to the center of Cabo Rojo could be achieved. While petitioner states that the transmitter site is located at one location (68 meters elevation), the accompanying map shows the transmitter location at a slightly different location (25 meters elevation). While there appears to be a slight discrepancy in the data, the latter location appears to produce less shadowing. Furthermore the transmitter could be sited one-half mile closer to Cabo Rojo than the site indicated by petitioner. Thus our analysis of the engineering data indicates that it is technically possible for Perez to locate the transmitter at a site that will provide the required signal coverage over all of the city. Therefore, Channel 272A can be assigned to Cabo Rojo to provide a first FM service to that community.

3. As proposed, Channel 221A is reassigned to Hormigueros to reflect its actual use there by Station WGIT.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204 and 0.283 of the Commission's Rules, it is ordered, that effective January 3, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with regard to the following cities:

City	Channel No.
Cabo Rojo, Puerto Rico	272A
Hormigueros, Puerto Rico	221A

5. It is further order, that this proceeding is terminated.

6. For further information concerning the above, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-30449 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-477; RM-4397]

FM Broadcast Station in Antigo, Wisconsin; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action dismisses a proposal to assign Channel 280A to Antigo, Wisconsin, originally requested by Stewart-Monroe Broadcast Enterprises. The rule making is

[1] David Ortiz Radio Corporation (Ortiz), licensee of AM Station WEKO, Cabo Rojo, filed a petition for rule making to delete the assignment of Channel 279 from Lajas, Puerto Rico, and reassign that channel to Cabo Rojo. In our recent action in Docket No. 80-520, we denied Ortiz's petition and reaffirmed the Channel 279 assignment.

dismissed because of an absence of continued interest in the proposal.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Antigo, Wisconsin) MM Docket No. 83–477 RM–4397.

Adopted: October 11, 1983.
Released: October 28, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 27579, published June 15, 1983, proposing the assignment of Channel 280A to Antigo, Wisconsin. The assignment was proposed in response to a petition filed by Stewart-Monroe Broadcast Enterprises.

2. The Commission did not receive comments from the petitioner (or any other interested party) and consistent with our policy and procedures set forth in the Appendix to the *Notice*, we will dismiss the petition to assign a second FM channel to Antigo.

3. In view of the foregoing, it is ordered, That the petition of Stewart-Monroe Broadcast Enterprises proposing the assignment of Channel 280A to Antigo, Wisconsin, is hereby dismissed.

4. It is ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-30450 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-380; RM-4362]

FM Broadcast Station in Alva, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 232A to Alva, Oklahoma, in response to a petition filed by Lynn L. Martin. The assignment could provide Alva with its third FM service.

EFFECTIVE DATE: January 3, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Alva, Oklahoma) MM Docket No. 83–380, RM–4362.

Adopted: October 11, 1983.
Released: October 28, 1983.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by Lynn L. Martin ("petitioner"), the Commission adopted the *Notice of Proposed Rule Making*, 48 FR 18851, published April 26, 1983, proposing the assignment of Channel 232A to Alva, Oklahoma, as its third FM assignment. Petitioner filed comments reaffirming his intent to apply for the channel, if assigned. No other comments were received.[1]

2. The Commission has determined that the public interest could benefit from the requested assignment, since it could provide Alva with its third FM station. The channel can be assigned in compliance with the minimum distance requirements.

3. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective January 3, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the community listed below:

City	Channel No.
Alva, Oklahoma	232A, 259, and 284

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

[1] A separate request, seeking the assignment of Class C Channel 253 to Alva, Oklahoma was filed in this proceeding by Northwest Oklahoma Radio Co. That proposal is short-spaced to Channel 253 at Elk City, Oklahoma and has been returned as unacceptable.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-30494 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1118, 1162 and 1163

[Ex Parte No. MC-67; Sub-8]

Rules Governing Temporary Authority and Emergency Temporary Authority; Special Tariff Authority No. 78–1000–TA; Establish Rates on One Day's Notice to Cover Temporary Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission adopts revised temporary authority (TA) and emergency temporary authority (ETA) procedures, including a revision of the outstanding special permission procedure for filing rates on less than statutory notice. The rules implement Section 23 of the Motor Carrier Act of 1980 and Section 15 of the Bus Regulatory Reform Act of 1982, make certain substantive changes, and simplify and unify the TA and ETA procedures for all carriers.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: For general information on TA and ETA filing procedures, inquiries on specific applications, and for copies of forms, contact the Office of Compliance and Consumer Assistance, Complaint and Authority Branch in the appropriate region listed in **"SUPPLEMENTARY INFORMATION"**.

In Washington, D.C., for additional information, contact: William F. Sibbald, Jr., 202–275–7148.

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, Washington, D.C. 20423, or call 289–4357 in the D.C. Metropolitan area or toll free (800) 424–5403.

SUPPLEMENTARY INFORMATION: The Commission issues final rules pursuant to its proposal published at 46 FR 13741, February 24, 1981. The regulations adopted are for the most part similar to those proposed. However, as a result of several rulemaking proceedings instituted during the pendency of this proceeding, as well as passage of the Bus Regulatory Reform Act of 1982,

certain provisions have been updated. Details are contained in the Commission's decision.

The decision also adopts certain technical modifications to the regulations proposed. These modifications relate primarily to the time frames involved in the TA and ETA application procedures and the tariff filing requirements.

The public will be advised when revised application forms are available. In the interim, existing forms may be used.

For general information on TA and ETA filing procedures, inquiries on specific applications, and for copies of forms, contact the Office of Compliance and Consumer Assistance, Complaint and Authority Branch in the appropriate region listed below:

Region 1: Boston, MA, 617–223–2372
Region 2: Philadelphia, PA, 215–597–0757
Region 3: Atlanta, GA, 404–881–2167
Region 4: Chicago, IL, 312–353–6204
Region 5: Fort Worth, TX, 817–334–3961
Region 6: San Francisco, CA, 415–974–7125

Special Permission Board (for information on Special Tariff Authority No. 78–1000 and on tariff filings under TA and ETA) 202–275–7739.

Regulatory Flexibility Statement

We certify that the rules will not have a significant economic impact on a substantial number of small entities. The adopted rules are required to implement Section 23 of the MCA and Section 15 of the Bus Act, to clarify or simplify existing regulations, and to eliminate burdensome and unnecessary regulations. These rules do not establish any new requirements that could be considered burdensome to small businesses. To the contrary, by streamlining the involved regulations, and thereby simplifying the application process, it is expected that small businesses will benefit from the rules.

Energy and Environmental Considerations

This decision does not affect significantly either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Parts 1118, 1162, and 1163

Administrative practice and procedure, Motor carriers, Maritime carriers, Temporary authority.

It is ordered:

We adopt revised 49 CFR Parts 1162 and 1163, and 49 CFR 1118.4(g), as set forth in Appendix A of this notice and Special Tariff Authority No. 78–1000–TA as set forth in Appendix B of this notice.

This decision is issued pursuant to 49 U.S.C. 10321, and 10928, and 5 U.S.C. 553.

Decided: October 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix A

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1118—PROCEEDINGS IN INFORMAL PROCEEDINGS BEFORE CERTAIN EMPLOYEE BOARDS

1. Section 1118.4(g) is revised to read:

§ 1118.4 Appeals.

* * * * *

(g) *Decisions on appeal.* An appeal from an employee board's initial decision in a matter subject to this part will be reviewed by the board which may elect to modify its decision in light of new facts or arguments presented on appeal. If the board elects not to modify its prior decision, the appeal will be forwarded to the appropriate appellate body for determination. If a modified decision is issued by the board, a further appeal lies under this part. A decision on appeal by an appellate body is administratively final.

2. The heading and text of Part 1162 are revised to read:

PART 1162—TEMPORARY AUTHORITY (TA) AND EMERGENCY TEMPORARY AUTHORITY (ETA) PROCEDURES UNDER 49 U.S.C. 10928

Sec.

Authority: 49 U.S.C. 10321 and 10928; 5 U.S.C. 559.

Note: Rules governing extension of temporary operating authority or approvals are contained in Part 1163 of this Title.

§ 1162.1 Controlling legislation and definitions.

(a) *Controlling legislation.* 49 U.S.C. 10928 (which the regulations in this part are designed to implement) provides that the Interstate Commerce Commission may grant a motor carrier or water carrier temporary authority (TA) to provide transportation to a place or in an area having no carrier capable of meeting the immediate needs of the place or area. Such grants of authority are limited by statute to not more than 180 days in the case of a water carrier, and not more than 270 days in the case of a motor carrier. Emergency temporary authority (ETA) may be granted to a motor carrier or water carrier for a period of not more than 30 days, and the Commission may extend such authority under the procedure set forth at § 1162.2(e) of this part. A grant of ETA is not considered as reducing the statutory maximum of 270 days of TA in the case of a motor carrier or 180 days of TA in the case of a water carrier. Extensions of TA beyond these statutory limits are governed by the rules contained in Part 1163 of this title. A grant of TA shall create no presumption that corresponding permanent authority will be granted.

(b) *Definitions.* As used in this part, the following words and terms are construed as follows:

(1) *"Temporary authority"* (TA). Limited term operating authority issued pursuant to 49 U.S.C. 10928 to authorize transportation service for which there is an immediate need which cannot be met by existing carrier service.

(2) *"Emergency temporary authority"* (ETA). Limited term operating authority issued pursuant to 49 U.S.C. 10928 to authorize transportation service for which there is an immediate need for service due to emergencies which cannot be met by existing carrier service, in which there is not sufficient time to process an application for TA.

(3) *"Motor common carrier," "motor contract carrier," "water common carrier," "water contract carrier," and "person."* Same as defined in 49 U.S.C. 10102.

§ 1162.2 Filing of applications.

(a) *General.* All applications for TA and ETA are to be filed at the Regional Office which has jurisdiction over the area in which applicant's headquarters are located. The Regional Office will review all applications, after consultation with the affected field offices as appropriate, and then transmit them with recommendations as to their disposition to the Regional Motor Carrier Board. The Regional Offices will maintain records of authorized carriers with headquarters in their region and their operating authorities. The staff members of the Regional Offices, as well as those of the field offices within their jurisdiction, will be available for:

Consultation: giving assistance in obtaining carrier service; providing guidance in the preparation of TA or ETA applications and related supporting material; and providing assistance on rate, insurance, and other required filings. Regional and Field Offices will furnish copies of necessary forms upon request.

(b) *How and where filed.* A separate application for each TA or ETA sought shall be filed on Form OCCA-95. The envelope containing the application shall be clearly marked "ETA Application" or "TA Application." The signed original and two copies of each application and all supporting documents shall be filed with the Regional Office which has jurisdiction over the point at which applicant is domiciled, or at such other location as the Commission may designate in special circumstances. An applicant seeking TA shall also tender an original and two copies of a caption summary. Caption summaries shall be double spaced and, to the extent possible, shall follow the format used for permanent authority notices, as described in *Revision of Application Forms*, 125 M.C.C. 790 (1976). Summaries shall incorporate the style changes noticed in the **Federal Register** issue of January 18, 1978 (43 FR 2632). Where an applicant has also applied or will apply for corresponding ETA, the application shall include the statement, "An underlying ETA seeks —— days authority" in its application. Applicant should also include the "R" docket number of the ETA, if known. Applicants may consult the appropriate Regional Office for assistance in preparing a caption summary.

(c) *Filing Fees.* A filing fee of $60 shall accompany each temporary authority application. There is no initial filing fee for ETA applications. If applicant seeks any extensions of the ETA, a $10 fee is required.

(d) *Supporting statements.* Each application shall be accompanied by a supporting statement(s) designed to established an immediate need for service which cannot be met by existing carriers. Each statement must contain a certification of its accuracy and must be signed by the person (or an authorized representative) having an immediate need for service. Any supporting statement should contain the following information:

(1) Description of the specific commodity or commodities to be transported (where the transportation of property is involved) and a description of the type of transportation to be performed (where the transportation of passengers is involved).

(2) Points or areas to, from, or between which the transportation will be provided.

(3) Volume of traffic involved, frequency of movement, and how transported.

(4) How soon the service must be provided.

(5) How long the need for service likely will continue, and whether the person(s) supporting the application will support a corresponding permanent authority application.

(6) Recital of the consequences if service is not made available.

(7) The circumstances which created an immediate need for the requested service.

(8) Whether efforts have been made to obtain the service from existing carriers, and the dates and results of these efforts.

(9) Names and addresses of existing carriers, a list of those who have either failed or refused to provide the service, and the reasons given for any failure or refusal.

(10) Name and address of the carrier which will provide services and is filing the application for TA.

(11) If the person supporting the application has supported any recent application for permanent, temporary, or emergency temporary authority covering all or any part of the desired service, give the carrier's name, address, and docket number, if known, and state whether the application was granted or denied and the date of the action, if known.

(e) *Special procedures for filing ETA applications.*

(1) ETA shall be applied for only where emergency conditions exist which do not allow sufficient time to process and application for temporary authority.

(2) In cases where the urgency of the situation warrants, the supporting statement of those having the immediate need for carrier service may be furnished by telegram. However the telegram shall contain substantially the factural information which is more fully described in paragraph (c) of this section. The telegram shall be sent to the Regional Office that is handling the application.

(3) The filing of ETA applications by telegram or telephone shall be acceptable in exigent circumstances. Confirmation shall be made by filing form OCCA-95 with the supporting statement, within 10 working days from the filing by telegram or telephone.

(4) When the emergency is found to continue beyond the period of the initial 30-day grant, the ETA may be extended until disposition is made of the longer TA application. Applications seeking extension of ETA may be filed in two ways:

(i) *If corresponding TA application is filed within 15 days of the date of filing the initial ETA application.* If an applicant intends to file, within 15 days of the date of filing an application for ETA, a corresponding application seeking TA for a period of 180 or more days, applicant may state on the ETA application form: "Applicant certifies that, within 15 days of the date of filing this application, a corresponding application shall be filed seeking TA for a period of at least 180 days, and requests that an automatic 90-day extension of any ETA granted be issued." An application for ETA which contains this certification shall be accompanied by the fee applicable for the extension, which is $10. The filing of the corresponding TA application, within the 15-day period, shall automatically extend the ETA for 90 days. If a corresponding TA application is not filed within the 15-day period, the ETA will automatically expire at the end of the initial 30-day period. The Commission reserves the right to revoke any ETA (or extension). Should corresponding TA be granted, it shall be effective upon compliance with the requirements of § 1162.3(c) of this part, and any corresponding ETA shall automatically be revoked at that time. The statutory 180-day or 270-day duration of the TA shall begin to run upon service of the TA decision. Should corresponding TA be denied, either initially or on appeal, the decision will automatically have the effect of revoking any corresponding ETA 15 days after the service date of the decision. Any outstanding ETA which would expire by its own terms prior to such time is not affected.

(ii) *If corresponding TA application is not filed within 15 days of the date of filing the initial ETA application.* Any request for extension of ETA, not conforming to the rules in paragraph (e)(4)(i) of this section shall be made by filing an original and two copies of form OCCA-19 and shall be accompanied by the $10 fee. These requests shall be filed at the appropriate Regional Office prior to the second working day before the expiration date of the ETA sought to be extended. Any request for continuation of service authorized by the issuance of ETA not filed prior to the second day shall be filed on form OCCA-95 as a separate application. Each extension may be granted for a period of up to 30 days. Extensions of ETA are discretionary with the Commission, and if multiple requests for extensions are

filed, the Commission may require applicant to file a TA application.

(iii) *Passenger carrier ETA applications.* If an applicant for ETA as a motor carrier of passengers certifies that no other motor carrier of passengers is providing transportation service to the place or in the area to be served, a 30-day grant of ETA may be extended for a period of 180 additional days (instead of 90 additional days), where applicant also complies with the provisions of paragraph (e)(4)(i) of this section. If the Commission should subsequently determine that another motor carrier of passengers was providing such service as of the date of applicant's certification, any extension of the ETA beyond 90 additional days shall be revoked.

§ 1162.3 Proceeding of applications.

(a) *Notice to interested persons*—(1) *Service.* Notice of the filing of TA applications shall be given by the publication of a caption summary of the authority sought. Summaries shall be prepared by applicant in accordance with § 1162.2(b). These will be reviewed by the Commission's Regional Office and forwarded to the Office of the Secretary, Washington, D.C. No summary will be published or need be submitted in the case of ETA applications.

(2) *Protests to TA applications.* Any person who can and will provide all or any part of the proposed service may file a protest against a TA application. Protests shall be specific as to the service which protestant can and will offer. A signed original and two copies shall be filed with the Regional Office named with the caption summary within 15 calendar days after publication. The envelope containing the protest shall be clearly marked "TA Protest." One copy of a protest shall be served simultaneously on the applicant (or its authorized representative, if any) by U.S. mail or in person.

(3) *Protests to ETA applications.* Since caption summaries are not published for ETA applications, there is no formal procedure for filing protests. Any person who can and will provide service may protest an ETA application at any time while the application is pending by telephoning or writing the Regional Office handling the application. Persons seeking to protest an ETA application after an initial decision has been made shall file an appeal under the procedures outlined in § 1162.6(f).

(b) *Publication of rates and charges.* A carrier (except a motor contract carrier of property) may not lawfully perform transportation under a grant of TA or ETA until compliance has been made with the rate and other requirements of 49 U.S.C. 10761 and 10762. Such rates may be filed on less than statutory notice under the provisions of § 1162.5 of this part.

(c) *Revocation for noncompliance, and reinstatement and extension of time for making compliance.* (1) Authority is approved subject to compliance within 30 days, or within such additional time as the Commission may approve, with the applicable provisions of the statute and the Commission's regulations governing the filing of rate publications (see paragraph (b) of this section). In addition, authority of motor carriers is approved subject to the filing of acceptable insurance for the protection of the public and designation of agents for service of process (see § 1162.8 of this part).

(2) If compliance is not made within the 30-day period, or within the time allowed in any extension, the decision shall automatically be void. When this occurs, applicant may make written request to the Regional Office of its domicile for reinstatement of the granting decision, provided that: (i) The request is made within 50 days from the date of service of the decision, (ii) good cause can be shown as to why compliance was not made within the time allowed, and (iii) the request for reinstatement contains positive assurance that applicant will comply immediately with all applicable requirements if the decision is reinstated.

(d) *Duration of TA grants.* Although TA operations may not commence until compliance is made with the requirements set forth in paragraph (c) of this section, the statutory 180-day or 270-day duration of such TA shall begin to run upon service of the decision. Successive grants of TA and extensions of TA beyond these statutory limits are governed by the provisions of Part 1163 and § 1162.1(a) of this part.

(e) *Duration of ETA grants.* If a written decision is not served, a grant of ETA shall begin to run upon telephonic notification to applicant of the grant of authority. If applicant is served with a written decision granting authority, the grant shall begin to run upon service of the decision.

§ 1162.4 Determination of applications.

(a) *General.* (1) Initial determination of TA or ETA applications will generally be made by a Regional Motor Carrier Board. Successive grants are limited by the provisions of Part 1163 and § 1162.1(a) of this part.

(2) While a grant of TA or ETA is neither a permit nor a certificate, it nevertheless enables the applicant to provide service either as a common or a contract carrier. Consequently, a contract carrier applicant for TA or ETA must show that the operation proposed is that of a contract carrier as defined in 49 U.S.C. 10102(13). No "dual operation" finding is necessary.

(3) To the extent not otherwise exempt by statute (49 U.S.C. 10526(a)(11)), for administrative convenience, TA or ETA to transport property will authorize the return transportation of shipper-owned trailers (and similar cargo containers) and empty crates, barrels, bottles, hangers, pallets, bracing, dunnage, and other similar containers and shipping devices used in the outbound transportation covered by the TA or ETA.

(b) *Standards for determination.* The following standards shall be used, in the absence of special or unusual circumstances, in the initial or appellate determination under 49 U.S.C. 10928 of applications by motor or water carriers for TA or ETA.

(1) *General.* Grants of TA or ETA shall be made upon the establishment of an immediate need for the transportation of passengers, or of particular commodities or classes of commodities, from origins to destinations not having carrier service capable of meeting the need. Requests involving service to or from entire States, counties, or other defined areas warrant approval when supported by evidence that there is a need for service to or from a representative number of points in each such State, county, or area, that there is a reasonable certainty that the service will be used, and that carrier service capable of meeting the need is not available. Lack of opposition to a TA application will be considered as strong indicia of unavailable service, and unopposed applications will normally be granted unless the applicant is unfit.

(2) *Immediate need.* A grant of TA or ETA will be made where it is established that there is or soon will be an immediate transportation need which reasonably cannot be met by existing carrier service. A showing of immediate need may involve, among other things, a new or relocated plant, different method of distribution, new or unusual commodities, an origin or destination not now served by carriers, a discontinuance of existing service, failure of existing carriers to provide service, or comparable situations which require new carrier service before an application for permanent authority can be filed and processed.

(3) *Failure to provide equipment.* TA or ETA may be granted where existing

authorized carriers are unable or refuse to furnish equipment necessary to move passengers or freight to meet an immediate transportation need.

(4) *General bases for disapproval.* Applications for TA or ETA may be denied for the following reasons:

(i) Failure to meet statutory standards.

(ii) Unfitness of the applicant.

(c) *Determination of fitness issues in motor carrier applications.* The following standards shall be used in the initial or appellate determination of fitness issues in applications by motors carriers for TA or ETA under 49 U.S.C. 10928.

(1) *General.* (i) Unless there is a particularly urgent transportation need, an application will normally be denied where the applicant has been found unfit or in substantial noncompliance with the safety regulations of the Department of Transportation, unless the carrier has reestablished compliance or the application contains sufficient evidence to establish that the carrier has taken significant steps to remedy its deficiencies and is now in substantial compliance.

(ii) Where a fitness proceeding has been instituted against a carrier applicant, or where the Office of Compliance and Consumer Assistance has been ordered to intervene in a pending proceeding because the applicant's fitness is in issue, and no final decision has been entered, and applicant may attempt to show that there is no nexus between issues raised in the pending fitness proceeding and in the application for TA or ETA or that other good cause exists for granting the application.

(iii) Alleged violations of law or regulations or a pending fitness investigation where no formal proceeding has been instituted shall not be used as grounds for a denial unless the decisionmaker has evidence that the carrier applicant has a history of willful or flagrant violation of law. If authority is denied for lack of fitness on this basis, the decision shall state the basis for denial. The applicant shall be afforded opportunity to appeal the denial.

(iv) Any denial under these guidelines shall be without prejudice to the applicant filing an appeal and submitting evidence concerning its fitness or safety compliance as appropriate.

(2) *No presumption of fitness.* The granting of any authority shall not give rise to any presumption regarding the applicant's fitness.

(3) *Revocation for unfitness.* Any grant of authority may be later revoked by the Commission if applicant is determined to be unfit in accordance with these guidelines.

(4) *Urgency considerations.* Allegations of unfitness in these proceedings shall be considered in light of the urgency of the shipper's needs.

§ 1162.5 Rates, fares, charges, and special permission applications.

(a) *TA Rate Filings.* Rates, fares, charges, and related provisions may be established under the provisions of Special Tariff Authority No. 78–1000–TA upon not less than one day's notice.

(b) *ETA Rate Filings.* (1) Each application for ETA (except an application seeking authority as a motor contract carrier of property) shall be accompanied by a statement of the rates, fares, charges, and other tariff or schedule provisions to become effective if the application is granted. ETA will be revoked for failure to file a proper tariff or schedule.

(2) In every case the carrier shall state in its application whether there is under suspension any rates, fares, or charges published for its account, or whether an application for special permission authority to file its rates, fares, or charges on less than 30-days' notice has been granted or denied, covering the same traffic from and to the same points in connection with another application. If the applicant has rates, fares, or charges, or other tariff matters under suspension, or has received, or been denied special permission to file on less than 30-days' notice any such rates, fares, or charges not yet effective covering the same traffic, the Regional Motor Carrier Board will not recommend approval of the request nor will the ETA be granted.

(3) If applicant has rates, fares, or charges under suspension covering the same traffic, it should file a special permission application as set forth in paragraph (c) of this section, stating that a copy was served upon protestant(s) and requesting less-than-statutory notice authority to cancel the suspended matter and to file rates, fares, or charges or, in the alternative, state that the suspended rates, fares, or charges will be defended and request less-than-statutory notice authority to file rates, fares, or charges to apply during the suspension period and to expire at the end of the suspension period.

(c) *Special permission or special tariff authority applications.* If publication is to be made on less than 30-days' notice by the carrier filing the TA or ETA application and the carrier does not wish to use any outstanding general special permission or special tariff authorities (including Special Tariff Authority No. 78–1000–TA), the application must be accompanied by three copies of a special permission or special tariff authority application, setting forth the proposed rates, fares, charges, and other tariff or schedule provisions clearly and completely. If the proposed provisions consist of rates, fares, and/or charges, all points of origin and destination must be indicated. If authority is sought to establish a rule, the exact wording of the proposed rule must be shown. If relief from existing regulations is sought, the exact form of publication must be shown.

§ 1162.6 Appeals and special procedures.

(a) The proceedings of the Regional Motor Carrier Boards shall be governed by the rules set forth at 49 CFR Part 1118, except as otherwise provided in this section.

(b) Appeals and replies filed under this section shall be governed by the Commission's Rules of Practice (49 CFR Parts 1100 to 1129), except as otherwise provided in this section.

(c) The original and two copies of every pleading, document, or paper permitted or required to be filed under this section shall be furnished for the use of the Commission. Appeals and replies shall not exceed 30 pages in length, including any index of subject matter, argument, and appendices or other attachments. Pleadings must be served on all known parties of record.

(d) Appeals from decisions acting on TA and ETA applications may be filed by any person. All appeals from decisions of a Regional Motor Carrier Board shall be filed with the Regional Office in which the application was filed. All other appeals shall be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423. The envelope containing the pleading shall be clearly marked "ETA Petition" or "TA Petition."

(e) *Replies may be filed by any person to these appeals.* If the facts stated in any appeal disclose a need for accelerated action, this action, in the discretion of the Commission, may be taken before expiration of the time allowed for reply. Replies received after accelerated action has been taken on appeals will be treated as appeals of the accelerated action and given corresponding accelerated treatment. All replies to appeals from decisions of a Regional Motor Carrier Board shall be filed with the Regional Office in which the application was filed. All other replies shall be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. The envelope containing the reply shall

be clearly marked "Reply to ETA Petition" or "Reply to TA Petition".

(f) *Appeals from Regional Motor Carrier Board Decisions.* Except as provided below for matters involving ETA, an appeal of a decision of the Regional Motor Carrier Boards entered under 49 U.S.C. 10928 shall be filed within 20 days after the date of service of the decision. Within 15 days after the filing of the appeal, any person may file and serve a reply. Appeals generally will be decided by the Review Board pursuant to the delegation of authority contained in 49 CFR 1011.6(e)(5). An applicant seeking reconsideration of a decision concerning ETA must file an appeal within 20 days after it is notified of the decision on the application. Any other interested person seeking reconsideration of a decision granting ETA may file an appeal at any time during the life of the authority. Replies must be filed within 15 days after the filing of the appeal.

(g) *Appeals from appellate decisions entered under 49 U.S.C. 10928.*

(1) A person shall not be permitted as a matter of right to file an administrative appeal from an appellate decision entered under 49 U.S.C. 10928. The appellate decision shall be administratively final. This does not apply to a person seeking to appeal a decision granting ETA until such person has been a party to an appellate decision. In these instances, the proceeding shall be reopened to consider the pleading of that person.

(2) Discretionary review—petitions for administrative review. Any party may file a petition for discretionary administrative review of an appellate action. The petition will be granted in the sole discretion of the Commission. Petitions shall be filed within 20 days after the date of service of the appellate decision. Replies shall be filed within 15 days of the date the appeal is filed. The petition should state in detail the respect in which the proceeding involves material error, new evidence, or substantially changed circumstances. These appeals will generally be determined by a division of the Commission.

(h) *Final action.* The filing of an appeal does not have the effect of automatically staying the decision being appealed. If the decision grants authority, applicant may conduct the operations authorized upon compliance with tariffs, insurance, and other requirements for the duration of the authority, or until otherwise ordered. If the decision denies authority, applicant may not commence such operations. If the decision revokes authority, applicant must cease such operations. See also § 1162.2(e)(4)(i) of this title.

(i) *Stays.* The Commission may stay the effect of any TA or ETA decision on its own motion. However, the Commission will not accept for filing any pleadings requesting that it stay the effect of any TA or ETA decision.

(j) *Furnishing a copy of the application package to interested persons.* Applicant's representative shall furnish a copy of the application package to interested persons upon request. The request shall be made in writing to applicant's representative and shall contain a check or money order for $10, payable to applicant's representative. Applicant's representative need not supply copies to any person not sending the appropriate payment. Applicant's representative shall mail the copy within 3 days of receipt of the request. Noncompliance with this rule may result in dismissal of the application. Representatives of applicants and potential protestants are urged to communicate by telephone if problems occur in the furnishing of the application.

§ 1162.7 State registration of temporary authorities—motor carriers.

Notwithstanding the provisions of 49 CFR 1023.11, a motor carrier shall not be required to file with a State commission a TA or ETA having a duration of 120 consecutive days or less if such carrier has: (a) Registered its other authority granted by the Commission authorizing operation in or through the involved State (a carrier possessing no other such authority may qualify for this exception upon compliance only with condition (b) of this section) and identified its vehicles or driveaway operation under the provisions of those standards set forth at 49 CFR 1023.31—1023.42, both inclusive; and (b) furnished to the State commission a telegram or other written communication from the motor carrier describing the TA or ETA and stating that operations shall be in full accord with the requirements of standards set forth at 49 CFR 1023.1 et seq.

§ 1162.8 Insurance and service of process—motor carriers.

(1) Where the applicant is an authorized motor carrier, a statement shall accompany the application indicating whether evidence of effective insurance is on file with the Commission and whether agents for service of process have been designated for each State in which operations will be conducted. If applicant is not an authorized motor carrier, it shall furnish a statement containing the name of its insurance company, its policy number, the effective and expiration dates of the policy, the limits of the policy, and a copy of the Commission's Form BOC 3 designating an agent for service of process in each State where operations will be conducted.

(2) On motor carrier ETA where time does not permit the submission of the required written statement by applicant, a telegraphic statement may be accepted.

3. Part 1163 is revised to read:

PART 1163—TEMPORARY OPERATING AUTHORITIES AND APPROVALS

Sec.

Authority: 49 U.S.C. 10321, 5 U.S.C. 558 and 559.

§ 1163.1 Extension of temporary operating authority or approval.

(a) When an applicant has made a timely and sufficient application for a renewal of or new permanent operating authority or approval in accordance with applicable Commission rules, and the application or approval pertains to a need of a continuing nature:

(1) Any corresponding temporary authority (but not emergency temporary authority) granted under 49 U.S.C. 10928 is continued in force, beyond the expiration date specified in the authority, until a final determination is made of the related permanent application.

(2) Any temporary approval granted under 49 U.S.C. 11349 is continued in force, beyond the expiration date specified in such temporary approval, until the final determination of the related application for approval of a consolidation or merger of the properties of two or more motor or water carriers or of a purchase, lease, or contract to operate the properties of one or more carriers.

§ 1163.2 Definitions and interpretations.

The following definitions apply to Part 1163:

(a) *Timely application.* An application for a certificate of public convenience and necessity filed in accordance with the applicable laws, regulations, and instructions, not later than 60 days after issuance of temporary authority for a period of 180 days to a water carrier, or not later than 60 days after issuance of temporary authority for a period of 270 days to a motor carrier. An applicant

may file a petition to waive the timely filing requirement with the Regional Office. Where an applicant has demonstrated good cause, the Regional Motor Carrier Board may extend the time in which a permanent application may be filed under these rules.

(b) *Sufficient application.* An application for permanent operating authority which is in the form, contains the information, and is accompanied by the documents and exhibits required by the applicable laws, regulations, and instructions.

(c) *Need of a continuing nature.* Any need which is the basis of an operation authorized by temporary authority or approval to be conducted for a period of less than an aggregate of 180 days in the case of a water carrier, or less than 270 days in the case of a motor carrier, is presumed not to be of a continuing nature unless the Commission otherwise expressly determines.

(d) *Final determination of the related application.* For the purpose of this section—

(1) An application for permanent operating authority shall be considered to be "finally determined": (i) With respect to operations for which the application is denied, upon the expiration of the period allowed by the regulations of the Commission or by the decision (whichever is greater) within which appeals may be filed; or, if an appeal is filed, upon the denial of the appeal; and (ii) with respect to operations for which the authority is granted, when the certificate or permit becomes effective.

(2) An application for approval of a consolidation or merger of the properties of two or more motor or water carriers, or of a purchase of the properties of one or more such carriers shall be considered to be "finally determined": (i) In the case of denial of such an application, upon the expiration of the period allowed by the regulations of the Commission or by the decision (whichever is greater) within which appeals may be filed; or, if an appeal is filed, upon the denial of the appeal; and (ii) in the case of approval of such an application, when the certificate or permit to be transferred in connection with such application has been reissued in the name of the transferee and has become effective.

(3) An application for approval of a lease or contract to operate the properties of one or more motor or water carriers shall be considered to be "finally determined": (i) In the case of denial of such an application, upon the expiration of the period allowed by the regulations of the Commission or by the decision (whichever is greater) within which an appeal may be filed; or, if an appeal is filed, upon the denial of the appeal, and (ii) in the case of approval of such an application, when the decision approving such application becomes effective.

(e) *Temporary authority.* Except where otherwise noted, as used in this part the term "temporary authority" excludes "emergency temporary authority."

§ 1163.3 Additional grant for new need.

As used in 49 U.S.C. 10928(a), the term "not more than 180 days" means the total number of days of temporary authority which may be granted to a water carrier under the provisions of that section to meet a continuing need for a particular service. As used in 49 U.S.C. 10928(b)(1) the term "not more than 270 days" means the total number of days of temporary authority which may be granted to a motor carrier under the provisions of that section to meet a continuing need for a particular service. If the need for a particular service ceases and the temporary authority covering such need expires or is revoked, and a new or separate need arises subsequent to such expiration or revocation, additional temporary authority may be granted to the same carrier for the service notwithstanding the prior grant or grants. However, an application or series of applications filed by a water carrier seeking temporary authority resulting in an aggregate grant exceeding 180 days and an application or series of applications filed by a motor carrier seeking temporary authority resulting in an aggregate grant exceeding 270 days will be denied unless the facts clearly show that the application is based on a new need and not on a continuation of the need on which the prior grant of authority was based. Any corresponding temporary authority may be based on the same need as the underlying emergency temporary authority.

§ 1163.4 Termination of temporary authority or approval.

Nothing in this part shall be construed as preventing the Commission from terminating at any time, in accordance with applicable law and regulations, any temporary or emergency temporary authority or approval, or any extension of these.

Appendix B

Issue the following amended Special Permission decision:

Interstate Commerce Commission Decision, Special Tariff Authority No. 78–1000–TA, Cancels Special Permission and Special Tariff Authority No. 78–1000–TA, Issued December 19, 1977 and Extended and Reinstated February 24, 1983; Establish Rates on One Day's Notice To Cover Temporary Authority

Decided: October 14, 1983.

Special Permission and Special Tariff Authority No. 78–1000–TA was entered on December 19, 1977, to implement an automatic procedure to authorize the publication of rates on temporary authority on less than 30-days' notice. It was extended and reinstated on Febraury 24, 1983, after it was inadvertently allowed to lapse. These permissions allowed carriers to respond to the "immediate need" for the service. The permissions were restricted to apply only when the rates established were no lower than effective competing rates. Five-days' notice was authorized when the publishing carrier identified the tariff containing the competing rates and ten-days' notice was authorized when the tariff was not identified.

In Ex Parte No. MC–67 (Sub-8), *Rules Governing Temporary Authority and Emergency Temporary Authority*, the Commission proposed that the above restriction be eliminated and that one-day's notice be authorized. The majority of the comments support the proposal and we will adopt it for the reasons stated in the final decision.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

(1) Motor or water carriers authorized to perform transportation service under temporary authority under 49 U.S.C. 10928 may file and post rates, on not less than one-day's notice, to apply on the transportation services to be performed under a particular temporary authority. The rates may be published either in tariffs issued by a carrier or issued by a carrier's tariff publishing agent. If the temporary authority decision indicates that the authority may not become effective sooner than a specified date, the rates may not become effective prior to that date. The publication must be in the possession of this Commission in Washington, DC, at least one day before the effective date.

(2) The authority granted here may be used only for the purpose of establishing *Initial Rates* on not less than one-day's notice to cover services to be performed under a particular temporary authority. In all other respects, the publication

filed shall comply with all effective governing regulations.

(3) The rates published under this authority may not exceed the geographic or commodities scope of the temporary operating authority granted by this Commission. Rates may, however, be published to reflect less than the entire authority granted.

(4) The docket number, including the sub-number, if any, shall be shown in connection with the rates established.

(5)(a) All tariff and schedule matter filed shall show on the title page of the tariff, schedule, or supplement, on the page, or directly with the rates or provisions, as appropriate, the following notation:

Expires with the same date with which the temporary operating authority in Docket No. (here insert appropriate docket No.) expires.

(5)(b) Carriers not filing on short notice under this authority are authorized to depart from the appropriate regulations to show the expiration notation set forth in Paragraph (7)(a) in lieu of an explicit expiration date. These publications need not refer to this authority.

(5)(c) Publications filed on short notice should show the following notation in connection with such matter:

Issued on one-day's notice: ICC Tariff Authority No. 78-1000.

(6) If emergency temporary operating authority (ETA) rates applicable on the same traffic are not indicated to expire before the effective date of the rates proposed, the "TA" publication filed, concurrently with its effective date shall cancel the "ETA" publication.

(7) The authority granted shall not be construed as granting approval of the contents of the publication.

(8) Except as otherwise authorized, this permission does not modify any outstanding formal orders of the Commission, nor waive any of the requirements of its rules relative to the construction, filing, and posting of tariff or schedule publications.

(9) This permission shall become effective December 13, 1983, and shall remain in effect until revoked, suspended, or modified by the Commission.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30398 Filed 11-9-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 437]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 240,000 cartons during the period November 13–19, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 13, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 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 final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon recommendations and information submitted by the Lemon 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 currently in effect. The committee met publicly on November 8, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

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 purposes 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 purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona lemons

PART 910—[AMENDED]

Section 910.737 is added as follows:

§ 910.737 Lemon regulation 437.

The quantity of lemons grown in California and Arizona which may be handled during the period November 13, 1983, through November 19, 1983, is established at 240,000 cartons.

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

Dated: November 9, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-30712 Filed 11-9-83; 12:16 pm]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 48, No. 219
Thursday, November 10, 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

Agricultural Marketing Service

7 CFR Part 42

United States Standards for Condition of Food Containers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend two labeling, marking, or coding defects of the United States Standards for Condition of Food Containers by rewording one of the defect into more dimplified, meaningful language and reclassifying another defect from a minor to a major category.

DATE: Comments must be received on or before December 12, 1983.

ADDRESS: Written comments can be mailed to James L. Pearson, Director, Market Research and Development Division, Agricultural Marketing Service, South Building, Washinton, D.C. 20250. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Roger L. Luttrell, (202) 475–4951.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

An initial determination has been made that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant 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.

Effect on Small Entities

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed aciton will not have a significant economic impact on a substantial number of small entities.

Comments

Interested persons are invited to submit written comments concerning these proposed amendments. Comments must be sent in duplicate to the Market Research and Development Division and should bear a reference to the date and page number of this issue of the **Federal Register.** Comments submitted pursuant to this document will be made available for public inspection in the Washington, D.C. Market Research and Development Division during regular business hours.

Background

The United States Standards for Condition of Food Containers provide sampling procedures and acceptance criteria for the inspection of lots and portions of production of filled food containers. These standards are concerned only with external defects such as dents in cans or torn areas in fiberboard containers.

Within the defects in § 42.113 Defects of label, marking, or code; Table VIII., the Department of Defense requested the proposed revisions in order to obtain more definitive and appropriate container requirements for military food purchases, with potential application for civilian agencies.

Current language of one defect worded "Torn or scratched, obliterating any markings on the label (military purchases)" has been requested to read "Text illegible or incomplete (military purchases)". Reasons given for this proposal include clarity and so that any illegibility or incompleteness of product identification labeling, marking, or coding would be classified as a major defect in military procurements.

Another defect, "Incorrect" presently categorized as a minor defect is requested to be reclassified as a major defect for both military and civilian agencies. The reason for this proposal is that application of an incorrect label, marking, or code would not permit correct product identification. This defect should be considered as a major defect.

From these changes both military and civilian agencies will receive greater assurance that the contents of food containers are meaningfully described by the respective labels, markings, or codes.

Lists of Subjects in 7 CFR Part 42

Foods, Packaging and containers.

PART 42—STANDARDS FOR CONDITION OF FOOD CONTAINERS

In consideration of the foregoing, the proposed amendments to the standards related to the condition of food containers (7 CFR Part 42) for § 42.113 Defects of label, marking, or code; Table VIII, are as follows:

1. Change major defect number 103 to read "Text illegible or incomplete (military purchases)".

2. Change minor defect number 204 ("Incorrect") to be major defect number 104 ("Incorrect").

3. Renumber minor defect number 205 ("In wrong location") as minor defect number 204 ("In wrong location").

Section 42.113 (Table VIII) is revised to read:

§ 42.113 Defects of label, marking, or code; Table VIII.

Table VIII.—Label, Marking, or Code

Defects	Categories	
	Major	Minor
Not specified method	101	
Missing (when required)	102	
Loose or improperly applied		201
Torn or mutilated		202
Text illegible or incomplete (military purchases)	103	
Text illegible or incomplete		203
Incorrect	104	
In wrong location		204

(Sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; (7 U.S.C. 1622, 1624))

Done at Washington, D.C. on November 4, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service.

[FR Doc. 83-30445 Filed 11-9-83; 8:45 am]

BILLING CODE 3410-02-M

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations—Standards for Approval; Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to issue a new subpart in Chapter IV of Title 7 of the Code of Federal Regulations, effective for the 1984 and succeeding crop years, prescribing certain financial standards and financial reporting requirements applicable to all Reinsurance Agreements, to be known as 7 CFR Part 400—General Administrative Regulations—Subpart G. Standards for Approval; Reinsurance Agreements.

The intended effect of this proposed rule is to establish financial standards and financial reporting requirements applicable to private companies entering into Reinsurance Agreements with FCIC.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 9, 1984, 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 USDA 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 March 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 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.

The ratios used in these financial standards were developed and tested by the National Association of Insurance Commissioners (NAIC), insurance regulatory information system (IRIS). The primary use of these ratios is to assist State Insurance Departments in executing their statutory mandates to oversee the financial condition of insurance companies operating in their states. The Federal Crop Insurance Corporation herein uses the same eleven ratios, the same "usual range" criteria, and the same criteria to determine financial solvency as the NAIC.

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 400

Administrative practice and procedure, Reinsurance agreements, Standards for approval.

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 proposes to add a new Subpart G to Part 400 of Title 7 of the Code of Federal Regulations, effective for the 1984 and succeeding crop years, to read as set forth below:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart G—Standards for Approval (Financial Standards); Reinsurance Agreement—Regulations for the 1984 and Succeeding Crop Years

Sec.

Authority: Secs. 506, 507, 508, Pub. L. 75–430, 52 Stat. 73, 74, as amended (7 U.S.C. 1506, 1507, 1508).

§ 400.50 Applicability of standards for approval (financial standards).

The financial standards contained herein shall be applicable to the Reinsurance Agreement, effective for the 1984 and subsequent crop year sales. The definitions, ratios and other criteria used to determine the financial solvency of an insurance company which enters into a Reinsurance Agreement with the Federal Crop Insurance Corporation are based on the insurance regulatory information system (IRIS) of the National Association of Insurance Commissioners.

§ 400.51 Definitions.

For the purpose of these financial standards, "the Corporation" means the Federal Crop Insurance Corporation, and:

(a) "Agents Balance to Surplus" means the measurement of the degree to which solvency depends upon an asset which frequently cannot be realized in the event of liquidation.

(b) "Annual Statement" means the financial statements, together with related exhibits, schedules and explanations therein contained, of the insurance company seeking to contract as a reinsured company which are submitted annually to the insurance department of the State in which the insurance company is domiciled.

(c) "Change in Surplus Ratio" means the ultimate measure of the improvement or deterioration in the company's financial condition during the year. The ratio is the difference between surplus at the end of the current year and the surplus at the end of the prior year. For this ratio, the stated surplus for each year is adjusted for deferred acquisition expenses.

(d) "Change in Writings" means major increases or decreases in net premiums written which could indicate a lack of stability in the company's operations.

(e) "CPA" means a Certified Public Accountant who is licensed as such by the State in which he/she practices.

(f) "CPA Audit" means a professional examination conducted in accordance with generally accepted auditing standards on the basis of which the auditor expresses an independent professional opinion respecting the fairness of presentation of the financial statements.

(g) "Current Assets" means assets, including cash, that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business or within one year, if the operating cycle is shorter than one year.

(h) "Current Liabilities" means are those liabilities, expected to be satisfied by either the use of assets classified as current in the same balance sheet, or the creation of other current liabilities, or those expected to be satisfied within a relatively short period of time.

(i) "Estimated Current Reserve Deficiency to Surplus" means the estimated current reserve deficiency, taken as a percentage of surplus, which provides an estimate of the adequacy of current reserves. Current reserves are the current unidentified portion of net assets, in a stated amount, held or retained for the purpose of paying claims. The estimated deficiency is the difference between the estimated reserves required by the company and the actual reserve maintained.

(j) "Financial Statements" means the documents submitted to the Corporation by an insurance company applying for a Reinsurance Agreement which have been audited by a CPA for the most recent fiscal year and include the balance sheet, the statement of income, the statement of retained earnings, and the statement of changes in financial position.

(k) "Investment Yield" means the net investment income as a percentage of the average invested assets during the year providing an indication of the general quality of the company's investment portfolio.

(l) "Liabilities to Liquid Assets Ratio" means the ratio representing liabilities taken as a percentage of liquid assets. Liquid assets are calculated as total cash, invested assets plus accrued invested income, and installment premiums booked but deferred and not yet due, minus any investments in affiliated companies, and minus any investment in real estate which exceed five percent of liabilities. An affiliated company is a company that directly or indirectly controls, is controlled by, or is under the control of the reinsured company.

(m) "One Year Reserve Development to Surplus" means the one-year reserve development to surplus measurement for accuracy with which reserves were established the previous year, and provides an indirect indication of management's opinion of the adequacy of surplus.

(n) "Premium to Surplus Ratio" is a measurement of the adequacy of a company's surplus for absorbing above-average losses.

(o) "Reinsurance Agreement" means the agreement between the Corporation and a private insurance company which provides the terms and conditions under which the private company enters into a contract with the Corporation for acceptance of surplus of crop insurance policy writings.

(p) "Surplus Aid to Surplus Ratio" is an indication that surplus may be adequate. Surplus is the total capital funds shown in the Financial Statement. The surplus aid consists of commissions on ceded reinsurance unearned premium. The ratio is determined by multiplying the ratio between ceded commission and ceded premium for all reinsurance ceded by the amount of unearned premium on reinsurance to all nonaffiliated companies.

(q) "Two Year Overall Operating Ratio" is the measure of profitability of an insurance company. It is the combination of three ratios: the loss ratio, plus the expense ratio, minus the investment income ratio.

(r) "Two Year Reserve Development to Surplus" means the two-year reserve development to surplus measurement of accurancy with which reserves were established two years ago and provides an indirect indication of management's opinion of the adequacy of surplus.

(s) "Unqualified Opinion" means the opinion of a CPA which states that the financial statements present fairly the financial position, results of operations, and changes in financial position in conformity with generally accepted accounting principles without exception.

(t) "Usual Range" means the range of ratio results which have been established by the National Association of Insurance Commissioners from studies of the ratios for companies that have proven to be solvent or have experienced no financial difficulties in recent years.

(u) "Waiver" means the approval given by the Corporation to waive the requirements of the Financial Standards when the insurance company submits an accepted plan to eliminate a deficiency in the applicant's financial position.

§ 400.52 Certification of submissions.

The insurance company will submit to the Corporation a copy of the latest annual statement which it filed with the State Insurance Commission of the State in which it is domiciled. The statement, which may be a reproduction of the original, shall be signed by the President and another officer of such insurance company. The Corporation may require the insurance company to submit the latest insurance department examination report, the latest loss reserve certification which was filed with the regulatory authorities, and the latest letters relating to the adequacy of the company's internal control which resulted from an independent audit of their firms.

§ 400.53 Notification of deviation from financial standards.

An insurance company which holds a Reinsurance Agreement with the Corporation, shall advise the Corporation immediately if it deviates from compliance requirements of the Financial Standards. The Corporation may require the insurance company to update during the year its annual statement or certified financial statement, if the Corporation determines such submission is necessary. If such deviation is not corrected in a reasonable time, as determined by the Corporation, the Corporation may implement the provisions of Subsection § 400.54 of this part.

§ 400.54 Revocation, nonacceptance, and transfer of business.

(a) An insurance company will be denied a Reinsurance Agreement if: (1) The annual statement is not in compliance with the provisions of the part; or (2) material false and misleading statements have been made in preparation of the annual statement, or any data contained therin. Violation of the provisions contained in this subsection shall also be grounds for revocation of an existing Reinsurance Agreement, whether such violations were discovered during the process of filing an application for, or after the issuance of, a Reinsurance Agreement.

(b) In the event of revocation of the Reinsurance Agreement between the Corporation and an insurance company, all policies obtained by the company subsequent to the time of revocation will not be reinsured by the Corporation. Policies in effect at the time revocation will continue to be reinsured by the Corporation for the balance of the crop year then in effect.

§ 400.55 Qualifications for acceptability.

(a) The following financial ratios will be used in determining the acceptability of the insurance company:

	Unusual Values (in percent) equal to or	
	Over	Under
1. Premium to Surplus	300	
2. Change in Writings	33	-33
3. Surplus Aid to Surplus	25	
4. Two Year Overall Operating Ratio	100	
5. Investment Yield		5.0
6. Change in Surplus	50	10
7. Liabilities to Liquid Assets	105	
8. Agent's Balances to Surplus	40	
9. One Year Reserve Development to Surplus	25	
10. Two Year Reserve Development to Surplus	25	
11. Estimated Current Reserve Deficiency to Surplus	25	

Although all data will be evaluated independently a company must be in the relevant range in at least seven of the eleven ratios.

(b) In the absence of other adverse information, if the insurance company's financial position is considered by the Corporation to be less than acceptable, the Corporation may, upon presentation and acceptance by the Corporation of a plan determined by the Corporation to be satisfactory to eliminate the deficiencies in the financial position of the insurance company, grant a waiver of the provisions of the Financial Standards under the provisions of § 400.56 of this Part.

§ 400.56 Qualifications less than acceptable; waiver.

Notwithstanding the provisions of § 400.54, the Corporation may also grant a waiver of the Financial Standards when the insurance company submits a plan determined by the Corporation to be satisfactory to eliminate the deficiency causing the insurance company's annual statement to be less than acceptable. In such cases, consideration will be given to:

(a) The insurance company with a B+ rating or higher in the latest "Best's Insurance Reports," or, if less than a B+, or unrated in Best's, the most recent listing of "Surety Companies Acceptable on Federal Bonds," may be considered. The company's approval under the provisions of Department of the Treasury Circular No. 570 may also be considered.

(b) Submission of financial statements which have been examined by a CPA. These statements are to be certified and have an unqualified opinion, a ratio of current assets to current liabilities of at least 1.2 to 1, and adequate surplus to meet the company's share of potential losses. Surplus will be deemed adequate if the insurance company's projected retained risk exposure (potential underwriting losses) on multi-peril crop insurance policies (MPCI) after the Corporation and other reinsurance approved by the Corporation does not exceed 10 percent of the company's surplus for writings in any single risk area, and 25 percent of surplus for the retained MPCI risk exposure over all areas. A risk area shall be considered as a state except for states which the Corporation may, at its option, consider as more than one risk area.

(c) Proof of irrevocable sources of surplus that will be provided to meet potential company obligations allowing the insurance company to meet the requirements of paragraph (b) of this section.

(d) Guarantees in the form of agreements between an insurance company and a company which has a working agreement with the insurance company to assume the financial responsibility in the event of failure of the insurance company to meet its financial obligations.

(e) Schedule P of the annual statement will be reviewed to determine the adequacy of loss reserve establishment for the combined lines of business.

(f) Other financial information deemed relevant by the Corporation. This information may be obtained from insurance commissioners, industry leaders, lending institutions, advisory boards, and other sources the Corporation deems relevant.

§ 400.57 OMB control numbers.

Information collection requirements contained in these regulations (7 CFR Part 400—Subpart G) 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.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: November 3, 1983.

[FR Doc. 83-30383 Filed 11-9-83; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 436

[Amdt. No. 2]

Tobacco (Guaranteed Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Tobacco (Guaranteed Plan) Crop Insurance Regulations (7 CFR Part 436), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read; (2) adding volcanic eruption as an insurable cause of loss; (3) adding a provision regarding the insurability of irrigated acreage where no irrigated practice is established by the actuarial table; (4) adding a provision which provides for determination of indemnities based on the acreage report rather than at loss adjustment time; (5) providing a coverage level in the event that an insured does not select one; (6) providing procedures for reporting a loss when a loss is probable; (7) adding a 60-day claim for indemnity provision; (8) adding a hail/fire provision for appraisals of uninsured causes; (9) adding a section regarding appraisals following the end of the insurance period; (10) changing the cancellation/termination dates to conform with farming practices; (11) providing that any change in the policy will be available in the service office by a certain date; (12) revising the market price definition to allow for the use of the preceding crop year's average market price in loss determinations on acreage released prior to harvest; (13) adding a definition for "service office;" (14) revising the unit definition to provide 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 7 CFR Part 436 to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements. The intended effect of this rule is to update the policy for insuring tobacco (Guaranteed Plan) in accordance with 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.

DATE: Written comments on this proposed rule must be submitted not later than January 9, 1984, 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 USDA 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 436

Crop insurance, Tobacco (guaranteed plan).

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 proposes to amend the Tobacco (Guaranteed Plan) Crop Insurance Regulations (7 CFR 436), effective for the 1984 and succeeding crop years, in the following instances:

PART 436—[AMENDED]

1. The Authority citation for 7 CFR Part 436 is:

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

2. 7 CFR Part 436 is amended in the Table of Contents thereof by removing the word "Reserved" from § 436.3 and inserting, in its place, the words "OMB control numbers."

3. 7 CFR 436.3 is amended by removing the word "Reserved" in the title thereof and inserting, in its place, the following:

§ 436.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 436) 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.

§ 436.7 [Amended]

4. 7 CFR 436.7(d) is amended by revising the Tobacco (Guaranteed Plan) Crop Insurance Policy as follows:

Department of Agriculture—Federal Crop Insurance Corporation

Guaranteed Production Plan of Tobacco 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) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

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 tobacco farming 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 tobacco of the type shown as insurable in the actuarial table and which is 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 tobacco planted 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 tobacco at the time of planting.

d. We do not insure any acreage:

(1) On which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed, we determine it is practical to replant to tobacco, and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table, unless you sign our form agreeing to coverage reduction;

(6) Planted to tobacco of a discount variety under the provisions of the tobacco price support program;

(7) Planted to a type or variety of tobacco not established as adapted to the area or excluded by the actuarial table; or

(8) Tobacco grown for experimental purposes.

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 tobacco irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good tobacco irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, 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.

Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated as irrigated at the time acreage is reported.

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 planting.

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

a. All the acreage of insurable types of tobacco in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any tobacco planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We 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 Levers, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. The production guarantee shall be reduced by 35 percent for any unharvested acreage.

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

d. 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 of planting. 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 of planting, 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]

	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															
Loss ratio [2] through previous 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	108	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 farming operating; or

(3) Your contract if you stop farming in one county and start farming 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.* Insurance attaches when the tobacco is planted and ends at the earliest of:

a. total destruction of the tobacco;

b. weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. April 15 immediately following the normal harvest period.

8. *Notice of Damage or Loss.*

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the tobacco on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tobacco and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given. Where harvest of the unit is to be completed within 7 days of the date notice of probable loss is given, a representative sample of the tobacco (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) Notice shall be given immediately if any insured tobacco is destroyed or damaged by fire during the insurance period.

(5) 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 tobacco on the unit;

(b) The date marketing or other disposal of the insured tobacco is completed on 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 tobacco which is 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 tobacco on the unit;

(2) the date marketing or other disposal of the insured tobacco on the unit is completed; 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 tobacco 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 tobacco 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) Tobacco production which, due to insurable causes, has a value less than the market price for tobacco of the same type, shall be adjusted by:

(a) Dividing the value per pound by the market price per pound; and

(b) Multiplying the product by the number of pounds of such tobacco.

(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 tobacco farming 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 uninsured cause;

(c) Only the appraisal in excess of 35 percent of the production guarantee for all other 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 tobacco becomes general in the country;

(b) Is harvested; or

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

(4) We may determine the amount of production of any unharvested tobacco on the basis of field appraisals conducted after the end of the insurance period.

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

(6) The commingled 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 priority 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 will we be liable for interest or damages 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 the tobacco is planted for any crop year, any indemnity 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 shall 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 of 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 be 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 tobacco 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 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 April 15.

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 will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. 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 tobacco 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 where applicable, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

b. "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.

c. "Crop year" means the period within which the tobacco is normally grown and shall be designated by the calendar year in which the tobacco is normally harvested.

d. "Harvest" means: (1) the completion of cutting or priming of tobacco on any acreage; (2) from which acreage at least 20 percent of the production guarantee per acre shown in the actuarial table cut or prime.

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

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

g. "Market price" means the average price determined by us for the applicable type of tobacco. Such price shall be the:

(1) Average price for the preceding crop year for any unit which is not to be harvested; or

(2) The average price for the current crop year for any unit or part thereof which is harvested.

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. "Planting" means transplanting the tobacco plant from the bed to the field.

j. "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.

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

l. "Unit" means all insurable acreage of an insurable type of tobacco in the county on the date of planting 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 tobacco 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 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

Dated November 23, 1983.

Peter F. Cole

Secretary, Federal Crop Insurance Corporation.

Approved By:

Merritt W. Sprague,

Manager.

[FR Doc. 83-30366 Filed 11-9-83; 8:45 am]

BILLING CODE 3401-08-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 111

Pollution Control Financing Guarantee

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposed to revise the pollution control financing guarantee rules. This proposed revision is necessary to update the regulations due to changes designed to restate, clarify, expand and simplify various sections of the regulations.

DATE: Interested persons are invited to submit written comments before December 12, 1983. Late filed comments will be considered so far as practicable.

ADDRESS: Communications should be sent to the Associate Administrator for Finance and Investment, Room 800, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Vincent A. Fragnito, Chief, Pollution Control Financing Guarantee Branch, Office of Special Guarantees 4040 N. Fairfax Drive, Arlington, VA 222202 703-235-2902.

SUPPLEMENTARY INFORMATION: It is proposed to revise Part 111 for several reasons. The existing rules need technical improvement by deleting some provisions and definitions which are not needed and incorporating others to recognize that guarantees are available to support financings of pollution control facilities when the funds are derived from sources other than sales of industrial revenue bonds.

Due to the discontinuance of guarantees in support of bonds on which interest is excludable from the holders' income for Federal income tax purposes, it has become necessary to adjust the program to taxable financings and broaden it in other respects.

For the above purposes the following changes in Part 111 are proposed:

Sec. 111.2 *Policy.* This section would be amended to eliminate the language relating to industrial revenue bonds and to repeat portions of Section 404 of the Small Business Investment Act. Sec.

111.3 *Definitions.* The definition of "Administration" will be deleted. "Default" will be redefined. "Escrow" will be redefined. The definition of "Facility" will be retained. The definition of "Financing Disadvantage" will be a new definition. The definitions of "Guarantee Fee", "Issuer" and "Participant" will be omitted. New definitions will be provided for "Obligee" and "Operational Disadvantage". The definition of "Person" will be shortened. The definition of "Processing and Administrative Fee" will be deleted. The definitions of "Qualified Contract" and "SBA" will be retained. The definition of "Small Concern" and "Sponsor" will be shortened.

Sec. 111.4 *Eligibility.* This section would be amended by eliminating subsection (b) because it is a duplication of the definition of "Small Concern" and by clarifying subsection (d) to include a substantially related activity within the requisite experience.

Sec. 111.5 would be amended to eliminate the requirement that the applicant file the qualified contract with the application and to consolidate and revise (c)(5) and (6) as set forth in proposed (c)(4)(i) and (ii).

Sec. 111.7(b) would be expanded to include within the unquantified maximum amount of SBA's guarantee the "soft" or non-construction costs of financing the Facility. As revised this subsection would limit the guarantee to three years of interest. Although subsection (d) as it relates to the computation of the guarantee fee would not be mathematically changed, the limitation of guaranteed interest to three years of interest would result in a smaller guarantee fee. Sec. 111.10 would be changed to require SBA to pay the unpaid guaranteed amount within three

years of an uncured default. It is expected that this reduction in guarantee fee will compensate to a degree for the discontinuance of tax free financing.

As revised Sec. 111.7(b) would also reflect that the maximum guarantee is applicable to each "Facility" (rather than to each Small Concern) in the amount of $5,000,000 in principal plus the related costs of financing (including the escrow deposit, SBA's fees, the costs of issuance and sale of financing instruments, fees for attorneys and others) and the acceptance fee for any trustee or escrow agent. All related costs would be subject to SBA's approval.

Sec. 111.7(c) currently sets forth SBA's processing and administrative fee. This amount of fee has been inadequate to defray the costs of conducting the program. It is therefore proposed to increase this fee to $2,500 + ($100 × number of years of Qualified Contract). As revised this section would reflect this increase and provide that none of the fee is refundable.

Sec. 111.7 would be amended to require the qualified contract to be submitted before SBA issues its guarantee, instead of with the application therefore, and to provide that the escrow fund, if drawn upon, must be replenished within a time limit established by SBA. It would also provide that the obligee notify SBA of a default within 30 days.

Sec. 111.9 and 111.10. The proposed changes in the sections are editorial in nature.

A new Section 111.11 is proposed to clarify the statutory right of SBA to indemnification from the Small Concern and to state SBA's rights against any other Person who may be required by SBA to sign an Indemnification Agreement.

For the purposes of Executive Order 12291, SBA hereby determines that this proposed revision of Part III would not constitute a major rule because it is not likely to result in an annual effect on the economy of $100 million or more.

For the purpose of the Regulatory Flexibility Act, 5 USC 601 *et seq.* SBA has determined that certain of these proposed rules, if promulgated in final form, will have a significant economic impact on a substantial number of small businesses.

These individual regulations are indentified below, and an initial regulatory flexibility analysis for each such proposal is also provided in each instance.

(1) Sec. 111.7(b) would expand the maximum guarantee available to include related "soft" or non-construction costs of financing but limit the interest to be included in the maximum guarantee to the first three years of interest. This section would also apply the maximum guarantee to the Facility rather than to the Small Concern. The reduction of the number of years of interest to be guaranteed from the total years of a Qualified Contract to the first three years of the Qualified Contract would lower the amount of SBA's guarantee fee.

Objectives: To reduce the cost of the guarantee and make taxable financings for Small Concerns as economical as tax free financings which were discontinued.

Legal basis: Section 404 of the Small Business Investment Act.

Small entities affected: The number of small entities affected will depend upon the number of applicants for assistance.

Increased recordkeeping: None.

Federal rules duplicated: None.

Alternatives considered. Obtaining participation in the guarantee by the private sector: This proved impracticable because private obligations could not be said to be a full faith and credit guarantee in accordance with sec. 404 of the Small Business Investment Act. Reducing the guarantee fee was considered but was found to be of less financial benefit to an applicant than reducing the years of interest to be guaranteed. There are no significant alternatives to this proposed rule which accomplish the stated objective and which minimize significant economic impact on small entities.

(2) Sec. 111.7(c) would increase SBA's processing and administrative fee in order to defray the costs of conducting the program.

Objective: To recover administrative costs of conducting the program.

Legal basis: Section 404(c) of the Small Business Investment Act.

Small entities affected: The number of small entities affected will depend upon the number of applicants for the assistance.

Increased recordkeeping: None.

Federal rules duplicated: None.

In addition, there are no significant alternatives to this proposed rule which accomplish the stated objective of the applicable statutory provision and which minimize significant economic impact on small entities.

List of Subjects in 13 CFR Part 111

Environmental protection, Pollution control, Loan programs, Business, Small business.

Information collections from the public covered by the Paperwork Reduction Act that appear in this part have been cleared by the Office of Management and Budget under control number 3245–0020. the promulgation of this amendment does not *add* any reporting or recordkeeping burden on the public.

Accordingly, pursuant to Sec. 308(c) of Title III, Small Business Investment Act of 1958, as amended [15 U.S.C. 687(c)], the following revision of Part 111 of Title 13, Code of Federal Regulations, is proposed for adoption.

PART 111—POLLUTION CONTROL

Sec.

Authority: 15 U.S.C. 634(b)(6), 694–1 and 694–2.

§ 111.1 Statutory provisions.

The statutory provisions will be found at 15 U.S.C. 694–1 and 694–2.

§ 111.2 Policy.

It is the intent of Congress to assist existing Small Concerns including solid or liquid waste disposal concerns, which are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control Facilities, or the obtaining of financing therefor, by authorizing SBA to guarantee fully (100 percent), directly or in cooperation with others, the periodic payments due in connection with the purchase or lease of such Facilities under a Qualified Contract. The guarantee shall be a full faith and credit obligation of the United States.

§ 111.3 Definitions.

Terms defined in this section are capitalized throughout this part.

For purposes of this part:

"Default" means failure of the Small Concern to make payment of the guaranteed amounts due within the time required under a Qualified Contract, or within such additional time (grace period) as may be provided by such contract. Payments from the Escrow shall not cure a Default.

"Escrow" means an amount initially not to exceed one-fourth of the average annual payments for which a guarantee is issued, and interest accrued thereon, to be held by a trustee, escrow agent or SBA, and which shall be available to

meet any payments in Default, or if no Default in payment occurs during the term of the Qualified Contract, to be applied (with accrued interest, if any) toward final payments under the Qualified Contract.

"Facility" means such property (both real and personal) as SBA in its discretion determines is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as SBA determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste, including any related resource recovery property when such recovery property is stated to be useful for pollution abatement by a local, State or Federal environmental regulatory authority.

"Financing disadvantage" means the inability to obtain financing on terms comparable to those available to business concerns not meeting SBA size standards, see Part 121 of this chapter.

"Obligee" means the Person to whom SBA guarantees the payments under the Qualified Contract, or (subject to SBA's prior written approval) that Person's assignee.

"Operational disadvantage" means the need to acquire a Facility.

"Person" means individual and legal entities of every description, including Governmental entities.

"Qualified Contract" means a lease, sublease, loan agreement, installment sales contract, or similar instrument, meeting the requirements of § 111.8, entered into between a Small Concern and any Person.

"SBA" means the U.S. Small Business Administration 1441 L Street, NW., Washington, D.C. 20416.

"Small Concern," including its affiliates (as defined in § 121.3–2(a) of this chapter), means a concern which qualifies as a small business under § 121.3–16 of this chapter.

"Sponsor" means a commercial bank (usually the bank of account of the Small Concern) which assists the Small Concern in preparing its application for SBA assistance.

§ 111.4 Eligibility.

In order to be eligible for a guarantee under this part the Small Concern must:

(a) Be independently owned and operated and not dominant in its field and must be eligible under SBA loan policy as defined in Part 120 of this chapter.

(b) Be at an Operational of Financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control Facilities, or the obtaining of financing therefore, or likely to suffer such disadvantage.

(c) Have been in operation and engaged in the same activity, or a substantially related activity requiring such guarantee, either itself or through an affiliate (as defined in § 121.3–2(a) of this chapter) for at least five years, and have a history of profitable operations during any three of its last five fiscal years preceding the date of the application, or provide evidence to support a credit determination by SBA that the equivalent of such operation exists.

(d) Provide evidence from a local, State or Federal environmental regulatory authority that the Facility meets the terms of the definition in § 111.3 above.

§ 111.5 Procedure for guarantee applications.

(a) Form: An application for guarantee shall be made on SBA Forms 1136 and 1136A and shall include all pertinent information required in supporting schedules and exhibits. These information collection requirements are approved under OMB approval number 3245–0020.

(b) Place of filing: The application shall be submitted to the Sponsor for transmission to SBA's Office of Special Guarantees at the above address. The Sponsor reviews and analyzes the credit and financial data of the Small Concern and issues an opinion (1) on the Small Concern's creditworthiness in accordance with its and SBA's established credit criteria and requirements, and (2) as to the Operational or Financing disadvantage of the Small Concern for the financing required.

(c) Approval or denial of applications: No application for guarantee shall be approved unless the following conditions are met to SBA's satisfaction:

(1) There is a reasonable expectation that the Small Concern will perform all the terms, convenants, and conditions of the Qualified Contract.

(2) The terms, convenants, and conditions of the Qualified Contract have been approved by SBA.

(3) SBA will not guarantee any Qualified Contract when the Sponsor or any participant in the transaction, or an associate (as defined in § 120.1(d) of this chapter) or either, has a direct or indirect equity interest in the Small Concern.

(4) SBA will not guarnatee any obligation under a Qualified Contract for any of the following purposes, unless SBA shall have first made a written determination that such purpose is in the best interests of the Small Concern:

(i) Financing, directly or indirectly, the purchase of property or services from its sponsor, any other participant in the financing or any of their associates, as defined in § 120.1(d) of this chapter;

(ii) Refinancing an existing obligation relating to a Facility, unless the refinancing is not available without SBA's guarantee and will not violate § 120.2(d)(1) of this chapter.

§ 111.6 Participation agreement.

SBA may enter into a participation agreement with a qualified surety company or other qualified company to share in the risk of loss under the guarantee.

§ 111.7 Terms of guarantee and fee.

(a) The repayment period will be in accordance with the applicant's ability to repay, but shall not exceed 30 years.

(b) SBA's guarantee of a Qualified Contract for each Facility shall not exceed $5,000,000 in principal amount, plus related costs. Related costs are subject to SBA approval and include the Escrow; SBA's Guarantee and Processing and Administrative Fees; cost of issuance and sale of the financing instruments including attorney's fees; consultant, management, trustee or escrow agent's fees; and an amount not to exceed the first three years' interest.

(c) The Processing and Administrative Fee shall be computed as follows: $2,500 + ($100 × number of years of Qualified Contract). Each application shall be accompanied by one half of the Processing and Administrative Fee. The balance of this fee is payable to SBA upon issuance of its guarantee. None of this fee is refundable, regardless of prepayment of the financing guaranteed. If the application is approved, SBA may issue a commitment to guarantee which shall expire in accordance with its terms.

(d) The Guarantee Fee shall be computed as follows: (Amount guaranteed—Escrow × 3.5%.

§ 111.8 Qualified Contract.

Before SBA issues its guarantee, the Small Concern shall submit the Qualified Contract, and related legal and other supporting documents for SBA's approval. (Approved under OMB No. 3245–0020). To be qualified a contract shall provide:

(a) For the acquisition, installation, planning, design, or financing of a Facility.

(b) For any lien or security interest in the Facility that may be determined to be necessary by SBA.

(c) Identification of the parties; description and location of the Facility, the principal indebtedness therefor to be guaranteed (exclusive of those costs or expenses listed in paragraph (d) of this section), the rate of interest thereon and the number, amount and time of payments, which shall be in substantially equal amounts not less frequently than quarterly.

(d) That the Small Concern shall pay all costs related to the use, operation, maintenance, repair of, taxes, or other liens on the Facility, licenses, insurance of any kind, or any expenses in connection with additions, substitutions, or modification of the Facility or any part thereof, in order that the payments to be guaranteed shall be net of the aforesaid expenses.

(e) That costs or expenses exceeding the estimated costs or expenses set forth in the application shall be borne by the Small Concern.

(f) That all available manufacturer's warranties shall vest in the Small Concern upon its acquisition of possession or title to the Facility or any part thereof.

(g) That the Small Concern pay to SBA, the trustee (if any), or an Escrow agent selected jointly by SBA and the Small Concern, an amount equal to one fourth of the average annual guaranteed payments which shall be held in Escrow and invested in direct obligations of, or obligations guaranteed as to principal and interest by, the United States, or in insured savings accounts (up to the amount of the insurance) in any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Escrowed funds not so invested shall be deposited in a bank insured by the Federal Deposit Insurance Corporation or may be (a) invested in time certificates of deposit maturing within one year or less, issued by any bank which is so insured, or (b) deposited in a savings account of such bank. Such Escrow plus interest thereon, if any, shall be drawn upon to meet any payments on which the Small Concern is in Default, or if no Default occurs, for application toward final payments. Any withdrawals shall be replenished by the Small Concern.

(h) That the obligations of the Small Concern to make the payments are absolute and unconditional; that the Small Concern shall have no legal right of setoff, recoupment or counterclaim against any Person; that the obligation shall continue absolute and unconditional in the event of total or partial condemnation of the Facility or the use thereof, or total or partial destruction of the Facility by fire or other hazard.

(i) Events of Default, and a requirement that the Obligee give written notice to the Small Concern and to SBA no later than thirty calendar days after an uncured Default.

(j) Consent of the parties to the Qualified Contract that, upon making payment(s) under its guarantee, SBA shall succeed to the rights of the Obligee to accelerate payments and to collect the arrears with respect to which the Obligee has received such payments. Any collateral pledged as security to such Obligee shall immediately vest in SBA as security for its payment or payments.

(k) An agreement by the Small Concern to keep the Facility insured against such perils in such amounts as is customary and usual for other businesses insuring similar property.

(l) A statement that the instrument contains the entire agreement of the parties, and stipulation of the governing law.

§ 111.9 Minimization of losses.

Depending on the useful life and nature of the Facility, SBA may determine during the processing of an applicatjon whether the Obligee shall mitigate loss. If SBA requires such mitigation, the Obligee shall, as a condition precedent to enforcement of SBA's guarantee, utilize the entire period during which funds are available to Escrow, to make reasonably diligent efforts to avoid or minimize loss. "Reasonably diligent efforts" means such efforts as a prudent person would make if no guarantee were in effect.

§ 111.10 Payments of installments in default.

After the escrow, if any, has been utilized to meet payments on which the Small Concern is in Default, the Obligee shall file a claim with SBA no later than thirty calendar days before the due date of interest payment specified in the Qualified Contract for each additional payment in Default thereafter. SBA shall pay the defaulted payments on or before such due date until the resumption of full payments by the Small Concern or, failing such resumptions, SBA shall accelerate the indebtedness under the Qualified Contract and pay the aggregate unpaid guaranteed amount to the Obligee within three years following the date of the uncured Default.

§ 111.11 Indemnification of SBA.

The Small Concern of any Person obligated to indemnity SBA shall repay SBA for all payments made under the Pollution Control Guarantee, together with interest, at a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the then remaining maturity of the Small Concerns defaulted obligation, adjusted to the nearest one-eighth of one percent, plus reasonable enforcement expenses, including attorney's fees. Such repayments shall be made within thirty calendar days after receipt of notice from SBA of each payment made under such guarantee. No Person holding the Obligee or SBA harmless shall be entitled to any contribution from SBA with respect to such Person's obligation.

Dated: October 7, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-30453 Filed 11-9-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5c

[LR-5-82]

Travel Expenses of State Legislators; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of change of date of a public hearing on proposed regulations relating to travel expenses of state legislators.

DATES: The public hearing will be held on Friday, December 16, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Friday, December 2, 1983.

ADDRESSES: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-5-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-566-3935, not a toll-free call

SUPPLEMENTARY INFORMATION: By a notice appearing in the **Federal Register** for Tuesday, October 25, 1983 (48 FR 49304), it was announced, among other things, that a public hearing on proposed regulations relating to travel expenses of state legislators would be held on Thursday, December 8, 1983, beginning at 10:00 a.m. in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The proposed regulations were published in the **Federal Register** for Tuesday, August 9, 1983 (48 FR 36137).

The date for the public hearing has been changed and it will be held on Friday, December 16, 1983.

Outlines of oral comments must be delivered or mailed by Friday, December 2, 1983.

In all other respects the details with respect to the hearing remain the same.

By direction of the Commissioner of the Internal Revenue:

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-30478 Filed 11-9-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Public Comment and Opportunity for Public Hearing on Proposed Modifications of the Tennessee Permanent Regulatory Program and Proposed Modification of the Deadline for Tennessee To Satisfy a Condition of Program Approval

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing procedures for a public comment period and for a public hearing on the following: (1) The adequacy of proposed amendments to the Tennessee permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and (2) the proposal to extend the deadline for the State to satisfy condition (a) of the Secretary's approval of the State program concerning State laws which conflict with SMCRA. The proposed amendments submitted by Tennessee for OSM's approval include: (a) Modifications intended to satisfy condition (k) of the Secretary's approval of the Tennessee program concerning procedures for hearings and appeals and (b) amendments to the State regulations pertaining to blaster training and certification and performance standards for coal tipples, preparation plants and support facilities.

DATE: Written comments must be received on or before 4:00 p.m. on December 12, 1983 to be considered in the Secretary's decision to approve or disapprove the proposed amendments.

A public hearing on the proposed modifications has been scheduled for 7:00 p.m. on November 14, 1983, at the address listed below under **"ADDRESSES"**. Any person interested in making an oral or written presentation at the hearing should contact Mr. James Curry at the address below by November 7, 1983. If no person has contacted Mr. Curry by this date to express an interest in participating in this hearing, the hearing will be canceled. A notice announcing any cancellation will be published in the **Federal Register.** If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the TVA Office Complex, Plaza West Towers, Room C-36, 400 West Summit Hill Drive, Knoxville, Tennessee.

Written comments should be mailed or hand-delivered to Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suit 400, Knoxville, Tennessee.

Copies of the proposed modifications to the Tennessee program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Headquarters Office, the OSM Knoxville Field Office and the Office of the State Regulatory Authority, all listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 L Street NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Field Office, 530 Gay Street SW., Suit 400, Knoxville, Tennessee

Tennessee Department of Public Health and Environment, Division of Surface Mining and Reclamation, 305 W. Springdale Avenue, Knoxville, Tennessee 37917.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Field Office Director Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee.

SUPPLEMENTARY INFORMATION: The Tennessee program was conditionally approved by the Secretary on August 10, 1982 (47 FR 34724–34754). The approval was conditioned on the State's correction of 11 minor deficiencies in its program.

Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Tennessee program can be found in the August 10, 1982 **Federal Register** (47 FR 34724–34754).

Proposed Amendments

On September 30, 1983, Tennessee submitted for OSM's approval a program amendment intended to satisfy condition (k) of the Secretary's approval of the State program as well as two program amendments not related to conditions of approval.

Following is a description of the amendments submitted by the State:

(1) In satisfaction of condition (k) of the Secretary's approval of the State program, Tennessee submitted a policy statement to clarify that the Tennessee program includes provisions which are consistent with the Federal standards at 43 CFR 4.1103, 4.1122, 4.1154, 4.1163, 4.1166, 4.1280, and 4.1281.

Condition (k) stipulates that Tennessee must submit promulgated regulations, a policy statement, an Attorney General's opinion or other proof that the State program is no less effective than the Federal standards cited above. The policy statement submitted by the State covers the following areas:

—Determination of eligibility of persons to practice before administrative law judges;

—Adherence to the Code of Judicial Conduct by administrative law judges;

—Right to review of the granting or denial of a waiver of the formula for determining civil penalty amount;

—Operator's right to appeal a Notice of Violation (NOV) during a civil penalty proceeding;

—Content requirements for the Division of Surface Mining's (DSM) answer to an appeal regarding small operators' exemption from performance standards;

—Right to appeal of adversely affected persons.

OSM is seeking comment on the adequacy of the policy statement submitted by the State in satisfying condition (k).

(2) Tennessee also submitted for the Director's approval proposed regulations which establish requirements for the training and certification of blasters working in coal mines in Tennessee. The new requirements are set forth under proposed Chapter 0400–1–23 of Tennessee's program regulations.

At the time of the Secretary's approval of the Tennessee program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Hence, the State was not required to include such requirements in its program. However, in this notice announcing conditional approval of Tennessee's program, the Secretary specified that Tennessee would be required to adopt such provisions following promulgation of the Federal standards (47 FR 34731, Aug. 10, 1982).

On March 4, 1983 OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). OSM is seeking comment on whether Tennessee's proposed rules under Chapter 0400–1–23 are consistent with and meet the requirements of the revised Federal standards and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

(3) A third amendment submitted by the State sets forth proposed special performance standards for coal tipples at or near the minesite and preparation plants and support facilities not within the permit area for a mine. The proposed standards, if adopted, would replace the existing requirements under Rule 0400–1–21 of Tennessee's approved program. Also submitted by the State for OSM's approval were proposed definitions for "coal preparation plant," "coal preparation waste" and "coal tipples" to replace the existing definitions for those terms at Rule 0400–1–1–.03 subparagraphs (m), (n) and (o). Tennessee submitted proposed new definitions for "support facilities" and "transfer station" under Rule 0400–1–1–.03 subparagraphs (ssss) and (tttt).

OSM is seeking comment on the adequacy of the proposed changes in satisfying the criteria for State program amendments at 30 CFR 732.15 and 732.17. OSM issued revised Federal regulations at 30 CFR Parts 700, 701, 785, 816, 817 and 827 pertaining to support facilities and coal preparation plants on May 5, 1983 (48 FR 20392). The revised Federal regulations are the standard for approval of Tennessee's proposed amendments.

The program modifications submitted by Tennessee for OSM's consideration are available in full text for public review at the addresses listed under "ADDRESSES".

Proposed Extension

On September 30, 1983, the Director, DSM, advised OSM that the State would be unable to submit the materials to satisfy condition (a) of the Secretary's approval of Tennessee's program by the September 30, 1983, deadline. Hence, the State requested an extension of the deadline for the State to meet this condition until December 30, 1983.

Condition (a) stipulates that Tennessee must submit copies of the bonding laws and procedures referred to in Chapter III of the Tennessee program, the Tennessee Safe Dams Act and an opinion from Tennessee's Attorney General that these laws and the Tennessee Uniform Administrative Procedures Act are superseded by SMCRA to the extent they are inconsistent with SMCRA.

DSM has indicated that it has not yet been able to obtain the Attorney General's opinion needed to satisfy this condition. In accordance with the State's request, OSM is proposing an extension of the deadline for the State to meet condition (a) until December 31, 1983, in order to allow DSM sufficient time to secure the opinion from the State Attorney General. OSM solicits comment on this proposal to extend the deadline.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 8, 1983.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

J. Roy Spradley,
Acting Director, Office of Surface Mining.

[FR Doc. 83-30498 Filed 11-9-83; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 403 and 420

[WH-FRL 2468-7]

General Pretreatment Regulations and Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: EPA is correcting coding and other minor errors in the October 14, 1983 **Federal Register** (48 FR 46944) notice of proposed amendments to the General Pretreatment Regulations and in the proposed amendments to the effluent limitations guidelines and standards for the Iron and Steel Manufacturing Point Source Category.

FOR FURTHER INFORMATION CONTACT: Mr. Ernst P. Hall, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone (202) 382–7126.

DATE: The comment period on the proposed regulations, corrected here, closes on November 14, 1983.

SUPPLEMENTARY INFORMATION:

Corrections

In the **Federal Register** notice published on October 14, 1983, (48 FR 46944), corrections are required as follows:

1. On page 46944, column 2, line 46; change: § 403.6(c) to § 403.6(e)

2. On page 46944, column 3, paragraph C (1), line 10; change: 1982 to 1983

3. On page 46945, column 1, lines 15 and 16 from the bottom; change: "* * * in Section V of this notice * * *" to "* * * below * * *"

4. On page 46946, column 2, line 7; change: "* * * (40 CFR 122.63(h) * * *" to "* * * (40 CFR 122.63(h)) * * *"

5. On page 46946, column 2, line 16; change: "* * * furnace waters * * *" to "* * * furnace wastewaters * * *"

6. On page 46946, column 2, line 22 from the bottom; change: "* * * safety problem is * * *" to "* * * safety problem, is * * *"

7. On page 46947, column 1, line from the bottom; change: "* * * cost of feasibility * * *" to "* * * cost or feasibility * * *"

8. On page 46947, column 2, line 35; change: "* * * does not agree * * *" to "* * * does agree * * *"

9. On page 46947, column 2, line 40; change: § 403.6(c) to § 403.6(e).

10. On page 46948, column 2, lines 35 and 36; delete: "* * * by which the discharges from any waste stream(s) * * *"

11. On page 46948, column 2, lines 47 thru 49; delete: For all other traded pollutants, the minimum net reduction exceeds otherwise allowable effluent limitations.

12. On page 46949, top table in column 2, Subpart C BAT; change: Cyanide 0.000175 to Cyanide 0.00175, and Zinc 0.0000131 to Zinc 0.000131.

13. On page 46950, column 1, (3) * * * Subpart I BPT; change: Zinc 0.0000150 to Zinc 0.000150.

14. On page 46950, column 3, (2) * * * Subpart I BAT; change: Zinc 0.000751 to Zinc 0.0000751.

15. On page 46952, column 3, (4) * * * Subpart I Pretreatment standards for existing sources; change: Zinc 0.00164 to Zinc 0.0164.

16. On page 46953, in table at top of column 1, Subpart I Pretreatment standards for existing sources; change: Zinc 0.0327 to Zinc 0.327.

17. On page 46954, column 1, line 6 under item 21; change: "* * * (BPT." to "* * * (BAT)."

18. On page 46954, column 2, item 22; add an additional line in the table for pH and a footnote (2) in each column and the footnote as follows:

pH	(2)	(2)

1 * * *
2 Within the range of 6.0 to 9.0.

19. On page 46955, column 1, in the tables under (b)(1) and (b)(2): (a) Delete the footnote (1) in front of both columns of numbers for O&G.

(b) Put the footnote (1) in both columns opposite pH.

Dated: November 4, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-30530 Filed 11-9-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3-1

Debarment, Suspension, and Ineligibility

AGENCY: Department of Health and Human Services.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services, is proposing to amend 41 CFR 3-1.6, Debarred, Suspended, and Ineligible Bidders, to implement the provisions of Federal Procurement Regulations (FPR) Temporary Regulation 65, Debarment, Suspension and Ineligiblity of Government Contractors.

DATE: Comments must be received by December 12, 9183.

ADDRESS: Any person or organization wishing to submit data, views or comments pertaining to the proposed amendment may do so by filing them at the address listed in **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Frederick J. Brennan, Division of Procurement Policy, OPAP-PAL-OS, Room 539-H, Hubert H. Humphrey Building, Department of Health and Human Services, Washington, D.C. 20201; (202-245-6154).

List of Subjects in 41 CFR Part 3-1

Government procurement.

SUPPLEMENTARY INFORMATION: The Office of Federal Procurement Policy issued Policy Letter 82-1, Government-wide Debarment, Suspension, and Ineligibility, on July 1, 1982 (47 FR 28854).

The Policy Letter prescribed uniform procedures for agencies to follow as part of the Government-wide debarment/suspension system which went into effect on August 30, 1982. The General Services Administration issued FPR Temporary Regulation 65 (47 FR 43692) on October 4, 1982 to implement the Policy Letter and supersede 41 CFR Subpart 1-1.6.

The Department of Health and Human Services (HHS) issued temporary instructions to procurement personnel to implement the provisions of Temporary Regulation 65 pending formal implementation. This proposed rule is intended to formally revise current HHS policy and procedures in 41 CFR Subpart 3-1.6, Debarred. Suspended and Ineligible Bidders.

This revision applies only to contracts awarded by HHS. Debarment procedures applicable to financial assistance awards can be found at 45 CFR 76. However, HHS is considering the development of a single debarment process applicable to contracts and financial assistance. Those procedures will be published for public comment at a later date.

It is therefore proposed to amend 41 CFR Chapter 3, Part 3-1 in the manner set forth below.

Dated: November 3, 1983.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

Under Part 3-1, General, Subpart 3-1.6, Debarred, Suspended, and Ineligible Bidders, is proposed to be amended as set forth below.

1. Part 3-1 is proposed to be amended by revising Subpart 3-1 to read as follows:

PART 3-1—GENERAL

* * * * *

Subpart 3-1.6—Debarment, Suspension, and Ineligibility

Sec.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3-1.6—Debarment, Suspension and Ineligibility

§ 3-1.600 Scope of subpart.

(a) This subpart:

(1) Prescribes Departmental procedures for debarring and suspending contractors, and the use and maintenance of a Consolidated List of

Debarred, Suspended and Ineligible Contractors.

§ 3-1.602 Definitions.

(a) through (g) [Reserved.]

(h) "Debarring Official" means the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

(i) through (l) [Reserved.]

(m) "Suspending Official" means the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

§ 3-1.603 Establishment and maintenance of a list of debarred, suspended, and ineligible contractors, and agency records.

§ 3-1.603-1 Consolidated list of debarred, suspended, and ineligible contractors.

(a) [Reserved.]

(b) The Office of Procurement, Assistance, and Logistics (OPAL) shall perform the actions required by § 1-1.603-1(b), concerning notifying GSA, handling inquiries, and establishing procedures.

§ 3-1.603-2 Agency records.

OPAL shall maintain the records required by § 1-1.603-2.

§ 3-1.604 Treatment to be a accorded listed contractors.

§ 3-1.604-1 General.

(a) through (c) [Reserved.]

(d) The Deputy Assistant Secretary for Procurement, Assistance, and Logistics (DASPAL) shall make the determinations required by §§ 1-1.604-1, 1-1.604-3 and 1-1.604-4, concerning exceptions, continuation or termination of existing contracts, restrictions, etc. Requests for determinations concerning these matters shall be submitted through procurement channels to the DASPAL of and shall contain all pertinent documents or a written summary of any pertinent information for which documentation is not available.

§ 3-1.605 Debarment.

§ 3-1.605-1 General.

(a) through (c) [Reserved.]

(d) No contracts shall be awarded to, and no subcontracts shall be consented to or approved for the contractor by HHS pending a debarment decision when no suspension is in effect at the time debarment is proposed. The names of such individuals or organizations shall be transmitted with the Consolidated List of Debarred, Suspended, and Ineligible Contractors.

§ 3-1.605-3 Procedures.

(a) *Investigation and Referral.* Whenever cause for debarment becomes known to a contracting officer, the matter shall be referred through procurement channels, to the DASPAL, together with a recommended action. The submission should contain all pertinent documents and a written summary of any pertinent information for which documentation is not available.

(b) *Decisionmaking process.* The DASPAL shall review recommended debarment actions and make a determination as to whether debarment procedures are to be initiated. A copy of this determination shall be promptly sent to the initiating procurement activity.

(c) *Debarring official's decision.*

(1) The DASPAL shall make the final debarment decision on the basis of all information in the administrative record, including any response from the contractor for debarment actions proposed as a result of a conviction or civil judgment, or debarment by another agency using procedures in effect prior to August 30, 1982 or as a result of other actions for which there is no dispute over material facts. The decision shall be made within approximately 30 working days after receipt of information of argument submitted in response to the proposed debarment notification if a suspension is not in effect. This decision time may be extended by the DASPAL for good cause.

(2) Fact-finding shall be conducted if the DASPAL determines that the contractor's response raises a genuine dispute over facts material to the proposed debarment and the proposed debarment is not based on a conviction, judgment or debarment by another agency using procedures in effect prior to August 30, 1982. The DASPAL shall: (i) Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person presented by the Department, and (ii) provide a transcript of the fact-finding discussions which shall be made available at cost to the contractor upon request, unless the contractor and the Department mutually agree to waive the requirement for a transcript. The DASPAL shall also ensure that written findings of fact are prepared, and shall base the debarment decision on the facts as found, after considering information and argument submitted by the contractor and any other information in the administrative record. The Office of General Counsel shall represent the Department at any fact-finding meetings under this paragraph (2), and may present witnesses for HHS and question any witnesses presented by the contractor.

(e) *Notice of debarring official's decision.*

(1) If a debarment is imposed, the DASPAL shall promptly provide written notice to the contractor and any affiliates involved, by certified mail, return receipt requested. This notice shall contain the elements identified in § 1-1.605-3(e)(1).

(2) If a debarment is imposed, the DASPAL shall promptly send written notice to the contractor and any affiliates involved, by certified mail, return receipt requested.

§ 3-1.606 Suspension.

§ 3-1.606-3 Procedures.

(a) *Investigation and referral.* Whenever cause for suspension becomes known to a contracting officer, the matter shall be referred through procurement channels to the DASPAL, together with a recommended action. The submission should contain pertinent documents and a written summary of any information for which documentation is not available.

(b) *Decision-making process.*

(1) The procedures to be followed in the suspension decisionmaking process are similar to those for debarment, as contained in § 3-1.605-3(b).

(2) Fact-finding shall be conducted in actions not based on an indictment, or actions based on a suspension by another agency using procedures in effect prior to August 30, 1982, if the DASPAL determines that the contractor's submission in opposition (see § 1-1.606-3(c)) raises a dispute over facts material to the suspension, and if the Department of Justice or a state prosecuting official advises that substantial interests of the Government in pending or contemplated legal proceedings, based on the same facts as the suspension, would not be prejudiced. The Office of General Counsel will request the advice of the Department of Justice or state prosecuting officials if necessary. Fact-finding shall be conducted in accordance with the procedures contained in § 3-1.605-3(d)(2).

(c) *Suspending official's decision.*

(1) The DASPAL's decision to suspend a contractor for actions: (i) Based on an indictment or a suspension by another agency using procedures in effect prior to August 30, 1982; (ii) in which the contractor's submission in response to the suspension notice does not raise a dispute over material facts; or (iii) in which fact-finding to determine disputed material facts has been denied on the basis of the advice of the Department of Justice or a state prosecuting official.

shall consider the information in the administrative record, including any submission made by the contractor. The decision shall be made within approximately 30 working days after receipt of information or argument submitted in response to the notice of suspension, unless extended for good cause by the DASPAL.

(2) The DASPAL shall provide that a fact-finding meeting is held, if necessary, and that written findings of fact are prepared. The DASPAL shall base the decision of continuing suspension on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record. The Office of General Counsel shall represent the Department at any fact-finding proceedings under this paragraph (2), and may confront any witnesses presented by the contractor.

(3) The DASPAL may modify or terminate the initial suspension or leave it in force for the same reasons for terminating or reducing the period or extent of debarment, (see § 1–1.605–4(c)). However, a decision to modify or terminate the suspension shall be without prejudice to any subsequent imposition of suspension by any other agency or the imposition of debarment by any agency, including HHS.

(4) The DASPAL shall promptly notify the contractor in writing of the decision by certified mail, return receipt requested.

[FR Doc. 83-30203 Filed 11-9-83; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10, 35, 157, 175, 185, 186, and 187

[CGD 81-059]

Licensing of Officers and Operators and Registration of Staff Officers

AGENCY: Coast Guard, DOT.

ACTION: Notice of extension of comment period.

SUMMARY: On August 8, 1983, the Coast Guard published a Notice of Proposed Rulemaking regarding the licensing regulations (48 FR 35920). The comment period was to end on December 6, 1983. This notice will extend the comment period to March 5, 1984.

DATES: Comments must be received on or before March 5, 1984.

ADDRESSES: Comments should be mailed to the: Executive Secretary, Marine Safety Council (G–CMC/44), (CGD 81–059) U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for inspection at the Marine Safety Council (G–CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, Phone (202) 426–1477 between the hours of 7:30 a.m. and 3:30 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LCDR George N. Naccara, Project Manager, Office of Merchant Marine Safety (G–MVP), Phone (202) 426–2240.

SUPPLEMENTARY INFORMATION: The Coast Guard has received comments from maritime organizations and training schools which suggest an extended comment period for this proposal. Due to the broad impact of these regulations and our concern that all individuals have ample opportunity to evaluate the proposal, the comment period is extended 90 days.

Dated: November 7, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-30481 Filed 11-9-83; 8:45 am]
BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[Docket No. 20840; FCC 83-480]

Use of Recording Devices in Connection With Telephone Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission issued a Further Notice of Proposed Rulemaking proposing elimination of the current beep tone or mutual consent tariff prescription for the recording of two-way telephone conversations using interstate MTS or WATS service or facilities and revocation of § 64.501 of the Rules which regulates the recording of telephone conversations by common carriers. This action is being taken because of doubts concerning the Commission's authority to regulate in this area given the enactment of the Omnibus Crime Control and Safe Streets Act of 1968 which established federal laws designed to protect the privacy of wire and oral communications. Furthermore, the Commission is concerned that continuation of a tariff provision which has proven to be largely unenforceable may create a false sense of security among persons who assume their privacy is being adequately protected.

DATES: Comments are due by December 5, 1983 and replies by December 20, 1983.

ADDRESS: Comments and replies should be submitted to the Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Barry Lambergman (202) 632–6917.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Regulatory Flexibility Act of 1980, this rulemaking will not have a significant economic impact on a substantial number of small businesss entities.

List of Subjects

47 CFR Part 61

Tariffs.

47 CFR Part 64

Communications common carriers, Recording devices, Telephone.

Further Notice of Proposed Rulemaking

In the matter of use of recording devices in connection with telephone service; Docket No. 20840.

Adopted: October 19, 1983.
Released: October 27, 1983.

By the Commission: Commissioner Quello absent.

1. In a separate order, *Memorandum Opinion and Order, Use of Recording Devices in Connection with Telephone Service,* Docket No. 20640, adopted today, the Commission has reconsidered and clarified portions of a prior order in this docket (86 FCC 2d 313 (1981)), which modified our policies concerning the use of recording devices in connection with telephone service to allow mutual consent to record as an alternative to the beep tone requirement. Upon further reflection on the issues raised in that proceeding, we have come to the conclusion that there are sound reasons to discontinue regulation in this area altogether, rather than to continue to refine a regulation whose efficacy and lawfulness have been called into serious question (See para. 2 of the companion order). However, as will be recalled, the thrust of the notice of proposed rulemaking in this proceeding was simply to liberalize the Commission's policies regarding recording devices while strengthening the enforcement tools.[1] In other words, we did not call

[1] *See* Notice of Inquiry, FCC 76-536, released June 24, 1976 and Notice of Proposed Rulemaking, 67 FCC 2d 1392 (1978).

for comments on whether we should eliminate the beep tone tariff requirement. Accordingly, to complete the record on this question, we now are issuing a further notice of proposed rulemaking to solicit comments on our proposal to vacate the current tariff prescription order and revoke § 64.501 of the Rules, 47 C.F.R. § 64.501[2]

2. The Commission first formulated a beep tone policy in 1947 at a time when there were no federal statutes regulating this area of privacy. Recognizing a ligitimate public need for recording devices, the Commission adopted an order which required that all interestate tariffs allow the use of recording devices for recording two-way telephone conversations involving interstate message toll telephone service or wide area telephone service or their facilities. Equally concerned about the privacy of telephone communications, however, the Commission also mandated a tariff provision requiring that an automatic tone warning mechanism ("beep tone") be superimposed on the conversation at regular intervals during the recording.[3] Furthermore, it required the recording device to have a direct electrical connection to the telephone. This direct connection enabled the telephone company to detect the presence of these recorders on the telephone line. Today, however, the state of the art is such that customers can record with inexpensive acoustic and inductive recorders which cannot be detected by the telephone compay. Consequently, the present tariff requirement is practically unenforceable.

3. Accordingly, we instituted Docket No. 20840 to reexamine the desirability and enforceability of our beep tone requirement in light of the technological and regulatory changes which have occurred since the termination of Docket No. 6787 in 1948. Consistent with our objective of finding the least expensive and least obtrusive warning technique which would at the same time protect the privacy of the telephone user, we adopted all party consent as an alternative to the beep tone and eliminated the prohibition against acoustic and inductive recording devices. In doing so, we rejected another major proposal, which was to change the beep tone requirement from a tariff provision, enforceable by the telephone company, to a rule of the Commission. Under this regime, a violation of the rule would have subjected the violator to the sanctions of Sections 502 and 401(b) of the Communications Act, 47 U.S.C. 502 and 401(b).[4] We reasoned that because the telephone companies were unable to enforce their tariff provisions effectively, we similarly would have no way to enforce such a rule. Since there is no effective way to detect violations, the Commission concluded that the added sanctions under the Act would not be a deterrent, but merely a punitive measure for the small number of violators actually detected. Moreover, we were concerned that adopting such a Commission rule might engender in the public a false sense of security that recording without consent would not occur. Another significant factor behind this decision was that privacy in telephone conversations is now regulated by federal statute. Thus, we took notice that subsequent to our original involvement in this area, Congress had adopted comprehensive legislation in the Omnibus Crime Control and Safe Streets Act of 1968 ("Omnibus Crime Act"),[5] which, *inter alia*, imposes strict penalties, both civil and criminal, for certain acts of interception and divulgence of telephone conversations.

4. Taken to their logical conclusion, the implementation questions raised on reconsideration (see para. 5 of the companion order), and the reasons which persuaded us not to adopt the tariff regulations as a rule of the Commission now lead us to tentatively conclude that we should eliminate our beep tone or all party consent tariff requirement. While the all party consent alternative and removal of the prohibition against inductive and acoustic devices were steps in the right direction in liberalizing the Commission's policies regarding recording devices, their potential salutary effects still seem severely compromised because of the lack of enforcement tools. Even if substantial resources were devoted to detecting unauthorized recordings, it is clear that any such program would be ineffective. Moreover, the enforcement option available to the telephone company, *viz.* suspension of service, is not a suitable penalty except in blatant circumstances. Although the tariff requirement may be a deterrent in some cases, in many others the possible loss of service would not be a factor when weighed against the benfit of a record of the conversation. Indeed, violators are seldom detected except when they voluntarily produce the illicit recording to substantiate the contents of the conversation, either in court or elsewhere. On the other hand, to persons who talk freely on the telephone under the asumption that the beep tone or all party consent requirement adequately protects their privacy, the Commission's existing regime may actually create a false sense on security. We believe telephone users would be better served by a resolution of the problem which makes it clear that their only viable protection against an unlawful recording by another party is the Omnibus Crime Act, which provides remedies only if an improper use is made of the recording. See para. 3, *supra*, and n. 7 *infra*.

5. Our action here does not evince an abandonment of our commitment to the importance of privacy in telephone conversations. Rather, we simply do not believe that either our involvement in this area or the telephone companies' enforcement of this tariff has been effective.[6] The sanction of *possible* loss of service for recording a conversation in violation of the tariff is not meaningful. On the other hand, we view the Omnibus Crime Act as a more effective deterrent to invasion of privacy than the beep tone or the all party consent tariff provision. Significantly, Congress has not seen fit to ensure that a conversation will be recorded only if all parties consent. If a public need is perceived for a more extensive protection of privacy that that guaranteed by the Omnibus Crime Act, we believe Congress is the appropriate body to provide that kind of protection.[7] Therefore, while reaffirming our commitment to privacy in communications, we conclude that we should defer to the regulatory scheme of the Omnibus Crime Act, a comprehensive set of rules governing various aspects of privacy in both interstate and intrastate oral and wire communications, which provides strict penalties for the wrongful use of a recorded conversation.[8]

[2] This section requires telephone common carriers to use a beep tone device or obtain all party consent before recording a telephone conversation between a member of the public and a person acting for or employed by the common carrier.

[3] See Use of Recording devices in Connection with Telephone Service, Docket No. 6787, 11 FCC 1033 (1947).

[4] Section 502 provides for fines and section 401(b) provides for injunctive sanctions.

[5] 18 U.S.C. 2510–2520.

[6] As telecommunications becomes more competive, and the number of providers of service increases, it will become even more difficult to police unauthorized recordings.

[7] Accordingly, we also solicit comments on whether, if our proposal ultimately is adopted, we should recommend legislation in this area, refer the record in this proceeding to Congress, or take any other action.

[8] Justice has argued in its petition that Congress specifically intended to take the regulation of privacy of wire communications out of the Communications Act when it enacted the Omnibus Crime Act. Therefore, it maintains, the FCC cannot penalize or regulate interceptions authorized by the

Continued

6. This notice is being issued to determine whether elimination of the current tariff prescription is just, fair and in the public interest. We expect to develop in this notice and comment rulemaking all the relevant, material and probative data and information needed to make the public interest determination.

7. In accordance with the provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, we find that this rulemaking will not have a significant economic impact on a substantial number of small business entities. To the extent that there is any impact, it will be positive. Telephone common carriers will no longer be required to expend resources investigating allegations of violation of the beep tone or all party consent tariff provision. Those entities wishing to record their business telephone conversations may do so without investing in costly beep tone equipment of implementing procedures to obtain prior written or oral consent from each party being recorded.

8. For purposes of this non-restricted informal rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time of issuance of a notice of proposed rulemaking until the time a draft order proposing a substantive disposition of such proceeding is placed on the Commission's Sunshine Agenda. In general, and *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

9. Accordingly, it is ordered, That a rulemaking proceeding is instituted to determine whether the elimination of the telephone companies' prescribed tariffs governing the recording of two-way telephone conversations using interstate MTS or WATS service or facilities and § 64.501 of the Rules, 47 CFR 64.501, as proposed, is just, fair and reasonable and in the public interest. This proceeding is instituted pursuant to Sections 2(a), 4(i), 4(j), 201, 205, and 403 of the Communications Act, 47 U.S.C. 152(a), 154(i), 154(j), 201, 205 and 403.

10. It is further ordered, That interested persons may file written comments on or before December 4, 1983 and reply comments on or before December 20, 1983. In reaching its decision in this matter the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. All comments and reply comments shall be filed in accordance with § 1.419 of the Rules, 47 CFR 1.419. Materials filed in this proceeding will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M St., NW., Washington, D.C.

11. It is further order, That the Secretary shall cause this Further Notice of Proposed Rulemaking to be published in the **Federal Register.**

Federal Communication Commission.

William J. Tricarico,

Secretary.

Appendix

PART 64—[AMENDED]

47 CFR Part 64 is amended as follows:

Subpart E—[Removed]

By removing subpart E.

[FR Doc. 83-30490 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-02-M

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47 CFR Part 73

[MM Docket No. 83-1143; RM-4565]

FM Broadcast Station in Woodlake, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 281 to Woodlake, California, in response to a petition filed by Eric R. Hilding. The proposal could provide a first commercial FM service to that community.

DATES: Comments must be filed on or before December 27, 1983, and reply comments on or before January 11, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Woodlake, California) MM Docket No. 83-1143, RM-4565.

Adopted: October 11, 1983.

Released: November 2, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Eric R. Hilding ("petitioner"), proposing the assignment of Channel 281 to Woodlake, California, as that community's first commercial FM broadcast service.[1] Petitioner expressed an interest in applying for the channel, if assigned. The proposed assignment meets all spacing requirements with a site restriction of 2.1 miles southeast of Woodlake to avoid short-spacing to KMGX, Channel 279 in Hanford, California.

2. In view of the fact that the proposed assignment could provide a first commercial FM service to Woodlake, California, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the

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more specific Omnibus Crime Act by issuing regulations pursuant to the more general Communications Act, particularly where those regulations are incompatible with the Omnibus Crime Act. The Omnibus Crime Act does not require that the person making the recording obtain the consent of all the parties to the conversation. It is enough if one party consents, except where the communication is intercepted for "criminal", "tortious" or "injurious" uses. See Section 2511(2)(d). Since we are proposing to eliminate Commission involvement in this area, we may not need to decide whether we do, indeed, have the authority to maintain our current policies on unauthorized recordings.

[1] Woodlake is also served by noncommercial educational Station KUFW (Channel 213B), which is licensed to Farmworkers Communications, Inc.

Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Woodlake, California		281

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 27, 1983, and reply comments on or before January 11, 1984, and are advised to read the Appendix for proper procedures. A copy of the comments should be served on the petitioner as follows: Eric R. Hilding, P.O. Box 1300, Freedom, California 95019.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick R. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a conterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-30477 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1137; RM-4590]

Television Broadcast Station in Bellevue, Washington; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 51 to Bellevue, Washington, in response to a petition filed by Jerry E. O'Neill. The proposal could provide a second UHF television service to that community.

DATES: Comments must be filed on or before December 23, 1983, and reply comments on or before January 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Bellevue, Washington) MM Docket No. 83-1137, RM-4590.

Adopted: October 11, 1983.

Released: November 1, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Jerry E. O'Neill ("petitioner"), requesting the assignment of UHF Television Channel 51 to Bellevue, Washington, as that community's second commercial television assignment. Petitioner submitted information in support of the proposal and stated his intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

2. Bellevue (population 73,903) [1], in King County (population 1,269,749), is located approximately 13 kilometers (8 miles) east of Seattle.

3. Canadian concurrence is required for this proposal since Bellevue is located within 400 kilometers (250 miles) of the common U.S.-Canadian border.

4. In view of the foregoing and the fact that the proposed assignment could provide a second local commercial television broadcast service to Bellevue, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Bellevue, Washington	33+	33+, 51+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 23, 1983, and reply comments on or before January 9, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows: Jerry E. O'Neill, c/o Sterling Communications, Inc., Uptain Building, Suite 418, Chattanooga, Tennessee 37411.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-30496 Filed 11-9-83; 8:45 am]

BILLING CODE 7612-01-M

[1] Population figures are from the 1980 U.S. Census, Advance Report.

47 CFR Part 73

[MM Docket No. 83-1136; RM-4519]

TV Broadcast Station in Marianna, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 51 to Marianna, Florida, as that community's first commercial television assignment in response to a petition filed by Marianna Television, Inc.

DATES: Comments must be filed on or before December 23, 1983, and reply comments on or before January 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Marianna, Florida) MM Docket No. 83-1136, RM-4519.

Adopted: October 11, 1983.
Released: November 1, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 17, 1983, by Marianna Television, Inc. ("petitioner") proposing the assignment of UHF Television Channel 34 to Marianna, Florida, as that community's first commercial television assignment. Petitioner submitted information in support of this proposal and expressed an interest in applying for the channel, if assigned. A staff study indicates that the proposed assignment is short-spaced by 35 miles to a rule making in Docket No. 83-407 to assign Channel 49 to Bainbridge, Georgia. However, Channel 51 could be assigned to Marianna with a site restriction of 6 miles northwest of Marianna to avoid short spacing to a construction permit on Channel 51 in Ocala, Florida.

2. Marianna (population 7,074)[1] seat of Jackson County (population 39,154), is in the northern part of the Florida Panhandle, approximately 350 kilometers (215 miles) west of Jacksonville, Florida.

3. In view of the foregoing, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Marianna, Florida	*16+	16+, 51

4. Interested parties may file comments on or before December 23, 1983, and reply comments on or before January 9, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows:

Edward M. Johnson and Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915

Consultant to Marianna Television, Inc.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), and 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, 202-634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comment, so that parties may comments on them is reply comments, they will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the persons(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-30495 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1144; RM-4552]

FM Broadcasting Station in Honolulu, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 286 to Honolulu, Hawaii, in response to a petition filed by Communications Hawaii, Inc. The proposal could provide a ninth FM service to that community.

DATES: Comments must be filed on or before December 27, 1983, and reply comments must be filed on or before January 11, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Honolulu, Hawaii) (MM Docket No. 83-1144 RM-4552).

Adopted: October 11, 1983.

Released: November 2, 1983.

By the Chief, Policy and Rules Division.

1. A petition was filed by Communications Hawaii, Inc. ("petitioner"), proposing the assignment of Channel 286 to Honolulu, Hawaii, as its ninth FM service. The petitioner has expressed an interest in applying for the channel, if assigned.

2. Channel 286 can be assigned to Honolulu in compliance with the minimum distance separation requirements. However, the proposal must conform with the technical requirements of § 73.1030(c)(1)-(5) of the Rules regarding protection to the Commission's monitoring station at Waipahu, Oahu, Hawaii.

3. In view of the fact that the proposed assignment could provide additional local FM service to Honolulu, Hawaii, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules with respect to the following community:

City	Channel No.	
	Present	Proposed
Honolulu, Hawaii	226, 230, 234, 238, 246, 253, 258, and 262.	226, 230, 234, 238, 246, 253, 258, 262, and 286.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 27, 1983, and reply comments on or before January 11, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner as follows: Robert B. McKenna, Jr., Esquire, Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue NW., Washington, D.C. 20006 (Counsel for petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commissions's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is atached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceedings.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply

comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceedings, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed commments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-30483 Filed 11-9-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1145; RM-4518]

FM Broadcast Station in Oscoda, Mich.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Channel 261A to Oscoda, Michigan, as that community's first FM assignment in response to a petition filed by Robert A. Sherman.

DATES: Comments must be filed on or before December 27, 1983, and reply comments on or before January 11, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Oscoda, Michigan) (MM Docket No. 83-1201 RM-4518).

Adopted: October 14, 1983.
Released: November 2, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed by Robert A. Sherman ("petitioner") on June 17, 1983, proposing the assignment of Channel 261A to Oscoda, Michigan, as that community's first FM service. Petitioner submitted information in support of the proposal and expressed his intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since the assignment of Channel 261A to Oscoda, Michigan, is within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

3. In view of the fact that the proposed assignment could provide a first local FM broadcast service to Oscoda, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Oscoda, Mich.		261A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 27, 1983, and reply comments on or before January 11, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner of this proceeding: Robert A. Sherman, 1039 Division, Port Huron, MI 48060.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 47 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer

whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-30484 Filed 11-9-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1141; RM-4497]

FM Broadcast Station Sangatuck, Mich.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action herein proposes the assignment of Channel 224A to Saugatuck, Michigan, as that community's first FM assignment, in response to a petition filed by David C. Schaberg.

DATES: Comments must be filed on or before December 27, 1983, and reply comments on or before January 11, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Saugatuck, Michigan). (MM Docket No. 83-1141 RM-4497).

Adopted: October 11, 1983.
Released: November 2, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed June 6, 1983, by David C. Schaberg ("petitioner"), proposing the assignment of Channel 224A to Saugatuck, Michigan as that community's first FM assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Canadian concurrence in the proposed assignment is required.

3. In view of the fact that the proposed assignment could provide a first local FM broadcast service to Saugatuck, the Commission believes it is appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with respect to the following community:

City	Channel No.	
	Present	Proposed
Saugatuck, Mich		224A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 27, 1983, and reply comments on or before January 11, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or his counsel or consultant, as follows: Petitioner: David C. Schaberg, P.O. Box 1101, Lansing, Michigan 48901.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petition for rule making which conflict with the proposal(s) in the Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forthe in the Notice of Proposed Rule Making to which this Appendix is atached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-30485 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1139; RM-4578]

FM Broadcast Station in Terrytown, Nebraska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Channel 245 for Channel 280A at Terrytown, Nebraska, and modification of the license for Station KCMI (FM) accordingly, in response to a petition filed by the licensee, Christian Media, Inc.

DATES: Comments must be filed on or before December 23, 1983, and reply comments on or before January 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

Adopted: October 11, 1983.
Released: November 1, 1983.

By the Chief, Policy and Rules Division.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Terrytown, Nebraska) (MM Docket No. 83-1139 RM-4578).

1. A petition for rule making was filed on July 20, 1983, by Christian Media, Inc. ("petitioner") which seeks to substitute Class C Channel 245 for Channel 280A at Terrytown, Nebraska, and to modify the license of its Station KCMI (FM) to specify operation on Channel 245.

2. Petitioner submitted information in support of the proposal. It alleges that sufficient revenue to operate the station has been difficult to obtain because advertisers are reluctant to invest their promotional dollars in spots which reach only a limited population. Petitioner states that a Class C channel would enable the station to provide expanded and improved service to the community. Additionally, it would enable the station to compete more effectively for audience and revenues with other stations in the area.

3. We believe the petitioner's proposal warrants consideration. The transmitter site is restricted to 3.4 miles southwest of Terrytown to avoid short-spacing to Station KQSK (FM) (Channel 248), Chadron, Nebraska.

4. In accordance with our established policy, we shall propose to modify the license of Station KCM (FM) to specify operation on Channel 245. However, if another party should indicate an interest in the Class C assignment, the modification could not be implemented. Instead, an opportunity for the filing of a competing application must be provided. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

5. In view of the need for a wide coverage area FM station, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it pertains to Terrytown, Nebraska, as follows:

City	Channel No.	
	Present	Proposed
Terrytown, Neb.	280A	245

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before December 23, 1983, and reply comments on or before January 9, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Christian Media, Inc., Attn: Duane

Pennington, President, Box 401, Terrytown, Nebraska 69361.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-30486 Filed 11-9-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1138; RM-4508]

FM Broadcast Station in Devils Lake, North Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 244A to Devils Lake, North Dakota, as that community's third FM assignment, in response to a petition filed by Harold A. Jahnke.

DATES: Comments must be filed on or before December 23, 1983, and reply comments on or before January 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73.

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Devils Lake, North Dakota) (MM Docket No. 83–1138; RM–4508).

Notice of Proposed Rule Making

Adopted: October 11, 1983.
Released: November 1, 1983.

Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 14, 1983, by Harold A. Jahnke ("petitioner") proposing the assignment of Channel 244A to Devils Lake, North Dakota, as that community's third FM assignment. The petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.[1]

2. Since the assignment of Channel 244A to Devils Lake, North Dakota, is within 320 kilometers (200 miles) of the U.S.-Canadian border, the concurrence of the Canadian government is required.

[1] Channel 244A is currently in use in Devils Lake, North Dakota; however, the station's license was modified to specify Channel 273 in BC Docket No. 81–874, adopted May 12, 1982. In that proceeding Channel 244A was deleted from the Table of Assignments.

3. In view of the fact that the proposed assignment could provide a third local FM broadcast service to Devils Lake, North Dakota, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Devils Lake, N. Dak.	273, 278	244A, 273 and 278

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 23, 1983, and reply comments on or before January 9, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Harold A. Jahnke, 421 Central Avenue, Hampton, Iowa 50441 (Petitoner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicants procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (see § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-30487 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1142; RM-4503]

FM Broadcast Station in Charlotte Amalie, Virgin Islands; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Class B Channel 282 to Charlotte Amalie, Virgin Islands, as that community's fourth FM service, in response to a petition filed by John T. Galanses.

DATES: Comments must be filed on or before December 27, 1983, and reply comments on or before January 11, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

Adopted: October 11, 1983.
Released: November 2, 1983.

By the Chief, Policy and Rules Division.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Charlotte Amalie, Virgin Islands) (MM Docket No. 83-1142; RM-4503).

1. The Commission has under consideration a petition for rule making filed June 10, 1983, by John T. Galanses ("petitioner"), proposing the assignment of Class B Channel 282 to Charlotte Amalie, Virgin Islands, as that community's fourth local FM broadcast service. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. In addition, a separate petition has been received from Reynold Charles d/b/a Third Angel Corporation requesting the same channel assignment. This petition is treated as comments in support. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a fourth local FM broadcast service to Charlotte Amalie, Virgin Islands, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Charlotte Amalie, V.I.	226, 250, and 271	226, 250, 271, and 282.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 27, 1983, and reply comments on or before January 11, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

John Galanses, 205 Casa Solana, Key West, Florida 33040

Reynold Charles, c/o James E. Price, Sterling Communications, Inc., Uptain Building—Suite 418, Chattanooga, Tennessee 37411

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-30488 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1140; RM-4554]

FM Broadcast Station in Worland, Wyoming; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C FM Channel 241 for Channel 240A in Worland, Wyoming, and modification of the license of Station KENB–FM accordingly, in response to a petition filed by KWOR, Incorporated.

DATES: Comments must be filed on or before December 23, ,1983, and reply comments on or before January 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Worland, Wyoming) (MM Docket No. 83–1140; RM–4554).

Adopted: October 11, 1983.

Released: November 1, 1983.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed July 13, 1983, by KWOR, Incorporated [1] ("petitioner") seeking the substitution of Class C Channel 241 for Channel 240A at Worland, Wyoming, and modification of the license for Station KENB–FM to specify operation on Channel 241.

2. Petitioner submitted information in support of the proposal. It noted that the substitution of Class C Channel 241 would vastly improve its service and serve substantial unserved and underserved areas.

3. We believe the petitioner's proposal warrants consideration. The channel can be substituted in compliance with the minimum distance separation requirements. In accordance with our established policy, we shall propose to modify the license of Station KENB–FM (Channel 240A) to specify operation on Channel 241. However, if another party should indicate an interest in the Class C assignment, the modification could not be implemented. Instead, an opportunity for the filing of a competing application must be provided, if the channel is assigned. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

4. In order to provide a wide coverage area FM station, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as it pertains to Worland, Wyoming, as follows:

Channel No.	City	
	Present	Proposed
Worland, Wyo	240A	241

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 23, 1983, and reply comments on or before January 9, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Fisher, Wayland, Cooper and Leader, 1100 Connecticut Avenue, NW., Washington, D.C. 20036 (Attorneys for KWOR, Incorporated).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Appply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rule*, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and

[1] KWOR, Inc. is the licensee of Stations KWOR (AM) and KENB–FM (Channel 240A), Worland, Wyoming.

regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-30489 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC-172]

Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments

AGENCY: Interstate Commerce Commission:

ACTION: Extension of time to file comments to notice of proposed rulemaking.

SUMMARY: This proceeding was instituted by a notice opening the proceeding to request comments, served October 6, 1983, and published at 48 FR 46399 October 12, 1983. Comments on the proposal to withdraw antitrust immunity from collective ratemaking activities applicable to small shipments were originally due November 16, 1983.

A number of organizations of motor common carriers of property have jointly requested that the deadline for comments on the small shipments issue be extended to December 12. The purpose of this document is to give notice that the time for filing these comments has been extended 26 days.

DATE: Comments must be received by December 12, 1983.

ADDRESSES: Send comments (original and 10 copies) to: Ex Parte No. MC-172, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Thomas T. Vining, (202) 275-7426

or

Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION:

Comments on the proposal in this proceeding to withdraw antitrust immunity for collective ratemaking activities on rates applicable to small shipments are currently due on November 16, 1983. Comments on whether antitrust immunity should be withdrawn from other areas of collective ratemaking by motor common carriers or withdrawn altogether are due December 12, 1983. A number of organizations of motor common carriers of property [1] have jointly requested that the deadline for comments on the small shipments issue be extended to December 12. They make two principal arguments in support of the request. First, they note that a motion to vacate the order instituting the proceeding which was filed by these same parties is now pending before the Commission. The motor carrier organizations submit that neither they nor other interested parties should be required to prepare and file comments on the important issues raised in this proceeding until the Commission acts on this motion. Secondly, the organizations assert that the filing of separate sets of comments on small shipments and on other areas of collective ratemaking should not be required because the various proposals set forth in the notice involve similar issues of fact and policy.

The National Industrial Transportation League (NITL) filed a reply supporting extension of the comment period on the small shipments question to December 12. They agree that there is a significant overlap in the issues to be addressed during the two comment periods established by the original notice. Further, NITL notes that its annual meeting will be held November 16-17, 1983. At this meeting, its full membership will consider and vote on a formal position to be taken in this proceeding. Extension of the November 16 due date to December 12 will allow NITL to participate more fully in this proceeding.

Finally, the National Small Shipments Traffic Conference, Inc. and the Drug and Toilet Preparation Traffic Conference, Inc. have filed a letter stating they do not object to an extension to December 12. This proceeding was instituted in response to a joint petition filed by these two parties.

An extension of the comment period on the small shipments question to December 12, 1983, is warranted. The extension should allow adequate time for all parties to prepare data and comments without unduly delaying the proceeding or otherwise prejudicing the interests of any party.

It is ordered:

The request for an extension of time for filing of comments on the proposal to withdraw antitrust immunity for collective ratemaking activities on rates applicable to small shipments is granted. All comments in this proceeding must be received by December 12, 1983.

Decided: November 4, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30404 Filed 11-9-83; 8:45 am]

BILLING CODE 7035-01-M

[1] American Trucking Associations, Inc., Central & Southern Motor Freight Tariff Association, Inc., Central States Motor Freight Bureau, Eastern Central Motor Carriers Association, Inc., Interstate Carriers Conference, Middle Atlantic Conference, Middlewest Motor Freight Bureau, National Motor Freight Traffic Association, Inc., New England Motor Rate Bureau, Niagara Frontier Tariff Bureau, Inc., Pacific Inland Tariff Bureau, Regular Common Carrier Conference, Inc., Rocky Mountain Motor Tariff Bureau, Inc., and Southern Motor Carriers Rate Conference.

Notices

Federal Register
Vol. 48, No. 219
Thursday, November 10, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Protection of Historic and Cultural Properties; Comments

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of comments.

SUMMARY: Pursuant to Section 106 of the National Historic Preservation Act and Section 800.6(d) of the regulations of the Advisory Council on Historic Preservation (Council), "Protection of Historic and Cultural Properties," a Panel of the Council met on October 13, 1983, to consider the proposal of the Federal Highway Administration to assist in the construction of Interstate 210 from Prichard, Alabama to Mobile, Alabama, the southern leg of which is proposed as an elevated facility in downtown Mobile. It has been determined that this undertaking would adversely affect the Mobile City Hall, a National Historic Landmark; the GM & O Railroad Terminal, a property included in the National Register of Historic Places; the Church Street East Historic District, the Lower Dauphin Street Commercial Historic District, and the De Tonti Square Historic District, three historic districts included in the National Register; and Water Street archeological properties, eligible for the National Register. At that meeting, the Council Panel adopted comments which have been transmitted to the Federal Highway Administration.

This notice, pursuant to 36 CFR 800.6(d)(5), is to advise interested parties that copies of these comments are available upon request from the Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue, Suite 803, Washington, DC 20004, 202–786–0505, Attn: Amy P. Schlagel.

Dated: November 3, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-30417 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Members of Performance Review Boards

AGENCY: Department of Agriculture.

ACTION: Notice.

SUMMARY: This document amends the list of Performance Review Board members published October 6, 1982, 47 FR 44127, as amended November 26, 1982, 47 FR 53430, March 1, 1983, 48 FR 8518 and August 29, 1983, 48 FR 39100.

EFFECTIVE DATE: November 10, 1983.

FOR FURTHER INFORMATION CONTACT: Earl C. Hadlock, Chief, Executive Resources, Performance Appraisal and Merit Pay Staff, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC 20250 (202/447–6905).

The membership of the Department of Agriculture's Performance Review Boards is amended by adding the names of Richard W. Goldberg, John E. Carson, Frank Gearde, Jr., John P. Jordan, Glenn P. Haney, and John Noakes.

Dated: November 4, 1983.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 83-30391 Filed 11-9-83; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 229]

Authorization To Withdraw Certain "Zone Restricted" Merchandise From Foreign-Trade Zone No. 20, Suffolk, Virginia, (Norfolk POE) for Entry Into U.S. Customs Territory

Pursuant to its authority under Section 3 of the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), the Foreign-Trade Zones Board (the Board) adopts the following order:

After consideration of the petition of Kero-Sun, Inc., a Conn. Corp., supported by the Grantee and operator of Foreign-Trade Zone 20, Suffolk, Virginia, for authority under Section 3 of the Foreign-Trade Zones Act (19 U.S.C. 81c) to withdraw from the zone for domestic entry 30,000 portable kerosene heaters bearing the "Kero-Sun" trademark and their spare parts (Zone Lots #22 and 23, 2–4–83) presently in "zone restricted" status, the Board approves the petition, finding it to be in the public interest. The withdrawal shall be subject to Customs entry procedures, including the payment of duties.

Signed at Washington, D.C. this 3rd day of November 1983.

Foreign-Trade Zones Board.

William T. Archey,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-30493 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 227]

Resolution and Order Approving the Application of the Nevada Development Authority for a Foreign-Trade Zone in Clark County, Nevada, Within the Las Vegas Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Nevada Development Authority, a non-profit Nevada development corporation, filed with the Foreign-Trade Zones Board (the Board) on October 20, 1982, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Clark County, Nevada, within the Las Vegas Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant—To Establish, Operate, and Maintain a Foreign-Trade Zone in Clark County, Nevada, Within the Las Vegas Customs Port of Entry

WHEREAS, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

WHEREAS, the Nevada Development Authority (the Grantee), a Nevada non-profit development corporation, has made application (filed October 20, 1982, Docket No. 25–82, 47 FR 47623) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Clark County, Nevada, within the Las Vegas Customs port of entry;

WHEREAS, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

WHEREAS, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

NOW, THEREFORE, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 89 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or properety of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

IN WITNESS WHEREOF, the Foreign-Trade Zone Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 7th day of November 1983, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-30492 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 225]

Resolution and Order Approving the Application of the Economic Growth Council of Great Falls, Mont., for a Foreign-Trade Zones in Great Falls, Within the Great Falls Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Economic Growth Council of Great Falls, a quasi-public Montana corporation, filed with the Foreign-Trade Zones Board (the Board) on August 2, 1982, and amended on March 18, 1983, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Great Falls, Montana, within the Great Falls Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Great Falls, Mont.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Economic Growth Council of Great Falls (the Grantee), a Montana quasi-public corporation, has made application (filed August 2, 1982, Docket No. 19–82) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in

Great Falls, Montana, within the Great Falls Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 88 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 2nd day of November, 1983, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 83-30491 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of Export Trade Certificates of Review.

SUMMARY: The Department of Commerce has issued export trade certificates of review to International Development Institute (IDI) and DMT World Trade, Inc. (DMT World Trade). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on these certificates. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificates as Export Trade Certificate of Review, application number 83-00001 and/or 83-00016.

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 48 FR 10595-604 (March 11, 1983) (to be codified at 15 CFR pt. 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant;

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937-40 (April 13, 1983).

Description of Certified Conduct

IDI—Application No. 83-00001

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from IDI on June 9, 1983. The application was deemed submitted on June 13, 1983. A summary of the application was published in the Federal Register on June 24, 1983 (48 FR 29034-35 (1983)). Based on analysis of the information contained in the application, the response to supplementary questions, and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by IDI meet the four standards of the Act:

Export Trade

Goods, services and technology in the areas of:

(a) Agriculture;
(b) Agribusiness;
(c) Construction and mining;
(d) Consumer products;
(e) Education;

(f) Energy;
(g) Fiber processing;
(h) Fishing;
(i) Food processing;
(j) Food storage and handling;
(k) Forestry and lumber;
(l) Office furniture, equipment, and supplies;
(m) Health and medicine;
(n) Household durables;
(o) Housing;
(p) Sanitation; and
(q) Transportation.

Export Trade Activities and Methods of Operation

(a) IDI may provide the following export trade facilitation services with respect to the Export Trade through the U.S. International Trade Center ("TRADEXPO"), the U.S. International Education Center and the U.S. International Applied Research Center:

(1) Identification of prospective foreign buyers visiting TRADEXPO and their interests through notices and periodic listings provided to TRADEXPO exhibitors.

Interpretation services for prospective foreign buyers visiting TRADEXPO.

(3) Referrals to commercial banking, merchant banking and factoring institutions for export financing.

(4) Advertising and promotion of TRADEXPO in foreign markets.

(5) Provision of or referrals for credit information on exhibitors and buyers in export transactions.

(6) Advice on packaging and crating for export and referrals of exhibitors and buyers to firms providing packaging and crating for export.

(7) Referrals of exhibitors and buyers to appropriate shipping and insurance firms for export transactions. IDI may arrange for two or more exporters and/or foreign purchasers to jointly purchase shipping or insurance services in export transactions.

(8) Distribution of a catalogue which list and describes all exhibitors and their products and services to foreign visitors at TRADEXPO, other prospective foreign buyers, and embassies and consulates.

(9) Demonstrations of products when provided exclusively to facilitate exports, including demonstrations of products especially designed or otherwise designated for foreign markets.

(10) Provision of facilities to teach and demonstrate technology when provided exclusively to promote the licensing of the technology to persons in other countries.

(11) Transportation of prospective foreign buyers to and from IDI's facilities and provision of travel services, including arrangements for lodging and transportation reservations and preparation of itineraries (domestic and international) when provided exclusively to promote export transactions.

(12) Provision of clerical and secretarial services to process export orders.

(13) Provision of international communications services for export transactions.

(14) Technical training of foreign buyers in the use and servicing of exhibitors' products, services, and technology.

(15) Product research and design conducted by IDI on behalf of an individual firm, when provided exclusively to promote transactions for the export of such product.

Unless otherwise provided above, IDI may enter into exclusive or non-exclusive contracts with domestic firms to provide any or all of the above services. Exhibitors and visitors will not be precluded from obtaining such services from other sources.

(b) IDI may export its product research and development services to individual foreign firms for use in their non-U.S. operations.

DMT World Trade—Application No. 83-00016

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from DMT World Trade on August 2, 1983. The application was deemed submitted on August 8, 1983 and summary of the application was published in the **Federal Register** on August 23, 1983 (48 FR 38266–267 (1983)). Based on analysis of the information contained in the application and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by DMT World Trade meet the four standards of the Act:

Export Trade

(a) Construction and related machinery;
(b) Mining machinery;
(c) Farm machinery and equipment;
(d) Motors and generators;
(e) Pumps and pumping equipment; and
(f) Motor vehicle parts and accessories.

Export Markets

The export market includes all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in the Export Trade in the Export Markets, DMT World Trade may:

(a) Enter into exclusive agreements with U.S. manufacturers and suppliers wherein: (1) The manufacturer or supplier may agree not to sell, directly or through any other intermediary, into the export markets in which the DMT World Trade exclusively represents the manufacturer or supplier, or to any of DMT World Trade's Competitors in export trade; and (2) DMT World Trade may agree not to represent any competitors of such manufacturer or supplier, unless authorized by the manufacturer or supplier.

(b) Enter into exclusive agreements with foreign representatives (including agents, brokers and distributors) wherein: (1) DMT World Trade may agree to deal in the export market only through its foreign representative; and (2) the foreign representative may agree not to represent DMT World Trade's competitors in the export market, unless authorized by DMT World Trade.

(c) Enter into exclusive agreements with an individual buyer in the Export Markets to act as a purchasing agent with respect to a particular transaction.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy or each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR pt. 4. Information about the inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Dated: November 4, 1983.

Irving P. Margulies,

Deputy General Counsel.

[FR Doc. 83-30375 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision On Applications for Duty-Free Entry of Accessories for Foreign Instruments: Cornell University; Correction

In FR Doc. 83-29531 appearing at 48 FR 50143, October 31, 1983 Docket Number 83-225 for applicant Cornell University is corrected to read: 83-255.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-30464 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-05-M

[A-122-013]

Final Determination of Sales at Less Than Fair Value; Fall-Harvested Round White Potatoes From Canada

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that fall-harvested round white potatoes from Canada are beig sold, or are likely to be sold, in the United States at less than fair value. The United States International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: November 10, 1983.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Julia E. Hathcox, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-5414 or 377-0160.

SUPPLEMENTARY INFORMATION:

Case History

On February 9, 1983, we received a petition filed by counsel on behalf of the Maine Potato Council. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports from Canada of fall-harvested round white potatoes are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegations of sales at less than fair value include an allegation that home market sales are being made at less than the cost of production in Canada. Also, "critical circumstances" have been alleged under section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds to intitiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on February 28, 1983 (48 FR 9677). On March 7, 1983, the ITC found that there is a reasonable indication that imports of fall-harvested round white potatoes are materially injuring, or threatening to materially injure, a United States industry.

Pursuant to section 733(c)(1)(A) of the Act, we subsequently postponed the preliminary determination by 50 days until no later than September 7, 1983 (48 FR 29036).

We presented antidumping questionnaires to nine Canadian grower/distributors on April 14 and 15, 1983. These firms were selected on the basis of a statistical sampling of the Canadian grower/distributor population. We found it necessary to use a sampling technique, since scores of Canadian firms were selling potatoes for export to the United States and there was a significant volume of sales.

Thereafter, given that hundreds of growers were supplying the nine grower/distributors, we concluded that a statistical sampling would also be required in our selection of growers to respond to the cost of production questionnaire. We, therefore, selected the growers on the basis of a statistical sample of the grower population under consideration.

Our methodology used a random sample stratified by size of company, type of company, and location. The methodology was based on widely accepted statistical sampling assumptions of the underlying probability distribution of the population and the sample. This methodology provided a statistically valid 95 percent certainty that the firms selected are properly representative samples of the firms which comprise the population of the Canadian fall-harvested round white potato industry.

We subsequently received responses from all of the grower/distributors within our sample, which included L. George Lawton, Ouellette seed Farm, Ltd., Gemvak, Ltd, Powers Produce, Ltd., Olan Potato Farms, Ltd., Simmons and MacFarlane, Ltd., R.C. Marshall Farms, Ltd., John Crawford, Ltd., and M. Rose and Sons, Ltd. In addition, we received responses from all of the growers within our sample which included M. J. Keenan and Sons, Ltd., A.S. MacSwain and Son Ltd., Highland Farms, Ltd., Orlan Farms, Ltd., MacEwen Farms, Ltd., Sidney Drummond, Ltd., R.H. Rennie and Sons, Ltd., MacMurdo Farms, J.D. Black, and St. Clair Croken.

On August 2, 1983, we determined that there is a reasonable basis to believe or suspect that fall-harvested round white potatoes from Canada are being, or are likely to be, sold in the United States at less than fair value (48 FR 34995).

We also determined that "critical circumstances" do not exist for fall-harvested round white potatoes from Canada. We made this determination because, in the context of this industry, there have not been massive imports over a relatively short period of time.

Our notice of the preliminary determination provided interested parties an opportunity to submit views orally and in writing. From July 12, 1983 through July 26, 1983, we verified in Canada the responses from those firms selected as our sample. From September 5 through September 9, 1983, we completed our verifications in Canada.

On September 19, 1983, we published a notice postponing our final antidumping determination until November 4 and postponing our hearing, originally scheduled for September 9, 1983, until September 20, 1983, at the request of counsel for respondents in accordance with section 735(a)(2)(A) of the Act (48 FR 41801).

On September 20, 1983, in accordance with requests from counsel for petitioners and counsel for respondents, a public hearing was held.

Scope of Investigation

The merchandise covered by this investigation is fall-harvested round white potatoes. Fall-harvested round white potatoes are round white potatoes harvested in the fall season of the year, but no earlier than September 1, and no later than December 31 in that year, and marketed, or entered into the United States, from the dates of September 1, in any given year, to the following June 30, inclusive. Fall-harvested round white potatoes are currently classifiable under items 137.20, 137.21, 137.25, or 137.28 of the *Tariff Schedules of the United States* (TSUS).

The period of investigation for fall-harvested round white potatoes from Canada sold in the United States is from September 1, 1982, through February 28, 1983.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. Where a grower did not have home market sales, we compared the United States price to constructed value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for the sales by the previously mentioned grower/distributors because the subject merchandise was sold to unrelated U.S. purchasers prior to its importation into the United States.

We calculated purchase price on the basis of the duty-paid, delivered price with deductions for freight, duty and brokerage for the following grower/distributors: R. C. Marshall Farms, Ltd., M. Rose and Sons, Ltd., Olan Potato Farms, Ltd., L. George Lawton, Powers Produce, Ltd., Gemvak, Ltd., and Simmons and MacFarlane, Ltd. For Crawford, Ltd., and Ouellette Seed Farms, Ltd., we calculated purchase price on the basis of the f.o.b. duty paid price with deductions for duty and brokerage.

Foreign Market Value

In calculating foreign market value, we used home market sales of such or similar merchandise made on the same day as the U.S. sale or, if a home market sale did not occur on the same day as the U.S. sale, then we used the home market sale or sales on the first of the following days: the day prior to the U.S. sale, the day after the U.S. sale, the second day prior to the U.S. sale, the second day after the U.S. sale, the third day prior to the U.S. sale, or the third day after the U.S. sale. If no home market sales occurred on the day of the U.S. sale or within the three days prior to or three days after the U.S. sale, we then resorted to the monthly weighted-average price. When no home market sales of such or similar merchandise occurred during the entire month, we used the constructed value. With one exception we restricted comparisons to home market sales of the same pack size as the U.S. sale. In the case of the one exception, we based foreign market value on sales of a somewhat smaller pack size, since there were no home market sales other than this pack size.

In addition, we attempted to restrict comparisons to the same size, grade, and type of potato. In accordance with section 773(a) of the Act, we calculated foreign market value for potatoes two inches and larger in diameter on the basis of home market sales of such or similar merchandise produced by R. C. Marshall Farms, Ltd., (Marshall). We calculated home market prices on the basis of delivered prices to unrelated customers with a deduction for freight charges. For potatoes of less than two inches in diameter, we based foreign market value on the constructed value of this producer's potatoes, since there were no home market or third country market sales of such or similar merchandise. Because of the extreme difference in market value between potatoes of two inches and larger in diameter and potatoes under two inches in diameter, we did not consider the two size categories to be such or similar merchandise within the meaning of section 771(16) of the Act. We found all of Marshall's home market sales to be above its cost to produce.

We calculated home market prices for potatoes two inches and larger in diameter on the basis of delivered prices to unrelated customers with a deduction for freight charges.

For John Crawford, Ltd. (Crawford), we calculated the foreign market value on the basis of constructed value, since we found all of Crawford's home market sales to be below the cost to produce. For M. Rose and Sons, Ltd. (Rose), we calculated foreign market value on the basis of delivered prices to unrelated purchasers with deductions for freight and inspection fee.

For the month of October 1982, we based foreign market value on constructed value, since Rose had no home market sales above cost during this month. Since over 50 percent by volume of Rose's home market sales were at less than cost, we used only above cost home market sales for fair value comparison purposes. We note that Rose did not permit verification of cost data. We, therefore, attributed to Rose the highest verfied cost from among the other growers.

Ouellette Seed Farm, Ltd., sold only seed potatoes for export to the United States during the period of investigation. This producer had no home market or third country market sales of seed potatoes except in the month of February 1983. Therefore, for months other than February 1983, we based Quellette Seed Farm, Ltd.'s, foreign market value on its constructed value. For the month of February, we based foreign market value for Ouellette Seed Farm, Ltd., on its one sale of seed potatoes in the home market. We found this sale to be above the cost to produce. As this sale was made in bulk on an f.o.b. basis, we made an adjustment for packing by adding the cost of U.S. packing. No deductions or further adjustment were made to the f.o.b. price.

We calculated the foreign market value for L. George Lawton based on delivered home market prices to unrelated purchasers. In calculating foreign market value we used only home market sales of L. George Lawton at prices equal to or above the cost to produce, since over 50 percent by volume of L. George Lawton's home market sales were made at prices below the cost to produce. Since these less than cost sales occurred throughout the investigatory period, we regarded them as having been made over an extended period of time. We also determined that they were made in substantial quantities, and at prices which would not permit recovery of all costs within a reasonable period of time in the ordinary course of trade. Therefore, these below cost sales were disregarded. The remaining above-cost sales provided an adequate basis for determining foreign market value.

Since two of the growers supplying L. George Lawton were included in our sample, we calculated a weighted-average of their costs for purposes of determining whether home market sales prices were at less than cost.

In calculating foreign market value for L. George Lawton we deducted freight charges from the delivered price. L. George Lawton paid commissions on some of its sales in the home market as well as on some sales for export to the United States. We made no adjustment to the home market price for commission, since, whenever a commission was paid in one of the markets under consideration, there was either an offsetting commission in the other market or, if no commission, indirect selling expenses in an amount sufficient to offset the commission in accordance with § 353.15(c) of the Commerce Regulation (19 CFR 353.15(c)).

For Olan Potato Farms, Ltd., we calculated foreign market value on the basis of the f.o.b. price to unrelated home market purchasers. No deductions or adjustments were made to this price. Olan Potato Farms, Ltd., paid a commission on sales for export to the United States but not on home market sales. No deduction was made for the commission in calculating purchase price, and no adjustment was made in calculating foreign market value, since indirect home market selling expenses were sufficient in all cases to offset the commission. Over 50 percent of this producer's home market sales were

made at prices above the cost to produce.

Foreign market value for Powers Produce, Ltd., was based on constructed value since no home market sales were made other than in the months of September and October and no sales were made to third country markets during our investigatory period. Sales to the United States were made in November and December of 1982, and in January of 1983. Because of the difference in the date of sale between the home market and the U.S. market, we did not consider these sales to be comparable, and, therefore, used constructed value as the basis for our comparisons. All of this producer's home market sales were above the cost of production.

For Gemvak, Ltd., we calculated foreign market value on the basis of the delivered price to unrelated home market customers with a deduction for inland freight. Since over 50 percent of this distributor's home market sales were at less than cost, we used only above cost sales as a basis for foreign market value.

For the months of November 1982 through February 1983, foreign market value for Simmons and MacFarlane, Ltd., was calculated on the basis of the delivered price to unrelated home market purchasers with a deduction for freight. Since more than 50 percent of Simmons and MacFarlane, Ltd.'s, home market sales were at less than cost, we used only above cost sales in calculating foreign market value. We made no adjustment for the commission paid on sales for export to the United States since in the home market there were either offsetting commissions or indirect selling expenses in an amount sufficient to offset the commission on U.S. sales. During the months of September and October 1982, Simmons and MacFarlane, Ltd., made no home market or third country sales but did make sales for export to the United States. Therefore, for the months of September and October 1982, we used constructed value as the basis of comparison for U.S. sales made in those months.

In all instances where constructed value was used, we calculated the foreign market value based on the cost of materials and fabrication, and general expenses in accordance with the statute. Since profit was less than 8 percent we added the statutory minimum of 8 percent profit to the total of materials, fabrication and the general and selling expenses. In all cases general expenses exceeded the statutory minimum to 10 percent of materials and fabrication costs.

Negative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of the product under investigation present "critical circumstances". Under section 733(e)(1) of the Act, critical circumstances exist when: (A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and (B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period of time.

During the period August through June of the 1982/1983 crop year, imports of white potatoes classified under TSUS item numbers 137.20, 137.21, 137.25, and 137.28 amounted to approximately 2,199,622 cwt.

During the period of August through June of the 1981/1982 crop year, white potato imports amounted to approximately 3,274,157 cwt. Based on these figures, imports from Canada of round white potatoes have decreased from the 1981/1982 crop year to the 1982/1983 crop year by 1,074,535 cwt.

In the context of this industry, there have not been massive imports over a relatively short period of time. Therefore, critical circumstances do not exist for fall-harvest round white potatoes from Canada.

Respondent's Comments

Comment 1

The Department of Commerce (DOC) postponed the preliminary determination, originally scheduled for July 19, 1983, to no later than September 7, 1983. Not needing the full postponement, the DOC published its preliminary determination on August 2, 1983. Respondent claims that the accelerated preliminary determination was unwarranted and resulted in serious prejudice to its case, citing in particular DOC's failure to complete all verification reports prior to the September 20, 1983 hearing.

DOC Position

The DOC was able to make its preliminary determination considerably prior to the postponement date due, in part, to the unexpectedly quick turnaround on the key punching and computer analysis of sales data. Because the postponement was abbreviated, we had to conduct verification after our preliminary determination. Nevertheless, most of the veritfication reports were released prior to the hearing and for those reports released after the hearing, respondents were given an extended comment period.

Comment 2

There is no statutory or regulatory authority for the DOC to make a determination of sales at less than fair value on the basis of a sampling of possible respondents.

DOC Position

In circumstances where the DOC finds it administratively impossible to conduct an investigation encompassing at least 60 percent of imports of the subject merchandise within the time limits allowed by statute, the DOC must take those means at its disposal to complete its investigation within the statutory time limits while at the same time ensuring that the results of its investigation are reliable. In this investigation, due to the scores of distributors and the hundreds of growers shipping the product under investigation, the DOC determined that it was clearly impossible to investigate 60 percent of imports within the statutory time limits. The most practical and effective means available to the DOC was a sampling of potential respondents based on widely accepted statistical assumptions of the underlying probability distribution of the population and the sample. Although the statute does not specifically provide for a sampling of the respondent population, it is clearly within the intent of the statute to use sampling techniques in selecting respondents, when this approach is the only reasonable one available to the DOC under the circumstances.

Comment 3

Respondents claim that fair value price comparisons should be made only between sales for export to the United States and sales for home consumption which are made on the same day, since prices fluctuate on a daily basis.

Comparing sales for export to the United States with a monthly weighted-average price in the home market will create margins, because of the daily price fluctuations. If a sale is not available on the same day in the home market for comparison purposes, the most recent prior home market sale should be used in a rising market and the closest following home market sale should be used in a declining market. Respondents have characterized the

market during the period September 1982 through February 1983 as a generally declining market.

DOC Position

We agree that in some cases potato prices fluctuated on a daily basis. We have, therefore, modified our fair value comparison methodology for purposes of the final determination and have compared sales for export to the United States on a given day with sales in the home market on that same day as opposed to a monthly weighted-average home market price. When no home market sales occurred on the same day as the U.S. sale, we have selected the home market sale occurring on the first of the following days: the day prior to the U.S. sale, the day following the U.S. sale, the second day prior to the U.S. sale, the second day following the U.S. sale, the third day prior to the U.S. sale, and the third day following the U.S. sale. When no home market sale occurred on the day of the U.S. sale or within the period three days prior to and three days following the U.S. sale, we have then resorted to the monthly weighted-average price for fair value comparison purposes.

We disagree that the period from September 1982 through February 1983 was generally a declining market. Based on an analysis of sales transactions of the two largest exporters under investigation, we found that although some sales early in the period were priced higher than sales later in the period, there were a significant number of early period sales at prices less than sales occurring late in the period. We, therefore, cannot characterize the market as a declining one and reject respondents methodology of using the closest succeeding home market sale when no home market sale occurred on the same day as the U.S. sale.

Additionally, using the closest succeeding home market sale would in certain instances result in a home market sales date considerably removed from the date of the U.S. sale.

Comment 4

Respondents claim that the DOC should not use constructed value when no home market sales are available for comparison purposes, since exporters cannot be expected to meet costs in every instance on sales of a perishable commodity such as potatoes.

DOC Position

We agree that with a perishable commodity such as potatoes it is to be expected that sales will sometimes occur at prices less than the cost to produce. Therefore, we have not resorted to constructed value when an adequate number of fair value comparisons could be made on the basis of home market price. In these cases, when no home market sales were available for comparison purposes during a particular month we simply disregarded the U.S. sales transaction. In other cases, however, where sufficient home market sales were not available for adequate fair value comparisons to be made, we did resort to the constructed value.

Comment 5

Respondents claim that the DOC should not disregard below cost sales unless it investigates whether these sales were at prices which do not permit recovery of all costs within a reasonable period of time in the normal course of trade.

DOC response

We have disregarded below cost sales only when the volume of below cost sales for a particular grower or distributor has exceeded 50 percent of total sales volume. Even for a perishable commodity, this volume of sales over the course of a season would in our opinion meet the statutory requirement that below cost sales be in substantial quantities and over an extended period of time.

Concerning the recovery of costs over a reasonable period of time, we have determined that the below cost prices, if they persisted for the entire season or for several seasons, would not permit the recovery of costs. Growers would never be able to recover costs at these prices. Growers are able to recover costs by selling at considerably higher prices over those weeks during the season when prices are up.

Comment 6

Respondents claim that for a grower whose home market sales of the identical product were found to have been made prior to the investigative period, DOC should use home market sales of similar product during the period of investigation.

DOC Position

We agree. Since home market shipments of the identical product during the investigative period were all pursuant to a contract which predated the period, we consider the actual sale of this product to have taken place prior to our period of investigation. Therefore, we will not use this sale for fair value comparison purposes. Instead, we have selected other home market sales of a similar product during the period as the basis of fair value.

Comment 7

Respondents claim that the DOC should use all growers' cost to produce information submitted during the investigation in making its determination on below cost sales rather than using only the verified cost to produce information. Additionally, at least a weighted-average cost should be computed from the verified cost information.

DOC Reponse

Because of the large number of growers supplying distributors under investigation, we found that it was administratively impossible to verify all of the grower information submitted. Therefore, we selected a sample of the grower population for verification and restricted our verification to those growers selected in the sample. We were precluded from using cost information from growers not selected for verification by section 776 of the Act which clearly provides that all information used in our final determination be verified information.

We agree that in cases where several growers whose costs were verified supplied a distributor, the weighted-average rather than the simple arithmetic average of their costs by used. For the final determination, we used the weighted-average cost when applicable.

Comment Number 8

Because of the perishability of the product under investigation and because of the highly variable pricing associated with this product, the DOC should abandon its traditional method of fair value comparison and adopt the methodology used for fresh winter vegetables from Mexico, basing its determination on an analysis of matched pairs of sales and certain qualitative factors affecting the market.

DOC Position

We recognize that potatoes are a perishable commodity whose shelf life may be shortened by disease and weather conditions. Nevertheless, potatoes have a considerably longer shelf life than such fresh vegetables as tomatoes or peppers. Tomatoes and peppers are harvested and shipped immediately to market. The grower has no choice but to market the produce immediately after harvest. With potatoes, however, the grower frequently warehouses for six to nine months prior to sale. Consequently, there is an essential difference in the perhishability factor as it applies to potatoes and to these other far more

perishable fresh vegetables. As a result, growers and distributors of potatoes have a degree of control over when they choose to market the potatoes and the price they are willing to accept.

Regarding price variability, we have found that potato prices were far less variable than prices for fresh winter vegetables from Mexico. For Mexican vegetables we found prices to double or to halve within a single day. With potatoes, however, it was not uncommon for prices, particularly for export to the United State, to remain essentially unchanged for several weeks in some cases for an entire month or more. Under these circumstances, we have concluded that our traditional comparison methodology, modified where possible for daily price comparisons, is an equitable basis for our final determination.

Comment Number 9

In allocating costs, where the DOC did not accept the respondents allocation of costs among various activities based on experience, the DOC allocated on the basis of the relative revenues from these activities. If a livestock operation had a higher cost per dollar of revenue than potatoes, more cost ought to be allocated to it than to potato production.

DOC Position

We used relative revenues when a respondent could not provide a reasonable basis for allocating costs and expenses, particularly general and administrative expenses. It is common accounting practice to allocate general and administrative expenses in this manner.

Comment Number 10

Although respondent was unable to determine from verification reports the basis for depreciation expense, respondent claims that useful life depreciation rather than accelerated depreciation for tax purposes should be used in determining cost.

DOC Position

With two exceptions we used depreciation expense as determined for financial reporting purposes. In the two cases where depreciation was taken from the income tax return, it was the best information available to us. Although we requested supporting documentation for the tax depreciation amount, we did not receive it and were unable to determine whether the amount was based on an accelerated depreciation schedule.

Comment Number 11

The DOC used net yield, the quantity actually sold, rather than gross yield, the quantity orginally harvested, in determining the cost per hundredweight. In cases of high spoilage or cullage, the use of net yield resulted in an inflated cost.

DOC Position

It is from the net yield, those potatoes actually sold, that production costs must be recovered, since cullage or spoilage has very little sales value and ofter is not sold. Therefore, it is reasonable that net production absorb total production cost less any revenue from sales of cullage.

It is a generally accepted accounting principle that net production absorb the cost of normal shrinkage or spoilage during a given production period. For one grower whose 1982 yield was abnormally low due to an isolated case of ring rot, we agree that the net yield figure should be changed to reflect the grower's normal net yield.

Comment Number 12

For two growers the DOC imputed the cost of retained seed on the basis of market value which would include the seller's profit and is not truly reflective of these growers' costs.

DOC Position

We agree that retained seed potato should be valued at the grower's cost of production. However, the two respondents were unable to provide the cost of producing the seed and they considered the average 1982 market value a reasonable estimate.

Comment Number 13

One packer/shipper was engaged in other enterprises whose financial status was reflected in the same financial statements as the packing and shipping operation. The DOC arbitrarily assigned the cost of the other enterprises to the potato operations, since the other enterprises did not appear to be revenue generating.

DOC Position

After reviewing the cost allocation for this packer/shipper, we agree that the wages and salaries related to the other enterprises should not be allocated to the cost of packing potatoes.

Comment Number 14

For one grower the DOC assigned a cost based on industry norms for fertilizer and spray usage, even though actual usage by the grower was much lower.

DOC Position

The fertilizer and spray costs which we used for this grower were the actual costs as reported in the financial statements. Our review of the allocation of these costs between round white and russet potatoes showed that the allocation to russets was disproportionately high when compared to other growers. Therefore, we allocated based on the usage norm of other growers.

Comment Number 15

The abnormally high financing, fuel, labor and yield costs of one grower should be reduced to the industry norm.

DOC Position

Although this grower's financing, fuel, and labor costs were substantially higher than any other grower in the sample, these costs did, in fact, represent the actual costs incurred by this grower and verified by the DOC. Since our selection of growers was based on a statistically valid sampling procedure, we view this grower as an integral part of the sample. To disregard his costs because they are high would invalidate the authenticity of the sample. In addition, we do not believe that the net yield figure for this grower should be adjusted, since it was the result of normal spoilage in storage and is above the net yield figure of several other growers.

Comment Number 16

For one packer who distributed fertilizer, spray, and lime in addition to potatoes, the DOC allocated 100 percent of depreciation, insurance, light, heat, repairs and maintenance to potatoes but allocated advertising, interest and office expenses on the basis of revenue.

DOC Position

Since the packer in question did not take physical possession or warehouse the fertilizer, spray, and lime, we determined that it would have been inappropriate to allocate certain overhead items for plant and equipment to the sale of farm supplies.

Comment Number 17

The DOC should not consider costs for crops such as hay and grain to be part of potato production costs, since these crops may be cultivated primarily for the sales revenues which they generate.

DOC Position

It was the consensus among the growers in our sample that hay and grain were grown as rotation crops to

restore nutrients expended in potato production. The hay was usually not sold and the grain was considered a break-even crop at best. Because the values of grain and hay are small in relation to potatoes and because they are grown primarily for crop rotation purposes, we treated them as by-products for accounting purposes. The net revenue arising from crop rotation was an adjustment to the cost of production of potatoes.

Comment Number 18

In cases where family members worked in potato production but were not paid a wage, the DOC has imputed a labor cost despite the fact that an actual expense was not incurred.

DOC Position

The DOC imputed a cost for family labor since the owner of a business expects a minimum return for his labor as well as a return on his investment. Wage costs should not be excluded from the cost of production simply because it was not a grower's practice to pay wages to family members. The imputed cost we used was based on only full-time adults and their percentage involvement in the potato and grain/hay operations at a minimal labor rate. We did not include child, part-time, or indirect labor (bookkeeping) in the imputed labor costs.

Comment Number 19

Respondent hlods that the sample of exporters is not representative of the Canadian industry for two reasons. One, the DOC moved in haste before learning important facts about the Canadian industry. Two, the sampling method is seriously flawed.

DOC Position

In regard to the first point, the DOC took into consideration several factors in developing its sampling methodology in a manner which maintained the statistical significance of the smaple and its representativeness of the industry. Such factors as size and type of firm, location of firm by province, and whether the firms exported the class or kind of merchandise during the period of investigation were considered explicitly before presentation of the questionnarire, when responses were received, and subsequently when the robustness of the sample was evaluated. The procedures used and their sequence were implemented in order to assure a sample of firms representative of the industry's cost and price experience. The DOC took advantage of the statistical methodologies available to it to sequence the preparation of information by respondents in a manner which permitted the investigation to proceed in a timely manner.

In regard to the second point, the DOC disagrees that the sampling method is seriously flawed and it finds that comments from an expert witness directed at the sampling methodology were not a criticism of the methodolgy but rather a recommendation regarding the use of higher confidence levels. In this respect, the DOC is satisfied that the confidence level of 95 percent with its implications for sample size meets its requirements for investigating a sample which is representative of this industry. Moreover, the DOC has reviewed the variability of actual prices and costs of the 19 firms investigated (19 of which were in the samle). Variablitiy of price and cost were 20 to 40 percent less than the DOC originally hypothesized which leads it to believe that the size of the sample and methodology used were reasonable in obtaining information representative of the entire population. Furthermore, the DOC deliberately designed its sampling methodology as a simple random sample which took account of stratas of characteristics of firms by size and province. If, as respondent suggests, the DOC has used a stratified random sampling techinque the confidence levels would have been higher and the required number of firms lower than the eighteen firms actually included in the investigation.

Petitioner's Comments

Comment 1

Petitioner claims that the cost to produce reported by the Canadian growers and exporters does not reflect all costs or full costs and is consideably below production costs of Canadian potatoes developed in the Section 332 investigation conducted by the U.S. International Trade Commission in 1982. Specifically, land costs, interest costs, and labor costs, particularly family labor, are understated or omitted.

DOC Position

We agree that for a substantial number of growers, the cost of production information reported in the responses did not reflect all of the elements of costs or did not include full costs for one or more elements of cost. During verification we gathered more complete cost information and related costs to annual profit and loss statements which appeared to be the best evidence of actual costs. With respect to land costs, we note that in some cases land has been owned by the grower for may years and land costs are either minimal or nonexistent. For labor we have imputed a cost for family labor when the grower did not provide for wages to be paid to family members. Regarding interest costs, we have insured an adequate allocation to potato production by relating interest expense to total interest expense incurred as reflected in the profit and loss statement of the annual report.

Comment 2

Petitioner maintains that the DOC in calculating constructed value should have added a full 10 percent as required by statute for general, selling and administrative expenses when reported costs did not show a breakout for these expenses but aggregated then with materials and labor costs.

DOC Position

We agree that in instances where general, selling, and administrative expenses were not clearly identified and quantified, we should have added a full 10 percent of materials and labor cost to insure that the statutory minimum was satisfied. For our final determination, we have gathered sufficient detail on costs to allow a complete breakdown of expenses, including general, selling, and administrative expenses, and in all cases have insured that these expenses meet the minimum 10 percent test as required by statute.

Comment 3

Petitioner claims that in several instances growers or distributors did not report all home market sales, but excluded sales in smaller quantities to restaurants, grocers and small wholesalers. These sales should be included in the determination of foreign market value since the statute allows for adjustments to the selling price for quantity discounts and differences in levels of trade. Failure of the respondents to claim or document these adjustments should not result in exclusion of the sales from consideration.

DOC Position

Although we collected information on the unreported home market sales during verification, we have decided to exclude these sales in the determination of foreign market value, since adequate home market sales in comparable quantities and at the same level of trade were available for fair value comparison purposes. Sections 353.14 and 353.19 of our regulations (19 CFR 353.14 and 353.19) require that comparisons normally be made on sales of comparable quantities and at the same level of trade. The excluded home

market sales were in considerably smaller quantities than the sales for export to the United States and, in the case of restaurants and grocers, were to a different level of trade.

Comment 4

Petitioner indicates that for one distributor fair value comparisons were not made on U.S. sales when a comparable home market sale was unavailable during the month of the U.S. sale. Petitioner maintains that constructed value should have been used as a basis of comparison when no comparable home market sales were made.

DOC Position

The distributor in question made numerous sales both in the home market and for export to the United States. Although comparable sales did not exist for all U.S. sales, we were able to make a sizeable number of fair value comparisons without resorting to constructed value. With a perishable commodity such as potatoes, where wide price fluctuations over the course of the season are the norm, we are reluctant to use constructed value for comparison purposes, since in the normal course of trade sales will at times be made at prices less than the cost to produce. Therefore, when we were able to make an adequate number of comparisons on the basis of sales, we did not resort to constructed value.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making this determination. We were granted access to the books and records of all of the growers and distributors under consideration with the exception of records on cost for M. Rose and Sons, Ltd. We used standard verification procedures, including examination of accounting records, financial records, and selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on all sales of the subject merchandise made for export to the United States by the distributors and growers under investigation with the exception of L. George Lawton. In the case of L. George Lawton, we made comparisons on those U.S. sales for which there existed a corresponding home market sale during the same month. Since we were able to make an adequate number of comparisons on this basis, we did not resort to constructed value for the remaining U.S. sales.

We have found that foreign market value exceeded the United States prices on 74 percent of the sales compared. The margins ranged from 0.6 to 206 percent. The overall weighted-average margin on all sales compared was 36.1 percent.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that fall-harvested round white potatoes from Canada are being sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

Liquidation will continue to be suspended on all entries of fall-harvested round white potatoes that are entered into the United States, or withdrawn from warehouse, for consumption. The United States Customs Service will continue to require the posting of a cash deposit or bond in the following amounts:

Manufacturers/producers/exporters	Weighted-average margin (percent)
R.C. Marshall Farms, Ltd	7.5
Ouellette Seed Farm, Ltd	1.9
M. Rose and Sons, Ltd	45.6
Gemvak Ltd	52.3
L. George Lawton	33.6
Simmons and McFarlane, Ltd	58.3
Olan Potato Farms, Ltd	0.6
All others	36.1

We are excluding John Crawford, Ltd., and Powers Produce, Ltd., from this determination, since we found these distributors sales for export to the United States to be at or above fair value. The security amounts established in our preliminary determination of August 2, 1983, are superseded by the above amounts.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on fall-harvested round white potatoes from Canada entered, or withdrawn from the warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the produce exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: November 4, 1983.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 83-30465 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; North Carolina Central University et al.

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 83-326. Applicant: North Carolina Central University, Department of Biology, Box 19646, Durham, NC 27707. Instrument: Electron Microscope, Model H-300. Manufacturer: Hitachi, Japan. Intended use of instrument: Teaching of the course Application of Electron Microscopy in Biomedical Research. Application received by Commissioner of Customs: October 20, 1983.

Docket No. 83-328. Applicant: University of Texas Medical Branch at Galveston, Galveston, TX 77550. Instrument: Electron Microscope, Model EM 410LS and Accessories. Manufacturer: Nederlandse Philips Bedrijven B.V., the Netherlands. Intended use of instrument: Research: Investigations which will include

ultrastructural studies on pathologic human tissues and normal and pathologic animal tissues, cyto- and histochemical studies on enxyes and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in cellular biochemical and physiological environments. Education: Residency training program offered by the Pathology Department and in the graduate training program of the School of Biomedical Sciences. Application received by Commissioner of Customs: October 20, 1983.

Docket No. 83–329. Applicant: SRI International, Molecular Physics Laboratory, PS091, 333 Ravenswood Avenue, Menlo Park, CA 94025. Instrument: Kelvin Probe and Electronics. Manufacturer: Delta-Phi-Electronik, West Germany. Intended use of instrument: Research: Studies of composite molybdenum—alkali metal surfaces in order to understand detailed mechanisms governing the production of negative ions via charge-transfer on minumum work function surfaces. Application received by Commissioner of Customs: October 20, 1983.

Docket No. 84–001. Applicant: Baptist Medical Center, 800 Prudential Drive, Jacksonville, FL 32207. Instrument: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: Research: Study of human tissue removed as biopsy specimens or surgical excisions. Studies will be performed regarding the pathogenesis of renal disease and hepatic disease. Application received by Commissioner of Customs: October 20, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-30463 Filed 11-9-83; 8:45 am]

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Applications for Duty-Free Entry of Scientific Instruments; University of California et al.

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purpose for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83–330. Applicant: University of California, Santa Barbara, Purchasing Department, Santa Barbara, CA 93106. Instrument: Ion Source for Rare Gas Mass Spectroscopy. Manaufacturer: Swiss Federal Institute of Technology, West Germany. Intended use of instrument: Investigations consisting of measurements of terrestrial rare gases in order to detect anomalies asociated with primitive or extra-terrestrial components in the interior of the earth. Other studies will consist of mapping of continental geothermal areas using rare gas isotopes and studies of deep ocean circulation patterns by measuring the distribution of oceanic ^{3}He. Education: Training researchers in isotope geochemistry and mass spectrometry. Application received by Commissioner of Customs: October 27, 1983.

Docket No. 83–331. Applicant: Veterans Administration Medical Center, 300 E. Roosevelt Road, Little Rock, AR 72206. Instrument: Electron Microscope, JEM–100CX and Accessories. Manufacturer: JEOL, Inc., Japan. Intended use of instrument: Study of the structure of pathological cells and tissues in order to increase the understanding of the structure, correlative function of different normal and diseased cells and tissues. Training Ph. D. candidates, Path Residents and staff in modern electron microscopical principles and techniques in order that they may apply these methods to their research projects. Application received by Commissioner of Customs: October 27, 1983.

Docket No. 83–332. Applicant: University of California, Department of Botany, Robbins Hall, Davis, CA 95616. Instrument: Scanning Electron Microscope, Model S–800 with Accessories. Manufacturer: Hitachi, Japan. Intended use of instrument: Examination of frozen tissues, either in the bulk frozen hydrated state or as frozen hydrated semi-thin sections. Studies will include quantitative analysis of trace elements in tissue as well as spatial localization of these elements. Educational purposes in the course Biological Electron Microscopy as well as specialized graduate research courses where the exact course content is directed to the individual student's needs. Application received by Commissioner of Customs: October 27, 1983.

Docket No. 83–333. Applicant: Methodist Hospital of Indiana, Inc., 1604 North Capitol Avenue, Indianapolis, IN 46206. Instrument: Extracorporeal Shock Wave Lithotripter. Manufacturer: Dornier Systems GmbH, West Germany. Intended use of instrument: Evaluation of a novel therapeutic approach to the treatment of kidney stone disease in what has been proven in some three to four hundred patients in West Germany to be highly cost effective and extremely efficacious. Application received by Commissioner of Customs: October 27, 1983.

Docket No. 83–334. Applicant: University of Illinois at Urbana-Illinois, Purchasing Division, 223 Administration Bldg., 506 South Wright St., Urbana, IL 61801. Instrument: Excimer Multi-Gas Laser, EMG 15OES. Manufacturer: Lambda-Physik GmbH Co., West Germany. Intended use of instrument: Research consisting of conducting the following experiments:

(1) Investigation of autoionization in the rare gases and the group IIB metals.

(2) Laser-induced collisional energy transfer studies including pair absorption and charge exchange involving the rare gases and the group IIB metals.

(3) The deposition of Column III and Column V elements by using the laser to simultaneously photodissociate metal-halide molecules and photoionize the freed metal atoms.

Graduate students in either Electrical Engineering or Physics will use the instrument as part of their thesis research. Application received by Commissioner of Customs: October 27, 1983.

Docket No. 83–335. Applicant: Mount Sinai School of Medicine, Department of Physiology, Annenberg 21–29, One Gustave L. Levy Place, New York, NY 10029. Instrument: Voltage Clamp Amplifier for Voltage Clamp and Constant Current Sending Mode with Accessories. Manufacturer: Vertrieb Biomedizinischer, West Germany. Intended use of instrument: Research on the reabsorptive (or secretory) transport of Na, Cl, HCO_3 and/or H ions across the epithelial cells of the turtle bladder to characterize the ion-selective, electrical properties of the apical as distinct from basal-lateral membrane. Measurements of transmembrane parameters such as the electrical potential ion-selective conductances, and total electrical conductance along with additional determinations of the corresponding intracellular ion activities

will be obtained. Application received by Commissioner of Customs: October 27, 1983.

Docket No. 83-336. Applicant: Beckman Research Institute of the City of Hope, 1450 E. Duarte Road, Duarte, CA 91010. Instrument: High Resolution Mass Spectrometer, Model HX 100 and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: Research directed toward a better understanding of the structure and function of biological systems. An integral part of this research is the structural analysis of synthetic and natural biologically active compounds. Specific compound classes to be studied are: lipids, proteins, oligonucleotides, polysaccharides, glycolipids, and glycoproteins. Application received by Commissioner of Customs: October 27, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-30462 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Solicitation of Applications; Minority Business Development Center (MBDC)

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 12-month period, from January 1, 1984 to December 31, 1984 in the State of Connecticut. The total cost for the MBDC will be $187,000 which will consist of a maximum of $158,950 Federal funds and a minimum of $28,050 non-Federal funds (which can be a combination of cash, in-kind contribution and fee for services).

The funding instrument for the MBDC will be a cooperative agreement and is open to all individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes and education institutions.

The MBDC will provide management and technical assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is designated to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority bussinesses are funneled.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 12-month period with a four-year noncompeting continuation option. The MBDC's option will be reviewed and awarded each year at the direction of MBDA based on its needs, availability of funds and the applicant's performance.

Closing date: The closing date for applications is November 25, 1983.

ADDRESS: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, Room 36-116, New York, New York 10278, (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Georgina Sanchez, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Georgina Sanchez,

Regional Director.

[FR Doc. 83-30380 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Review Schedule for Government Commercial or Industrial Type Activities

Notice is hereby given that pursuant to OMB Circular No. A-76 and Department of Commerce Administrative Order 201-41, "Acquisition of Commercial or Industrial Products and Services Needed by the Department of Commerce," the National Bureau of Standards is updating its schedule for the review of its Government Commercial or Industrial Type Activities. These are grouped into activities with ten or fewer full-time equivalent (FTE) employees and activities with more than ten FTE employees.

Activity and location	Estimated start date	Estimated completion date
10 or Less FTE:		
Grounds Maintenance, Gaithersburg, Md.	06-30-84	09-30-85
Grounds Maintenance, Boulder, Colo.	06-30-84	09-30-85
Storeroom Operation, Gaithersburg, Md.	04-30-86	07-31-87
More than 10 FTE:		
Janitorial Services, Gaithersburg, Md.	01-31-85	04-30-86
Janitorial Services, Boulder, Colo.	01-31-85	04-30-86
Mail Preparation and Distribution, Gaithersburg, Md.	01-31-84	04-30-85
Shipping and Receiving, Gaithersburg, Md.	04-30-86	07-31-87
Shuttle Operations, Gaithersburg, Md.	06-30-85	09-30-86

A contract or contracts may or may not result from the review of each activity. Results of the review of an activity will be made available to responding bidders or offerors, and other interested parties. For further information, contact Mrs. Paige L. Gilbert, A-76 Coordinator, Office of the Director of Administration, National Bureau of Standards, Washington, D.C. 20234, telephone: 301-921-3567.

Dated: November 4, 1983.

Ernest Ambler,

Director.

[FR Doc. 83-30395 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Ford S. Worthy, Jr., From Objection by the North Carolina Department of Natural Resources and Community Development

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of Apeal.

SUMMARY: On August 5, 1983, the Secretary of Commerce received an appeal by Ford S. Worthy, Jr., from an objection by the North Carolina Department of Natural Resources and Community Development (Department) that Mr. Worthy's proposed plan to construct a commercial marina on Bath Creek near Washington, North Carolina,

is inconsistent with the North Carolina Management Program. Additional information supporting the appeal was submitted by the appellant on October 11, 1983. This appeal has been filed pursuant to Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A) and implementing regulations at 15 CFR Part 930 Subpart H.

Interested persons are advised that they may submit comments to the Secretary of Commerce (Secretary) on the issues raised in this appeal within 30 days from the date of publication of this notice. Comments should be sent to: Joan M. Bondareff, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, Department of Commerce, Room 270, Page 1 Building, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Copies of comments also should be sent to the following persons:

1. Lee E. Knott, McMullan & Knott, 327 North Market Street, Washington, North Carolina 27889.

2. John Parker, North Carolina Office of Coastal Management, P.O. Box 27687, Raleigh, North Carolina 27611.

3. Steve Brown, Department of the Army, Wilmington District Corps of Engineers, 21 North Front St., Wilmington, N.C. 28402.

Comments should address whether Mr. Worthy's proposed project to construct a marina on Bath Creek complies with the regulatory criteria, as set forth in 15 CFR 930.121, to be considered by the Secretary in deciding whether to override the objection of the Department under Section 307(c)(3)(A) of the CZMA.

Access to Mr. Worthy's Notice of Appeal and accompanying supporting information, and to the public information contained in comments submitted by Federal and State agencies, will be available to the public at the following State and Federal offices during normal working hours:

1. North Carolina Department of Natural Resources & Community Development, 512 North Salisbury Street, Raleigh, N.C. 27529.

2. Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, Department of Commerce, Room 270, Page 1 Building, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

3. Department of the Army, Wilmington District Corps of Engineers, 21 North Front St., Wilmington, N.C. 28402.

FOR FURTHER INFORMATION CONTACT: Bernard Cody, Attorney Advisor, Office of the Assistant General Counsel for Ocean Services (202/254-7512).

SUPPLEMENTARY INFORMATION: Mr. Worthy is a private developer who proposes to develop a commercial marina consisting of 3 piers extending from approximately 435 feet to 480 feet into Bath Creek near Washington, North Carolina. On April 9, 1982, Mr. Worthy submitted an application for a Department of the Army Corps of Engineers permit.

On July 13, 1983, the Army Corps of Engineers notified Mr. Worthy that the North Carolina Department of Natural Resources and Community Development had determined that his proposed development of the marina was inconsistent with the North Carolina Coastal Management Program. The Department's objection was based on its assessment that the continued proliferation of marina facilities in Bath Creek could result in water quality degradation due to increased bacterial pollution from illicit overboard discharges and from gas and oil spills from fueling facilities. The Department also objected on the grounds that water quality degradation could damage fish and wildlife resources.

Mr. Worthy appealed to the Secretary of Commerce on August 5, 1983, to override the objections of the Department to the proposed construction of the marina. On October 11, 1983, Mr. Worthy submitted additional information pertaining to the grounds for his appeal, alleging that his project is consistent with the objectives and purposes of the CZMA and meets the criteria of 15 CFR 930.121. NOAA regulations, at 15 CFR 930 Subpart H, authorize the Secretary to find that a Federal license or permit activity, which has been found by a state to be inconsistent with its federally approved coastal zone management program, may nevertheless be permitted if the activity meets one of two tests: (1) The activity is consistent with the objectives or purposes of the CZMA, or (2) the activity is necessary in the interest of national security. Mr. Worthy alleges that his proposed activity should be allowed under the first test. To meet the first test, four criteria must be satisfied: (a) The activity furthers one or more of the competing national objectives or purposes contained in Sections 302 or 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the State management program.

If the Secretary does not find that the activity meets this test, the Federal agency shall not approve the activity.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: November 3, 1983.

K. E. Taggart,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-30393 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of Korea To Review Trade in Categories 300 and 301

November 7, 1983.

On October 28, 1983 the Government of the United States requested consultations with the Government of the Republic of Korea with respect to Categories 300 (carded yarn) and 301 (combed yarn). This request was made on the basis of the agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 300 and 301, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Government of the United States reserves the right under the agreement to invoke import controls on these categories, as defined in the Bilateral Cotton, Wool, and Man-Made Textile Agreement with the Government of the Republic of Korea.

Any party wishing to comment or provide data or information regarding

the treatment of Categories 300 and 301 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Republic of Korea, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-30459 Filed 11-9-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Proposed Additions

Correction.

In FR Doc. 83-29355, beginning on page 49904, in the issue of Friday, October 28, 1983, in the third column, in the sixth line from the bottom, No. 975 should read "Sea Shell Oven Mitt"; also in the third column, in the last line "Rosebury" should read "Roseburg".

BILLING CODE 1505-01-M

Procurement List 1984; Notice of Establishment; Correction

In FR Doc. 83-29356, appearing on page 49905, in the issue of Friday, October 28, 1983, in the first column, in the third line from the bottom, " "4557" " should read " "4547" ".

BILLING CODE 1505-01-M

Procurement List 1984 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments Must Be Received on or Before: December 14, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 7510

Clip, Paper, Binder, Medium
7510-00-223-6807
Clip, Paper, Binder, Large
7510-00-285-5995

SIC 7349

Janitorial Service
Wallace Ranger District of the Panhandle National Forest
Coeur d'Alene, Idaho
Janitorial/Custodial Service, Federal Building, 841-881 South Pickett Street, Alexandria, Virginia
Janitorial/Custodial Service, U.S. Army Reserve Center, Building 2798, Fort Eustis, Virginia

C. W. Fletcher,

Executive Director.

[FR Doc. 83-30410 Filed 11-9-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984 Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from procurement list.

SUMMARY: This action adds to and delete from Procurement List 1984 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: November 10, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 1, July 22, and September 16, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 14021, 48 FR 33513, and 48 FR 41620) of proposed additions to and deletion from Procurement List 1984, October 18, 1983 (48 FR 48415).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1984:

Class 5440

Ladder, Extension (Wood)
5440-00-223-6025
5440-00-242-1000
5440-00-223-6026
5440-00-242-0998
5440-00-223-6027
Ladder, Straight (Wood)
5440-00-242-7151
5440-00-816-2585
5440-00-814-5084
5440-00-242-0995

5440-00-816-2575
5440-00-223-6029
5440-00-223-6030

Class 8445

Belt, Trousers, Cotton
8445-01-075-0013
8445-01-075-0014
8445-01-075-0015

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from the Procurement List 1984:

Class 8440

Belt, Coat
8440-00-964-3978

C. W. Fletcher,

Executive Director.

[FR Doc. 83-30409 Filed 11-9-83; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1984 Corrections of Proposed Additions

In FR Doc. 83-29355, published October 28, 1983 (48 FR 49904), the NSN for the item under Belt, Tool, Repairman's is corrected to read 5140-00-529-2517.

In FR Doc. 83-29355, published October 28, 1983 (48 FR 49904), under Class 9505, wherever 9905 appears change to 9505.

C. W. Fletcher,

Executive Director.

[FR Doc. 83-30411 Filed 11-9-83; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1984; Establishment; Correction

In FR Doc. 83-28332 appearing at page 48415 in the issue for Tuesday, October 18, 1983, make the following corrections:

1. On page 48417, third column, fifth line from the bottom, Table, Wood, change to read "Table, Office, Wood." Same column, second line from the bottom, Tables, Steel, change to read "Table, Steel".

2. On page 48418, first column, eighth line from the top, Costumer, Wood, change to read "Costumer, Wood, Executive".

3. On page 48423, second column, first three lines, Food Services, Department of Air Force, Sheppard Air Force Base, Texas should be listed under "SIC 5812".

4. On page 48426, third column, ninth line from the botton, insert "9100 Brookville Road, Silver Spring, Maryland (SH)".

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 83-30412 Filed 11-9-83; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army Corps of Engineers

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Proposed Final Designation of LA 2 Interim Ocean Dumping Site, Offshore of Los Angeles County, Calif.

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action.* The Los Angeles District (LAD) of the U.S. Army Corps of Engineers will prepare a Draft Environmental Impact Statement to identify the impacts associated with the final designation of an ocean disposal site for dredge material off of Los Angeles (Site No. LA 2). The LA 2 dumpsite consists of the area within 1000 yards of a center point at 33°37'06"N., 118°17'36" W.

Preparation of the DEIS regarding the final designation of the disposal site will be accomplished by the U.S. Army Corps of Engineers at the request of the Environmental Protection Agency (EPA). Since documentation in support of final designation must have EPA approval (EPA is responsible for final disposal site designation), the U.S. Army Corps of Engineers will be coordinating closely with the EPA.

To establish baseline data for the site, LAD began comprehensive field sampling in summer 1983 which will repeat for three consecutive seasons. The sampling plan includes 5 sampling stations at the dumpsite; one station is located at the center of the dumpsite and the other 4 are spaced at 90° intervals around outer edge of the dumpsite, 1000 yards from the center.

Three sample stations will be located at the adjacent Reference (control) site. These stations represent similar depths as those stations located at the dumpsite's center, shallowest and deepest sampling stations.

The center coordinates of the LA 2 reference site is:

33°34'08" N., 118°11'43" W.

Project tasks are focused primarily on benthic resources, although other biological, physical, cultural and socio-economic aspects will be considered. The DEIS will analyze the need for the ocean disposal site by addressing the present and potential future use of the site for disposal of uncontaminated dredge spoil and by addressing the availability of land disposal sites.

2. *Alternatives.* Alternatives to the proposed project include (a) no action, (b) utilization of land disposal sites, or (c) designation of alternative ocean disposal sites. Other alternatives may be identified through the scoping process.

3. *Scoping Process.*

a. Public Involvement. An extensive mailing list has been prepared which includes affected Federal, State, and local agencies and other interested private organizations and parties. Each entity on the mailing list will receive a copy of the scoping public notice which will have details of the proposed studies.

b. Significant Issues. Significant issues to be analyzed in depth in the DEIS will include: The need for the project, alternatives to the project, impacts to benthic habitats and biota (including endangered species); water quality and circulation, water use, aesthetics, socio-economics, and transportation. Tissue and sediment chemistry will be analyzed and bioaccumulation potential addressed as part of assessing the impacts to benthic habitat and biota. Other potentially significant issues may be identified through the scoping process.

4. *Scoping Meetings.* The Corps of Engineers will circulate a public notice soliciting comments regarding the scope of the DEIS rather than holding a scoping meeting.

5. *Publication of the DEIS.* The Draft Environmental Impact Statement is expected to be available to concerned agencies and the interested public for review and comment in November 1984.

Paul W. Taylor,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-30416 Filed 11-9-83; 8:45 am]
BILLING CODE 3710-KF-M

DEPARTMENT OF ENERGY

Western Area Power Administration

Rio Grande Project; Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DoE.

ACTION: Notice of proposed power rate adjustment—Rio Grande Project, New Mexico.

SUMMARY: The Western Area Power Administration (Western) is proposing a rate increase for power from the Rio Grande Project (RGP). The rate increase is required to cover increased annual operating expenses and to repay the Federal investment in the project. The proposed rate is composed of a $6.44 per kilowatt-month capacity charge and a 15.16 mills per kWh energy charge. This proposed rate is equal to a composite rate of 30.32 mills per kWh at 58.2% load factor (LF). The present rate is composed of a $5.74 per kilowatt-month capacity charge and a 13.50 mills per kWh energy charge, which equals a composite rate of 27.0 mills per kWh at 58.2% LF. A brochure, which will explain the need for a rate increase and outline the methodology used in developing the current proposed rate, will be distributed to the RGP power customers and other interested parties. Since the proposed RGP rate adjustment is a "minor" rate adjustment as defined by the current official procedures for public participation in general rate adjustments, a public information and comment forum is not required. However, an informal public meeting will be held. (A "minor" rate adjustment "is for a power system which has either annual sales normally less than 100 million kilowatt hours or an installed capacity of less than 20,000 kilowatts." The RGP has a firm summer season contract rate of delivery of 61.2 million kWh.) After public discussion and review of public comments, Western will decide on a final proposed rate.

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end not less than 30 days thereafter or 15 days after the close of the public meeting. The proposed rate will go into effect about April 1984.

A public meeting, at which Western will outline the reasons for the rate increase, will be held at the AMFAC Hotel, 2910 Yale Boulevard, S.E., Albuquerque, New Mexico, beginning at 9:00 a.m. on December 6, 1983. Western will answer questions and accept comments at this meeting. Written comments should be received by the end of the consultation and comment period to be assured of consideration. Written comments may be submitted at the public meeting or sent to the address below.

FOR FURTHER INFORMATION CONTACT: Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, P.O. Box 11606, Salt Lake City, UT 84147 (801) 524–5493.

SUPPLEMENTARY INFORMATION: Power rates for the RGP are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101, et seq); the Reclamation Act of 1902 (43 U.S.C. 372, et seq), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the acts specifically applicable to the project ot system involved.

The Secretary of Energy delegated to the Assistant Secretary for Resource Applications, by Delegation Order No. 0204–33 (43 FR 60636, December 28, 1978), the authority to develop, acting by and through the Administrator of Western, and to confirm, approve, and place in effect on an interim basis power and transmission rates for Western. The delegation order also gave the Federal Energy Regulatory Commission the authority to make a final decision either confirming and approving, disapproving, or remanding such rates. On March 19, 1981, Delegation Order No. 0204–33 was amended by substituting the "Assistant Secretary for Conservation and Renewable Energy" for the "Assistant Secretary for Resource Application" (46 FR 25426, May 7, 1981).

Procedures for public participation in rate adjustments for power marketed by Western were published in the **Federal Register** (45 FR 86983, December 31, 1980). Corrections and amendments thereto were published in the **Federal Register** (46 FR 6864, January 22, 1981, and 46 FR 25426, May 7, 1981).

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, et seq) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the RGP relates to nonregulatory sevices provided by Western at a particular rate. Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the act. Since the rate for RGP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Environmental Evaluation

Western will conduct an environmental evaluation of the proposed rate adjustment. The environmental evaluation will consider the anticipated impacts on the physical and natural environments of the area as well as the Department of Energy guidelines for compliance with the National Environmental Policy Act.

Issued at Golden, Colorado, November 3, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 83-30384 Filed 11-7-83; 1:14 pm]

BILLING CODE 6450-01-M

Floodplain/Wetlands Involvement Determination for Reconstruction of the Bill Williams River Crossing of the Parker-Planet Transmission Line Access Road in Mohave and Yuma Counties, Arizona

AGENCY: Western Area Power Administration, DOE.

ACTION: Floodplain/wetlands involvement and opportunity for comment.

SUMMARY: The Western Area Power Administration (Western) proposes to reconstruct a transmission line access road crossing of the Bill Williams River in Mohave and Yuma Counties, Arizona. The crossing is located within the boundaries of the Lake Havasu National Wildlife Refuge: T. 11N., R. 17W., Sec. 28, NE¼, SE¼, SE¼. The culverted, raised crossing of a transmission line access road was washed out by high river flows. Western proposes to replace this crossing to provide access for operation and maintenance of transmission lines. The crossing is approximately 100 feet long by 16 feet wide.

Pursuant to requirements of the Department of Energy's "Compliance with Floodplain/Wetlands Environmental Review Requirements" (10 CFR 1022), Western has determined that this project would involve activities within floodplain/wetlands areas. Maps or further information are available from Western at the address provided below.

Public comments or suggestions on Western's proposed activity in this floodplain/wetlands area are invited.

DATE: Any comments are due within 15 days from the publication in the **Federal Register.**

ADDRESS: Send written comments or suggestions to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, Nevada 89005.

FOR FURTHER INFORMATION CONTACT: Mr. James G. Hartman, Environmental Specialist, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, Nevada 89005 (702) 293–8844, FTS 598–7844.

Issued at Golden, Colorado, November 2, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 83-30413 Filed 11-9-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-9-FRL 2467-7]

Air Programs; Prevention of Significant Deterioration: Delegation of Authority; State of Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The Regional Administrator for EPA Region 9, San Francisco, has delegated full authority to the State of Hawaii to implement and enforce the Federal Prevention of Significant Deterioration (PSD) Programs.

DATES: The effective date of delegation is August 15, 1983.

ADDRESSES:

Hawaii Department of Health, Enviromental Protection and Health Services Division, 1250 Punchbowl Street, Honolulu, HI 96813

Mailing Address: Hawaii Department of Health, Environmental Protection and Health Services Division, Post Office Box 3378, Honolulu, HI 96801

FOR FURTHER INFORMATION CONTACT: Dave Jesson, New Source Section (A–3–1), Air Operation Branch, Air Management Division, U.S Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 974–8220.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency has delegated under the provisions which are found in 40 CFR 52.21(u), to the State of Hawaii: (A) Authority over all sources in that State subject to review for the prevention of significant deterioration of air quality, pursuant to Part C, 160–169 of Title I of the Clean Air Act as amended August 7, 1977 and the requirements promulgated in July 1, 1979 edition of 40 CFR 52.21 as amended August 7, 1980 under authority of sections 101, 110 and 160–169, of the Clean Air Act; and (B) authority to review, administer, and enforce, throughout the State the PSD requirements imposed by the Clean Air Act section 101, 110 and 160–169, and 40 CFR 52.21 as amended August 7, 1980.

Information on this delegation together with a copy of the delegation is provided below:

On July 28, 1983, the Deputy Director for Environmental Health, Hawaii Department of Health, requested delegation of authority for PSD. Full delegation was granted on August 15, 1983.

The following letter and attached agreement represent the terms and conditions of the delegation.

Mr. Melvin K. Koizumi,

Deputy Director for Environmental Health, Hawaii Department of Health, P. O. Box 3378, Honolulu, HI 96801.

Dear Mr. Koizumi: I am pleased to return to you a signed copy of the delegation agreements for the PSD, NSPS, and NESHAPS programs. Please note that delegations are effective on the date of my signature. EPA will shortly publish a notice in the **Federal Register** announcing the delegation.

I appreciate the leadership role you played in advancing the State's progress toward delegation. I am also grateful for the improvements you and your staff have made in the text of the delgation agreements.

HKOH assumption of these key air pollution control programs will enable the State to make the environmental decisions that are most properly the subject of the State and local concern and control. I wish to reiterate EPA's firm commitment to provide any necessary technical assistance you may request during program implementation.

Sincerely,

John C. Wise,

Acting Regional Administrator.

Enclosure.

U.S. EPA-HDOH Agreement for Delegation of Authority of the Regulations for Prevention of Significant Deterioration of Air Quality (40 CFR 52.21)

The undersigned, on behalf of the Hawaii Department of Health (HDOH) and the United States Environmental Protection Agency (U.S. EPA), hereby agree to the delegation of authority of the administrative and enforcement elements of the source review provisions of 40 CFR 52.21, Prevention of Significant Deterioration (PSD) from the U.S. EPA to the HDOH, subject to the terms and conditions below. This delegation is enacted pursuant to 40 CFR 52.21(u), Delegation of Authority.

Permits

1. For the first five PSD permits applications filed with HDOH subsequent to the date of this Agreement, U.S. EPA will assist the HDOH in determining BACT. During this time, concurrence (HDOH and U.S. EPA) will be required for each BACT determination on proposed permits. U.S. EPA will ensure HDOH access to the BACT Clearinghouse.

2. The U.S. EPA concurrence on BACT will be required for PSD sources with predicted actual emissions exceeding 2,000 tons per year for carbon monoxide, 1,000 tons per year for nitrogen dioxide and 500 tons per year for total suspended particulate and sulfur dioxide.

3. The HDOH and U.S. EPA will develop a procedure and communication system which accomplishes the following:

a. The U.S. EPA will within 60 days of the effective date of this Agreement inform the HDOH of the compliance status of sources in the State of Hawaii which have been issued a NSR or PSD permit by U.S. EPA.

b. The HDOH will routinely report to the U.S. EPA the compliance status of the sources which have received a NSR or PSD permit from either HDOH or U.S. EPA. The Compliance Data System (CDS) will be used for this purpose. Compliance determinations will be made with respect to the conditions established in such NSR or PSD permits.

c. The HDOH will forward to the U.S. EPA all relevant permit application materials immediately following receipt of same by the HDOH.

d. The HDOH will forward to the U.S. EPA, at the onset of the public comment period, (1) A copy of HDOH's preliminary determinaton, and (2) a copy of all applicable technical support documentation.

Should there be any comments or concerns about the pending PSD permit, U.S. EPA will communicate these comments and concerns to the HDOH as soon as possible, but no later than the closing of the public comment period.

e. U.S. EPA concurrence will be required for all applicability determinations that would involve PSD exemptions due to offsetting or netting.

f. The HDOH will, as appropriate, incorporate all comments made by U.S. EPA on the draft permit. Any comments not incorporated will be addressed, and a summary of comments and responses will be included in the final permit package available to the public.

g. The HDOH will forward to U.S. EPA copies of the final action on the PSD permit applications at the time of issuance, as well as copies of substantive public comments received during the comment period.

h. The HDOH will report the status of incomplete permit applications to the U.S. EPA on an as needed basis.

i. The HDOH will notify the U.S. EPA prior to determinations concerning substantive PSD permit modifications and amendments, making available to the U.S. EPA, upon request, relevant technical data. U.S. EPA will communicate comments and concerns within three weeks of receipt of notification.

j. The HDOH shall consult with the appropriate State and local agency primarily responsible for managing land use, prior to issuance of preliminary determinations.

4. Prior U.S. EPA concurrence is to be obtained on any matter involving the interpretation of Sections 160–169 of the Clean Air Act or 40 CFR 52.21 to the extent that implementation, review, administration or enforcement of these sections have not been covered by determinations or guidance sent to HDOH.

5. The HDOH will at no time grant any waiver or variance to the PSD permit requirements, approve any compliance schedule, or issue any administrative order which violates any presently effective PSD provisions (including NSPS/NESHAPS requirements) without prior written concurrence of U.S. EPA.

6. A PSD permit issued by HDOH must include appropriate provisions as specified in Attachment A to ensure permit enforceability. Reporting requirements shall, at a minimum, require reporting on initiation of construction, start-up, and where applicable, source testing. Upset/breakdown and malfunction conditions shall be included in all permits. U.S. EPA will provide training to HDOH by December 31, 1983 of PSD permit review process and minimum requirements on documentation to be kept on file by HDOH on PSD permit review.

7. Permits issued under this delegation should contain language stating that the Federal PSD requirements have been satisfied.

8. This delegation covers any revisions which are promulgated for 40 CFR 52.21. The term "40 CFR 52.21" as used in the delegation request and throughout this Agreement, includes such regulations as are in effect on the date this Agreement is executed and revisions which are promulgated after that date. U.S. EPA will be responsible to provide HDOH with six copies of any revisions promulgated for CFR 52.21. HDOH shall not be responsible for aspects of any PSD permits for which revisions to 40 CFR 52.21 apply if U.S. EPA failed to provide the revisions to HDOH prior to the issuance of the permits.

9. This delegation covers the review of applications subject to 40 CFR 52.21 received after the effective date of this Agreement. Any PSD reviews already initiated by U.S. EPA prior to this delegation, including HECO's project affecting emission limitations at Kahe Units 1–6, will be completed by U.S. EPA. U.S. EPA and HDOH will jointly concur on any future modifications and amendments affecting emission limitations at Kahe Units 1–6.

10. By this Agreement, the HDOH assumes authority for processing permit modification/amendment (except as noted under item number 9) for EPA issued NSR or PSD permits.

Enforcement

HDOH will have primary responsibility for enforcement of the NSR or PSD permits in accordance with the State's procedures and regulations.

Technical Support and Monitoring

1. All modeling analyses for determination of increment consumption and compliance with NAAQS will be done by U.S. EPA for the first five permits or for the first three years of the Delegation Agreement, whichever is later.

2. HDOH Air Laboratory support is presently limited to *only* Criteria Pollutants, *not* Non-Criteria Pollutants with the exception of hydrogen sulfide (H_2S).

General Delegation Conditions

1. This delegation may be amended or cancelled at any time by the formal written agreement of both the HDOH and the U.S. EPA including amendments to add, change, or remove conditions or terms of this Agreement.

2. If the U.S. EPA determines that the HDOH is not implementing the PSD program in accordance with the terms and conditions of this delegation and the requirement, of 40 CFR 52.21 of the Clean Air Act, this delegation, after consultation with HDOH, may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the HDOH.

3. This delegation of authority is effective upon the date of this Agreement.

Date: July 28, 1983.

Melvin L. Koizumi,

Hawaii Department of Health.

Date: August 15, 1983.

John Wise,

U.S. Environmental Protection Agency.

Attachment.

Attachment A

1. Identification of all points of emission (both stack and fugitive).

2. Specification of a numerical emission limitation for each point of emission in terms of mass rate or concentration limitations. If emission testing based on a numerical emission limitation is feasible, the permit may instead prescribe a design, operational, or equipment standard. Any permits issued without numerical emission limitations must contain conditions which assure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed so as to continuously achieve the assumed degree of control.

3. Limitation of factors which were the basis for air quality impact analysis must be specified (e.g. hours of operation, stack height, materials processed which affect emissions).

4. Methods and frequency of determining continued compliance for each point of emission must be referenced (if part of the SIP or subject to NSPS or NESHAPS) or explicitly identified if a reference method is not used.

5. Record keeping requirements which enable the agency to ascertain continued compliance especially where factors such as hours of operation, throughput of materials, sulfur content of fuels, fuel usage, type or quantity of materials processed are conditions of the permit.

6. A condition that the permit will expire if the construction is not commenced within a certain specified time frame.

7. The condition that the source is responsible for providing sampling and testing facilities at its own expense.

8. Reporting requirements which enable the agency to monitor the progress of source construction and compliance including the date by which construction is completed, and if different from the completion of construction date, the date by which full compliance is to be achieved.

9. Permits issued under this delegation should contain language stating that the Federal PSD requirements have been satisfied.

10. As a courtesy to sources exempted from PSD review due to federally enforceable operational or process restrictions, or the use of controls more stringent than required by applicable SIP limits, the source should be advised that any relaxation of those limits may subject the entire source to full PSD

review as if construction had yet begun. Suggested language is as follows:

"This source is exempt from PSD review because of (e.g. "a requirement that operation is limited to eight hours per day"). Any relaxation in this limit that increases your potential to emit above the applicable PSD threshold will require a full PSD review of the entire source."

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. This delegation became effective on August 15, 1983; therefore, it serves no purpose to delay this technical revision, adding the State's address to the Code of Federal Regulations.

A copy of the request for delegation of authority is available for public inspection at the U.S. Environmental Protection Agency, Region 9 Office, Air Operations Branch, 215 Fremont Street, San Francisco, California 94105.

This rulemaking is under the authority of Sections 101, 110, 160–169 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7401, 7410, 7470–79 and 7501(a)].

Dated: October 13, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-30467 Filed 11-9-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30077; PH-FRL-2467-8]

Availability and Solicitation of Public Comment on the Agency's Analysis of the Risks and Benefits of Seven Chemicals Used

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Today the Agency issued its analysis of the risks and benefits of seven chemicals used for subterranean termite control. The seven chemicals are chlordane, heptachlor, aldrin, dieldrin, lindane, pentachlorophenol, and chlorpyrifos. This analysis is now available from the agency for public comment. Following review of the public comments, EPA will redirect any regulatory action as appropriate.

DATE: Comments must be received on or before February 8, 1984.

ADDRESS: Comments should bear the document control number OPP-30077 and be submitted by mail to: Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Lois Rossi, 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 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7420).

Copies of the analysis are available from Lois Rossi.

Dated: November 1, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83-6560 Filed 11-9-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2468-1]

Availability of Environmental Impact Statements Filed October 31 Through November 4, 1983 Pursuant to 46 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, (202) 382-5075 or (202) 382-5076.

EIS No. 839581, Final, EPA, REG, Synthetic Organic Chemicals Manufacturing Industry, Emission Standard, Due: Dec. 12, 1983.

EIS No. 839582, FSuppl, COE, LA, Red R. Waterway Navigation/Stabilization, Mississippi R to Shreveport, Due: Dec. 12, 1983.

EIS No. 839583, Final, FHW, NC, Charlotte/Douglas Internat'l Airport Access Rd Const, Mecklenburg Co., Due: Dec. 12, 1983.

EIS No. 839584, Final, AFS, NM, Santa Fe National Forest, Land and Resource Management Program, Due: Dec. 12, 1983.

EIS No. 839585, Final, FHW, NY, NY-31 Relocation, Washington Street to I-490, Monroe County, Due: Dec. 12, 1983.

EIS No. 839586, Final, CDE, AL, Threemile Creek Flood Control Project, Mobile County, Due: Dec. 15, 1983.

EIS No. 839587, Final, IRR, SD, Sioux Falls Unit, Big Sioux River & Slip Up Creek Reservoir Const., Due: Dec. 12, 1983.

EIS No. 839588, Final, EPA, TX, Martin Lake D Area Lignite Surface Mine, NPDES Permit, Rusk County, Due: Dec. 12, 1983.

EIS No. 839589, Draft, FHW, IL, Staley Viaduct/IL-121 Improvement, Macon County, Due: Dec. 27, 1983.

EIS No. 839590, Final, FHW, NM, North Valley Crossing Const., Coors Rd/NM-440 to I-25, Bernalillo Co., Due: Dec. 12, 1983.

EIS No. 839591, DSuppl, COE, CA, Walnut Creek Flood Control Plan, Contra Costa County, Due: Dec. 27, 1983.

EIS No. 839592, FSuppl, CDR, SC, Charleston Center Redevelopment, UDAG, Charleston County, Due: Dec. 12, 1983.

Amended Notices:

EIS No. 839568, Draft, OSM, WY, Red Rim Coal Development, Leasing, Fremont, Sweetwater and Carbon Counties, Published **Federal Register** Oct. 28, 1983—Incorrect status, Due: Dec. 23, 1983.

EIS No. 839566, Final, FWS, CA, PRD Trinity River Basin Fish/Wildlife Mgmt., Humboldt & Trinity Counties, Published **Federal Register** Oct. 28, 1983—Review extended, Due: Nov. 29, 1983.

EIS No. 839458, Draft, UAF, SEV, UT MV Gandy Range Supersonic Flight Training Area, Hill AFB, Published **Federal Register** Oct. 28, 1983—Review extended, Due: Dec. 16, 1983.

EIS No. 839547, Draft, FHW, VA, Temple Ave Ext, Conduit Rd to VA-36, Chesterfield & Prince George Counties, Published **Federal Register** Oct. 14, 1983—Review extended, Due: Nov. 29, 1983.

Dated: Nov. 7, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-30466 Filed 11-9-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

Working Group E: CPM Submission Preparation.

Chairman: Leslie Taylor (703) 734-2388.

Date: Wednesday, November 16, 1983.

Time: 2:00-4:30 P.M.

Location: GTE Spacenet, 1828 L Street, N.W., 5th Floor, Washington, D.C.

Dated: November 4, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-30472 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

Travel Reimbursement Experiment

AGENCY: Federal Communications Commission.

ACTION: Publishing of quarterly report on Travel Reimbursement Experiment.

SUMMARY: In Pub. L. 97-259, the Congress authorized the Federal Communications Commission to accept reimbursement from non-Government organizations for travel of employees of the Commission. The Federal Communications Commission must keep

records of such travel by event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Appropriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. This must be done each quarter until September 30, 1985. In addition, the Federal Communications Commission must publish each quarterly report in the **Federal Register** until September 30, 1985.

DATE: This report is for the period from July 1, 1983 through September 30, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Geoffrey Sherman, Office of the Managing Director, (202) 632–6900.

SUPPLEMENTARY INFORMATION: This report for the quarter ending September 30, 1983 is as follows:

Federal Communications Commission Travel Reimbursement Experiment

Summary Report

Total Number of Sponsored Events: 7.

Total Number of Sponsoring Organizations: 7.

Total Number of Commissioners/Employees Attending: 7.

Total Amount of Reimbursement:

Transportation	$3,291.71
Room	1,096.03
Board	389.25
Other Expenses	156.30
Total	$4,933.29

Individual Event Reports Attached.

Individual Event Report

Sponsoring Organization (Name and Address): Bonita L. Perry Associates, 107 Naudain Street, Philadelphia, Pa. 19147.

Date(s) of the Event: July 25–26, 1983.

Description of the Event: To speak at conference on "The Telecommunications needs of U.S. Small Businesses Engaged in International Trade".

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1 Attorney-Adviser, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$74.00
Room	51.80
Board	21.00
Other Expenses	14.80
Total	[1] 161.60

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Kiwanis Club of Memphis, 149 Union Avenue, Memphis, Tennessee 38103.

Date(s) of the Event: July 12–13, 1983.

Description of the Event: To address the Kiwanis Club of Memphis, Tennessee.

Name(s) of Commissioners Attending: Commissioner Rivera.

Number and Title of other Employees Attending: N/A.

Amount of Reimbursement:

Transportation	$186.00
Room	78.23
Board	8.75
Other Expenses	7.50
Total	[1] 280.48

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Triple States Radio Amateur Club, Box 240, Adena, Ohio 43901.

Date(s) of the Event: July 23–24, 1983.

Description of the Event: To attend the Wheeling Hamfest in Wheeling, West Virginia.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1, Public Service Specialist, Field Operations Bureau.

Amount of Reimbursement:

Transportation	0
Room	$42.00
Board	33.00
Other expenses	0
Total	[1] 75.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Arkansas Broadcasters Association, Centrell Place, Suite 100, 2311 Biscayne, Little Rock, Arkansas 72207.

Date(s) of the Event: August 3–4, 1983.

Description of the Event: To address the summer convention of the Arkansas Broadcasters Association.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1, Chief, Audio Services Division, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$476.00
Room	70.00
Board	26.00
Other Expenses	20.00
Total	[1] 592.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): National Telephone Cooperative Association, 2626 Pennsylvania Avenue, NW., Washington, D.C. 20037

Date(s) of the Event: September 24–27, 1983.

Description of the Event: To participate in the National Telephone Cooperative Association Convention in Denver, Colorado.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1, Attorney, Common Carrier Bureau

Amount of Reimbursement:

Transportation	$238.00
Room	175.00
Board	50.00
Other Expenses	70.00
Total	[1] 533.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Michigan Cable Television Association, 230 N. Washington Square, Suite 100, Lansing, Michigan 48933.

Date(s) of the Event: July 24–26, 1983.

Description of the Event: To attend the summer meeting of the Michigan Cable Television Association.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1, Supervisory Electronics Engineer, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$272.00
Room	100.00
Board	50.00
Other Expenses	44.00
Total	[1] 466.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Federation of Australian Radio Broadcasters, P.O. Box 294, Milsons Point 2061, Australia.

Date(s) of the Event: October 10–16, 1982.

Description of the Event: To attend the Federation of Australian Radio Broadcasters Convention at Melbourne, Australia.

Name(s) of Commissioners Attending: Chairman Fowler.

Number and Title of other Employees Attending: N/A.

Amount of Reimbursement:

Transportation	$2,045.71
Room	579.00
Board	200.50
Other Expenses	0
Total	[1] [2] 2,825.21

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.
[2] 1st quarter travel.

[FR Doc. 83-30471 Filed 11-9-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-4145]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T-4145 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. § 4312 *et seq.*), and that preparation of an environmental impact statement is not required.

The Agreement is between the cities of Long Beach and Los Angeles. It provides for organization of a Joint Power Authority to finance, plan, construct and administer an intermodal container transfer facility located adjacent to both the ports of Long Beach and Los Angeles. The Port Planning Division of the Long Beach Harbor Department and the Harbor Environmental Staff of the Port of Los Angeles prepared an Environmental Impact Report demonstrating that the project will not have a significant impact on the environment, and meets the requirements of the California Environmental Quality Act.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-30467 Filed 11-9-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Federal Reserve Bank of Cleveland et al.

The companies listed in this notice have 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)).

Each applications 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 Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Society Corporation*, Cleveland, Ohio; to acquire 66.67 percent of the voting shares or assets of The First National Bank of Salem, Salem, Ohio. Comments on this application must be received not later than November 30, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Central Banc System, Inc.*, Granite City, Illinois; to acquire 100 percent of the voting shares or assets of First Bank of Marine, Marine, Illinois. Comments on this application must be received not later than December 2, 1983.

C. **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; to acquire 100 percent of the voting shares or assets of Commercial & Exchange Bank, Bremen, Georgia. Comments on this application must be received not later than November 30, 1983.

2. *Southeast Banking Corporation*, Miami, Florida; to acquire 100 percent of the voting shares or assets of Southeast Bank of St. Johns County, Ponte Vedra Beach, Florida. Comments on this application must be received not later than December 2, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First American Corporation*, Dundee, Illinois; to acquire 100 percent of the voting shares or assets of successor by merger to State Bank of Hampshire, Hamsphire, Illinois. Comments on this application must be received not later than December 2, 1983.

2. *The Marine Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares or assets of the successor by merger to The Fidelity Savings Bank of Antigo, Antigo, Wisconsin. Comments on this application must be received not later than November 23, 1983.

Board of Governors of the Federal Reserve System, November 4, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-30363 Filed 11-9-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Federal Reserve Bank of New York 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 Federal Reserve Bank indicated.

Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and *Barclays Bank International Limited*, London, England ("Barclays") (consumer financing, credit-related insurance, and travelers checks activities; Ohio): To continue to engage through their subsidiaries, BarclaysAmericanCorporation ("BAC"), BarclaysAmerican/Financial, Inc. ("BAF") and BarclaysAmerican/Mortgage, Inc. ("BAM"), in consumer financing; retail sales of travelers checks issued by Barclays Bank International Limited; and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. Barclays and its subsidiaries, BAC, BAF, and BAM, were engaged in said insurance activities in Ohio prior to May 1, 1982, thereby rendering such activities permissible under section 601(D) of the Garn-St. Germain Depository Institutions Act of 1982. This application is for the relocation of an existing office within Grove City, Ohio, serving Grove City and surrounding areas in Ohio. Comments on this application must be received not later than December 2, 1983

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Commonwealth National Financial Corporation*, Harrisburg, Pennsylvania (credit insurance underwriting activities; Pennsylvania): To engage *de novo* through its proposed subsidiary Commonwealth National Life Insurance Company, Phoenix, Arizona in underwriting, as reinsurer, credit life and accident and health insurance directly related to extensions of credit by The Commonwealth National Bank. These activities will be conducted from offices located in Harrisburg, Pennsylvania, serving south central Pennsylvania. Comments on this application must be received not later than December 2, 1983.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp*, Pittsburgh, Pennsylvania (mortgage banking activities; northern Virginia): To engage, through its wholly-owned subsidiary, The Kissell Company, in making or acquiring and servicing for its own account and/or the account of others, loans and other extensions of credit. These activities will be conducted from an office located in Manassas, Virginia, serving the Counties of Clarke, Culpeper, Fauquier, Loudoun, Prince William, Rappahannock, Stafford and Warren, Virginia. Comments on this application must be received not later than December 2, 1983.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia (trust company activities; Virginia): To engage through its subsidiary, Dominion Trust Company, in performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company. These activities would be performed in the Washington, D.C.-Maryland-Virginia Metropolitan Statistical Area. Comments on this application must be received not later than November 30, 1983.

E. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Manufacturers National Corporation*, Detroit, Michigan (leasing personal property; Florida): To engage through its subsidiary, Manucor Leasing, Inc., Detroit, Michigan, in the activities of leasing of personal property in accordance with the Board's Regulation Y. These activities will be performed from an office located in central Florida, serving the State of Florida. Comments on this application must be received not later than November 28, 1983.

2. *Manufacturers National Corporation*, Detroit, Michigan (credit related insurance activities; Michigan): to engage through its subsidiary, Manucor Agency, Inc., Detroit, Michigan, in the activities of an insurance agency business to sell insurance which assures the repayment of outstanding balance due on specific extensions of credit by subsidiaries of Manufacturers National Corporation located in the State of Michigan in the event of death, disability, or involuntary unemployment of the debtors. The proposed activities are authorized to subsidiaries of bank holding companies by section 601(A) of the Garn-St. Germain Depository Institutions Act of 1982, and will be conducted from an office located in Detroit, Michigan, serving the State of Michigan. Comments on this application must be received not later than November 28, 1983.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice Pesident) 400 South Akard Street, Dallas, Texas 75222:

1. *Rio Grande Banchshares, Inc.*, Las Cruces, New Mexico (data processing activities; New Mexico): To engage *de novo* from an office in Las Cruces, New Mexico in the activity of providing data processing and data transmission services, data bases or facilities (including data processing and data transmission hardware, software, documentation and operating personnel): For its internal operations and those of its subsidiary banks and providing microfiche processing for its internal operations and those of its subsidiary banks and to others. Comments on this application must be received not later than December 2, 1983.

G. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (discount securities brokerage and incidental activities; all fifty states and the District of Columbia): To engage, through its indirect subsidiary, Charles Schwab & Co., Inc., in the activities of discount securities brokerage, consisting principally of buying and selling securities solely upon the order and for the account of customers, and of extending margin credit in conformity with the Board's Regulation T. These activities would be conducted from three *de novo* offices located in Riverside, California; St. Paul, Minnesota; and Albany, New York, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than November 30, 1983.

2. *BankAmerica Corporation*, San Francisco, California (financing and servicing activities; all fifty states and the District of Columbia): To engage *de novo*, through its indirect subsidiary, Champin Credit Corporation, a Delaware corporation, in the activities of making loans and other extensions of credit, servicing loans and other extensions of credit for itself and others, and providing services incidental to such loans and extensions of credit such as are made or provided by a finance company. Such activities will include, but not be limited to, providing funds and/or credit services in connection

with the financing of stock and floor plan inventory of distributors and dealers of consumer products. No credit-related insurance of any type will be offered by Champion Credit Corporation in connection with its lending activities. These activities will be conducted *de novo* from an existing office of FinanceAmerica Private Brands Inc. located in Columbus, Ohio, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than December 2, 1983.

3. *Security Pacific Corporation*, Los Angeles, California (credit life and credit accident and health insurance underwriting activities; Alabama, Mississippi, North Carolina, and South Carolina): To engage, through its subsidiary, General Fidelity Life Insurance Company ("General Fidelity"), in the underwriting and reinsurance of credit life and credit accident and health insurance in Alabama, Mississippi, North Carolina, and South Carolina, such credit life and credit accident and health insurance being in connection with extensions of credit by it and its subsidiaries. Comments on this application must be received not later than December 2, 1983.

Board of Governors of the Federal Reserve System, November 4, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-30365 Filed 11-9-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Federal Reserve Bank of Richmond, et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *CB&T Financial Corp.*, Fairmont, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Community Bank & Trust, N.A., Fairmont, West Virginia. Comments on this application must be received not later than December 2, 1983.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens of Grainger County Corporation*, Rutledge, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank and Trust Company of Grainger County, Rutledge, Tennessee. Comments on this application must be received not later than December 2, 1983.

2. *First Jackson Bancorp*, Jefferson, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Jackson County, Jefferson, Georgia. Comments on this application must be received not later than December 2, 1983.

3. *Lafayette Bankshares, Inc.*, Lafayette, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Lafayette, Lafayette, Georgia. Comments on this application must be received not later than December 2, 1983.

4. *Peoples Bartow Corporation*, Taylorsville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank of Bartow County, Taylorsville, Georgia. Comments on this application must be received not later than December 2, 1983.

5. *Williston Holding Company*, Williston, Florida; to become a bank holding company by acquiring 100 percent of the voting shars of Perkins State Bank, Williston, Florida. Comments on this application must be received not later than November 30, 1983.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Sioux Bancshares, Ltd.*, Sioux Center, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The First National Bank of Sioux Center, Sioux Center, Iowa. Comments on this application must be received not later than December 2, 1983.

D. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *American Eagle Bancorp., Inc.*, Glen Carbon, Illinois; to become a bank holding company by acquiring 98.7 percent of the voting shares of Cottonwood Bank & Trust Co., Glen Carbon, Illinois. Comments on this application must be received not later than December 2, 1983.

2. *First Vandalia Corp.*, Vandalia, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Vandalia, Vandalia, Illinois. Comments on this application must be received not later than December 2, 1983.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Jefferson Bancshares, Inc.*, San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Jefferson State Bank, San Antonio, Texas. Comments on this application must be received not later than December 2, 1983.

F. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Olathe Financial Services Corporation*, Olathe, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First Citibank of Olathe, Olathe, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than November 30, 1983.

2. *Southeast Mississippi Corporation*, Quitman, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Southeast Mississippi Bank, Quitman, Mississippi. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than November 30, 1983.

Board of Governors of the Federal Reserve System, November 4, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-30362 Filed 11-9-83; 8:45 am]

BILLING CODE 6210-01-M

Totalbank Corp. of Florida, Milford, N.V., and Ballerton Corp., N.V.; Proposal To Engage de Novo in Acting as Money Broker of Certificates of Deposits

Totalbank Corporation of Florida, Miami, Florida; Milford, N.V., Oranjestad, Netherlands Antilles; and Ballerton Corporation, N.V., Oviedo, Spain, 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)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* through an existing subsidiary, Total Investment Services Corporation, Miami, Florida, in acting as money broker of certificates of deposits issued by financial institutions.

Applicant states that in connection with the proposed activity, Total Investment Services Corporation will provide information as to certificates of deposit rates, recordkeeping, and clerical services. These activities would be performed from offices of Applicant's subsidiary in Miami, Florida and the geographic areas to be served are the State of Florida and Puerto Rico, with expansion anticipated in the Caribbean and Central and South America. Although such activities have not been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, the Board has approved by order individual proposals to engage in these activities.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than December 2, 1983.

Board of Governors of the Federal Reserve System, November 4, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-30364 Filed 11-9-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Awards for Mental Health Services for Cuban Entrants

AGENCY: National Institute of Mental Health, ADAMHA, HHS.

ACTION: Issuance of announcement for awards for Mental Health Services for Cuban Entrants.

SUMMARY: The National Institute of Mental Health announces that new and competing renewal applications are being accepted for cooperative agreements to provide mental health services necessary for appropriate treatment for Cuban entrants in the United States who are mentally ill and/or developmentally disabled. Applications will be accepted for project periods up to 3 years. In Fiscal Year 1984, approximately $10 million will be available for new and continuing awards under this program.

Receipt date of application: Applications may be received at any time.

FOR FURTHER INFORMATION CONTACT: Cuban/Haitian Unit, National Institute of Mental Health, Room 18A-33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-2130.

SUPPLEMENTARY INFORMATION: The National Institute of Mental Health (NIMH) announces that new and competing renewal applications are being accepted for cooperative agreements to provide mental health services necessary for appropriate treatment for Cuban entrants in the United States who are mentally ill and/or developmentally disabled. Such applications are accepted under authority of Section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).

Entrant Definition

A Cuban entrant is defined by Public Law 96-422, Section 501(e) as:

- Any individual granted parole status as a Cuban * * * (Status Pending) or granted any other special status subsequently established under the immigration law for nationals of Cuba * * * regardless of status of the individual at the time assistance or services are provided; and
- Any other national of Cuba * * *

—Who are paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

—Who is the subject of exclusion or deportation proceeding under the Immigration and Nationality Act; or

—Who has an application of asylum pending with the Immigration and Naturalization Service; and

—With respect to whom a final nonappealable and legally enforceable order of deportation or exclusion has not been entered.

Eligibility

Any public or private organization, for-profit or nonprofit, may apply under this announcement if able to demonstrate the ability to provide the services described herein.

Types of Treatment Settings Needed

A complete range of treatment settings are needed for mentally ill and/or developmentally disabled Cuban entrants currently in Federal custody. NIMH will accept applications for funding complete program units and/or openings in established operational programs. The variety of methods for submission of budget proposals are described in Part II, *Instructions for Preparing An Application for Federal Financial Assistance, for the Cuban/Haitian Mental Health Program,* available from the Cuban/Haitian Mental Unit at the address listed in this announcement.

An applicant may propose to provide one or more of the following:

- Inpatient forensic care
- Long-term inpatient care
- Short-term inpatient care
- High-security community residences (large or small group living)
- Moderate-security community residences (large or small group living)
- Low-security community residences (small group living)
- Minimal supervision board and care residences

Special Treatment Needs

Entrants needing treatment cover a wide range of diagnostic categories and treatment histories. Most have extensive histories of institutional care on both Cuba and the United States. Applications are particularly sought that address the special needs of the following entrant groups:

- Entrants diagnosed with both mental illness *and* developmental disabilities
- Entrants with organic mental disorders
- Entrants with histories of psychosexual disorders
- Entrants with histories of criminal involvement
- Women entrants with mental illness diagnoses

Special Treatment Program Requirements

In order to be considered, a program must provide assurance in the application that:

- Medical responsibility for each entrant will be bested in an appropriately licensed physician.
- When that physician is not a psychiatrist, psychiatric consultants will be available to that physician and other staff on a regular (not less than once weekly) basis.
- Each patient will have access to individual psychotherapy and/or counseling on a regularly scheduled basis.
- The applicant will develop an intergrated medical record system, including a drug-use profile, and including but not limited to statements concerning the following:

—Relevant personality history and function, and psychiatric history
—Diagnosis (DSM III; neurologic)
—Treatment plan with both long-and short-term goals
—Current drug use, including noticeable side effects
—Signed and dated progress notes made on a regular basis
—Discharge summary statements, including followup summary of possible

- Sufficient bilingual and bicultural staff will be available to accomplish program goals.
- Prevocational and vocational training appropriate to the program goals, the entrant's degree of emotional and/or intellectual impairment, and the entrant's treatment goals will be provided.

Application Characteristics

Instructions for Preparing An Application for Federal Financial Assistance, for the Cuban/Haitian Mental Health Program is available from the Cuban/Haitian Mental Health Unit at the address listed in this announcement. While Part III of the Instructions contains a suggested narrative outline and accompanying guidelines, the following information must be provided:

Description of the Applicant Organization

- A statement on the historical background, experience, affiliations, and legal status of the applicant organization
- The applicant's organizational structure, including an organizational chart, and the organizational structure of the proposed program clearly delineating clinical and administrative authority and responsibility
- A description of services to be provided by agencies other than the applicant and a statement of the relationship of these agencies to the applicant
- Documentation of support for the proposed project by State and/or local government authorities

Project Goals and Objectives

- Statements including organizational philosophy, goals and objectives demonstrating a conceptual consistency between these and the proposed program

Program Description

- An overall description of the proposed program and its relation to existing programs of the applicant
- Admission criteria and exclusionary factors
- Daily treatment and activity schedules
- A plan for disposition of medical and psychiatric emergencies
- A plan for provision of routine health care
- A description of the proposed medical record system
- A plan for the availability to entrants of legal counsel
- A plan for the provision of nutritional meals for entrants

Facilities

- Evidence that the proposed facility will obtain, prior to the award, all required licenses, certifications, zoning permits, or other operating permits
- A description of security arrangements
- A complete description of living and treatment facilities, including schematic drawings

Program Administration

- A time-phased implementation plan
- The proposed staffing pattern

—Position descriptions for all key staff, including minimum qualifications
—Assurance of availability of special staff as appropriate to the proposed program, e.g., psychiatrists, psychologists, nurses, teachers of English as a second language, social workers, and recreational and occupational therapists

- A statement of the relationship between the proposed staff and the existing staffing pattern

Terms and Conditions of Support

Applications will be accepted for project periods up to 3 years.

Applications should reflect the complete and total costs of the operation of the proposed program. No maintenance of effort or matching requirements apply to this program. Indirect costs may be requested and awarded at negotiated rates.

It is expected that cost per patient day will be in the range of $50–$125, depending on program size and intensity. Costs for care in inpatient settings are expected to be greater than the costs of similar services in the locality of the program, although related to them.

Awards will be administered under PHS grants policy as stated in the PHS Grants Policy Statement.[1]

Preapplication Consultation, Application, Review, and Award

Potential applicants are urged to seek consultation from NIMH staff. Application form PHS 5163 and instructions are available from and completed applications are to be submitted to: Cuban/Haitian Mental Health Unit, National Institute of Mental Health, Room 18A–33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–2130.

Receipt and Review Schedule

Applications will be accepted at any time and reviewed within 60 days of receipt. Those recommended for approval but not immediately funded will be held up to 1 year and considered for award, should there be a need for additional treatment programs.

Review Criteria

Applications will be reviewed in accordance with Public Health Service policies for objective review of applications for financial assistance. The following criteria will be applied:

- Quality, adequacy, and feasibility of proposed organizational design
- Quality, adequacy, and feasibility of proposed program of services

[1] Public Health Service Grants Policy Statement, DHHS Publication No. (OASH) 82–50–000 GPO–017–020–0090–1 (rev.) December 1, 1982, available for $5.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

- Appropriateness and feasibility of program implementation plan, including assurance that the legal and operating requirements necessary for program implementation will be met
- Quality and adequacy of proposed staffing pattern and feasibility of recruiting staff
- Programmatic, organizational, and fiscal history of the applicant
- Quality and adequacy of proposed facilities to be used

Award Criteria

Applications recommended for approval will be considered for funding using the following criteria:

- Quality of the application
- Current needs of the Federal Government
- Availability of funds

Availability of Funds

It is expected that approximately $10 million will be available in Fiscal Year 1984 for new and continuing awards under this program.

Federal Staff Role

Federal staff will have continuing and substantial programmatic involvement during the period for which funds are awarded. This involvement includes:

- Preselection and concurrence in the discharge of entrants and participation in the development of discharge plans
- Monitoring of the appropriateness of treatment, of recordkeeping and reporting, of security, and of conditions of parole

Specifications of awardee responsibilities and Federal staff roles will be negotiated, and a detailed statement will be part of the formal notice of award.

Robert L. Trachtenberg,

Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83-30061 Filed 11-9-83; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 83N-0317]

A Mixture for Dissolution of Urinary Tract Calculi and Prevention and Treatment of Encrusted Indwelling Urinary Tract Catheters; Request for Submission of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA) Office of Orphan Products Development is inviting submission of a new drug application (NDA) for a mixture of citric acid, gluconic acid (primarily as the lactone), magnesium hydroxycarbonate, magnesium acid citrate (dibasic magnesium citrate), and calcium carbonate (the mixture) in a 10 percent solution dosage from for the dissolution of susceptible urinary tract calculi and prevention and treatment of encrusted indwelling urinary tract catheters.

FOR FURTHER INFORMATION CONTACT: Roger Gregorio, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: The product of interest is a mixture of citric acid, gluconic acid (primarily as the lactone), magnesium hydroxycarbonate, magnesium acid citrate (dibasic magnesium citrate), and calcium carbonate. It is currently marketed by Guardian Chemical Crop. as a powder under the trade name, Renacidin. The powder must be reconstituted as a 10 percent solution in distilled water and sterilized at the site of use. The composition of this powder is described in U.S. Patent No. 3,328,304. The patent will expire on the product on June 27, 1984.

Renacidin is currently labeled for instillation into the urinary bladder to (1) Dissolve vesical calculi of the "soft" variety, composed primarily of tribasic calcium phosphate, magnesium ammonium phosphate, or calcium carbonate, or reduce these to a size that can be passed or removed by instrumentation; (2) prevent formation of new vesical calculi in patients prone to form such calculi; (3) soften large vesical calculi to assist crushing by the lithortrite; (4) treat alkaline encrusted cystitis; (5) remove phosphate slough coccurring after fulguration and calcification of the prostatic fossa after prostatectomy; (6) dissolve residual particles left after surgery.

Renacidin is also labeled for use by irrigation in the prevention of the encrustations that occur on indwelling urethral and suprapubic catheters. In addition it is labeled for restoration of encrusted catheters following removal by irrigation with, and soaking in, the mixture.

The mixture sequesters calcium and magnesium compounds and is useful in patients with renal and urinary bladder calculi of the apatite (a calcium carbonate-phosphate compound) or struvite (magnesium ammonium phosphate) variety. The mixture is also useful in patients with indwelling urinary catheters that have a tendency to form apatite, struvite, brushite (calcium hydrogen phosphate), or whitlockite (tricalcium phosphate) encrustations.

On the basis of a review of the medical literature on use of this mixture, it appears that a 10 percent solution of the mixture is safe and effective for use in treatment of vesical calculi and for renal calculi, so long as appropriate precautions are taken. FDA's review suggests that the following indications can be supported by available data:

A. *Renal calculi of the apatite or struvite variety.* By perfusion to (1) Dissolve calculi and fragments remaining after surgical removal; (2) dissovle calculi in patients who are poor surgical risks or in patients with recurrent calculi in order to avoid multiple surgical procedures; (3) partially dissolve a large renal calculus in order to make it more accessible to surgical removal.

B. *Urinary bladder calculi of the apatite or struvite variety.* By perfusion through a urethral catheter or suprapubic cstostomy catheter to dissolve such calculi as an alternative or adjunct to surgical procedures.

C. *Indwelling catheters of the urinary tract.* (1) By periodic instillation to minimize or to prevent encrustation of indwelling catheters; (2) by in vitro irrigation and soaking to restore encrusted nondisposable catheters following their removal from the urinary tract.

Labeling for the mixture must stress the need for careful patient selection and appropriate procedures, particularly when attempting to dissolve renal calculi. Based on its review, the agency believes labeling for such a product should include the following limitation of use and general and specific precautions:

Because many precautions are required when the mixture is perfused into the bladder or kidney and hospitalization is prolonged for days to weeks when such perfusion is used in lieu of, or following, surgery, the mixture should be reserved for selected patients.

General Precautions

Constant attention is necessary to avoid or to overcome mechanical problems during the process of irrigation. Urethral, ureteral, suprapubic, and nephrostomy catheters very often become obstructed by salts, debris, mucous, or blood clots and they should be irrigated with normal saline solution in order to maintain their patency. Because the lumina of urethral and nephrostomy catheters are larger than

ureteral ones, the former are easier to maintain free of obstruction.

Irrigating pressure should be maintained at the lowest level necessary to achieve the desired flow rate; the container should be placed at a height compatible with this flow.

Precautions should be taken to prevent outflow obstruction and to recognize it as soon as it occurs and, if possible, before the patient has any signs or symptoms of obstruction (pain, fever, or urinary tract infection). *Constant monitoring of the system should be performed by a nurse, an aide, or any person with sufficient skills to be able to detect any problems with patency of the catheter. At the first sign of obstruction, irrigation should be discontinued and the system disconnected.*

The physician should not, in general, rely on the cooperation of the patient by asking him or her to discontinue the irrigation and to disconnect the inflow tubes at the first sign of pain in bladder flank. Very often patients are not alert enough to detect the signs or symptoms of outflow obstruction; frequently, patients requiring irrigation are those with severe neurological lesions, e.g., paraplegia, hypotonic or atonic neurogenic bladder, and because of the underlying disease they are unable to feel pain or fullness of the urinary tract. Irrigation in such patients should be performed with caution.

Specific Precautions

Bladder Irrigation

Irrigation of the bladder with (the mixture) through urethral or cystostomy catheters should be performed using all the General Precautions described above. Very often patients requiring this type of treatment have had indwelling catheters for prolonged periods. In addition to a possible urinary tract infection, these patients frequently develop vesicoureteral reflux. It is advisable to obtain a cystogram before the initiation of irrigation to detect the possibility of this condition. If vesicoureteral reflux is present, these patients should be treated during the irrigation period with all of the precautions described for renal pelvis irrigation.

Renal Pelvis Irrigation

It is imperative that all the General Precautions mentioned above be followed in irrigation of the renal pelvis because it is in this section of the urinary tract that the most serious complications may occur. A urologist or urologic surgeon expert in endourology should be in charge of this inherently high risk, invasive, and quasi-surgical procedure.

The techniques of delivery and recovery of the irrigating solution should be followed strictly; the height of the container should not be above 24 to 30 inches from the bed surface to avoid elevated pressure with reflux of the solution into the kidney (pyelo-tubular back flow). Intrapelvic perfusion pressure should be kept below 20 cm H_2O by gravity flow (unless fail-safe pumping equipment is available). The rate of flow should be from 15 to 20 drops per minute (maximum 120 mL per hour). Concomitant use of antibiotics is advisable. *Failure of the physician to maintain sterile urine can result in pyelonephritis and failure to control perfusion pressure in such cases can result in septicemia and death. In addition, excess perfusion pressure can result in significant absorption of magnesium from (the mixture) with resultant hypermagnesemia. Even when pressure is maintained at or below safe levels, hypermagnesemia can occur in patients with renal dysfunction.*

The safest and least complicated procedure involves irrigation through a nephrostomy tube introduced during surgery or percutaneously. In some cases, however, ureteral catherization will be required.

Before irrigation, patients should have a demonstrated sterile (by culture) urine. The patient should be afebrile and have a normal white blood cell count. Patients should have daily urine cultures; irrigation should be discontinued in the presence of a positive culture. Patients should also have frequent complete blood counts (CBCs) and serum trolyte, calcium, phosphorus, magnesium, and creatinine determinations, particularly if they have renal dysfunction. Signs of magnesium toxicity (circulatory, respiratory, and neurologic effects) may become evident at serum magnesium levels greater than 3.6 mg per 100 mL.

Before beginning irrigation with (the mixture), normal saline should be instilled first, at gradually increasing pressure, to test the tolerance and capacity of the renal pelvis. If irrigation is to be performed through a nephrostomy tube, a nephrostogram should be obtained before irrigation to demonstrate the patency of the system without extravasation. In cases where the nephrostomy tube has been inserted postoperatively, irrigation (with saline) should not be started until the 4th or 5th day and closure of the surgically opened dissection planes can be demonstrated or safely assumed. If leakage occurs around the surgical drain, there is incomplete healing of the renal incision and irrigation should be discontinued unless the urologic consultant indicates that the leakage is coming from a short, direct, obviously epithelialized parallel tract to the outside.

Patients who develop burning or pain in the bladder may require urethral catheterization or temporary interruption of irrigation. Alternating saline irrigation with irrigation of (the mixture) may decrease the likelihood of chemical cystitis and may also decrease the possibility of urothelial irritation of the ureter and renal pelvis. Temporary discontinuance of (the mixture) may be required in instances of chemical cystitis or X-ray evidence of urothelial irritation.

It is recommended that NDA applicants consult with experts in the use of the "mixture" on the labeling that will provide appropriate instructions for safe use of the product.

FDA invites the submission of an NDA for "the mixture" in a sterile stable 10 percent solution dosage form labeled with the indications listed in paragraphs A, B, and C above. The published literature can be used by the applicant in support of safety, effectiveness, and labeling information for the indications listed above. Examples of the published literature that may be included in the application are:

Rosen, D. I., et al., "Intravenous Infusion of Renacidin in Dogs," *Investigative Urology*, 9:31–33, 1971; Mulvaney, W. P., et al., "The Use of Renacidin in Preventing Calcification of Indwelling Catheters," *Surgery*, 48:584–587, 1960; Mulvaney, W. P., "Prevention of Calcification of Indwelling Catheters," *Archives of Physical Medicine and Rehabilitation*, 45:610–63, 1964; Woodside, J. R. and Crawford, E. D., "Dissolution of Vesical Calculi with Renacidin in a Paraplegic Man," *Paraplegia*, 18:69–71, 1980; Mulvaney, W. P., 'A New Solvent for Certain Urinary Calculi: A Preliminary Report," *Journal of Urology*, 82:546–548, 1959; Mulvaney, W. P., "The Clinical Use of Renacidin in Urinary Calcifications," *Journal of Urology*, 84:206–212, 1960; Goldstein, H. H., "The Dissolution of Staghorn Calculi," *Journal of the Medical Society of New Jersey*, 58:1–4, 1961; Kohler, F. P., "Renacidin and Tissue Reaction," *Journal of Urology*, 87:102–105, 1962; Comarr, A. E., et al., "Renal Calculosis of Patients with Traumatic Cord Lesions," *Journal of Urology*, 87:647–656, 1962; Ries, S. W. and M. Malament, "Renacidin: A Urinary Calculi Solvent," *Journal of Urology*, 87:657–661, 1962; Russell, M., "Dissolution of Bilateral Renal Staghorn Calculi with Renacidin," *Journal of*

Urology, 88:141–144, 1962; Mulvaney, W. P. and D. C. Henning, "Solvent Treatment of Urinary Calculi: Refinements in Technique," *Journal of Urology*, 88:145–149, 1962; Auerbach, S., et al., "Renal and Ureteral Damage Following Clinical Use of Renacidin," *Journal of the American Medical Association*, 183:147–149, 1963; Fostvedt, G. A. and R. W. Barnes, "Complications During Lavage Therapy for Renal Calculi," *Journal of Urology*, 89:329–330, 1963; Mulvaney, W. P., "The Hydrodynamics of Renal Irrigations: With Reference to Calculus Solvents," *Journal of Urology*, 89:765–768, 1963; Davis, T. A., "New Method of Intrarenal Irrigation to Dissolve Calculi," *Journal of Urology*, 92:599–602, 1964; Mulvaney, W. P., "Renal Calculi and Nonsurgical Therapy," *Journal of the American Medical Association*, 195:195, 1966; Somasundaram, K. and H. B. Eckstein, "Treatment of Residual Renal Calculi with Renacidin," *British Medical Journal*, 2:91–92, 1966; Comarr, A. E., et al., "Dissolution of Renal Stones by Renacidin in Patients with Spinal Cord Injury," *Proceedings of the Veterans Administration Spinal Cord Injury Conference*, 18:174–179, 1971; Nemoy, N. J. and T. A. Stamey, "Surgical, Bacteriological and Biochemical Management of 'Infection Stones'," *Journal of the American Medical Association*, 215:1470–1476, 1971; Cunningham, J. J., et al., "Radiologic Changes in the Urothelium During Renacidin Irrigations," *Journal of Urology*, 109:556–558, 1973; Schellhammer, P. F. and W. W. Koontz, Jr., "Renacidin Irrigation of the Ileal Conduit. A Study of Systemic Magnesium Absorption," *Investigative Urology*, 12:92–97, 1974; Cato, A. R. and A. G. S. Tulloch, "Hypermagnesemia in a Uremic Patient During Renal Pelvis Irrigation with Renacidin," *Journal of Urology*, 111:313–314, 1974; Blavais, J. G., et al., "Chemolysis of Residual Stone Fragments after Extensive Surgery for Staghorn Calculi," *Urology*, 6:680–686, 1975; Jacobs, S. C. and R. F. Gittes, "Dissolution of Residual Renal Calculi with Hemiacidrin," *Journal of Urology*, 115:2–4, 1976; Fam, B., et al., "The Role of Hemiacidrin in the Management of Renal Stones in Spinal Cord Injury Patients," *Journal of Urology*, 116:696–698, 1976; Nemoy, N. J. and T. A. Stamey, "Use of Hemiacidrin in Management of Infection Stones," *Journal of Urology*, 116:693–695, 1976; Dretler, S. P., et al., "Renal Stone Dissolution via Percutaneous Nephrostomy," *New England Journal of Medicine*, 300:341–343, 1979; Brock, W. A., et al., "Hemiacidrin Irrigation of Renal Pelvic Calculi in Patients with Ileal Conduit Urinary Diversion," *Journal of Urology*, 123:345–347, 1980; Newhouse, J. H. an d R. C. Pfister, "Therapy for Renal Calculi via Percutaneous Nephrostomy: Dissolution and Extraction," *Urology and Radiology*, 2:165–170, 1981; Klein, R. S., et al., "Hemiacidrin Renal Irrigation: Complications and Successful Management," *Journal of Urology*, 128:241–242, 1982.

Copies of the references cited above are on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

A Sponsor should submit an NDA in the usual format as described in 21 CFR 314.1, with particular attention to:

1. Manufacturing controls information, including stability of the solution.

2. A detailed summary and analysis of the published medical literature pertinent to the safety and effectiveness of the drug for the indications listed in the labeling.

3. Any other information the applicant has that bears on safety and effectiveness and appropriate directions for use.

4. Labeling that includes the indications for which FDA has found the drug safe and effective and that gives detailed directions on safe administration of the drug product.

Because the product is delivered directly to the site of action, bioavailability studies are not needed. Moreover, the extensive clincal experience obviates the need for animal toxicology studies other than those described in the published literature (included in the list of references provided in this notice).

FDA will be pleased to meet with potential sponsors to discuss the data and requirements. Manufacturers interested in submitting an NDA should contact Roger Gregorio at the address given above.

Dated: October 21 1983.

Marion J. Finkel,

Director, Orphan Products Development.

[FR Doc. 83-30510 Filed 11-9-83; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Privacy Act of 1974; Report of New System of Records

AGENCY: Social Security Administration (SSA), HHS.

ACTION: Notification of new system of records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4)), we are issuing public notice of our intent to establish a new system of records, the Beneficiary, Family, and Household Surveys, Records and Extracts System (Statistics), HHS/SSA/OP, 09–60–0211. We also are proposing routine uses of information that we will maintain in the system in accordance with 5 U.S.C. 552a(e)(11). We invite public comments on the proposed routine uses. The routine uses are discussed below.

DATES: We filed a report of new system of records with the President of the Senate, the Speaker of the Hosue of Representatives, and the Director, Office of Management and Budget on October 27, 1983. The proposed system and the proposed routine uses will become effective as proposed without further notice on December 26, 1983, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at 3–F–1 Operations Building, at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Andrews, Special Assistant to the Director, Office of Research, Statistics and International Policy, Social Security Administration, Room 1121, Universal North Building, 1875 Connecticut Avenue, Washington, D.C. 20009, telephone: 202/673–5627.

SUPPLEMENTARY INFORMATION: We are proposing to establish this system so that we may collect, compile, and analyze data for use in program planning and evaluation, cost estimation, and production of general economic and program statistics for individuals, families, and households. The proposed system also will provide a base for validating other data sources which we currently use in policy analysis, and estimating the impact of proposed changes affecting the Social Security programs.

The major part of the system will consist of the New Beneficiary Survey (NBS) and other surveys of beneficiaries planned to be conducted under contract with SSA or another agency. The NBS will provide in-depth information on the sample of new participants in the Retirement, Survivors, and Disability Insurance (RSDI) components of the Social Security program. The interviews will collect information on the

beneficiaries' employment histories, income and assets, health conditions, program knowledge, marital and childcare histories, and similar socioeconomic data. The survey information is needed to provide program analysts with information about the current cohort of new program beneficiaries, who most closely represent future beneficiary cohorts.

We are proposing routine uses of information that will be maintained in the system. (A routine use disclosure is disclosure without the consent of a subject individual for a purpose which is compatible with the purpose for which we collect information.) The proposed routine uses provide for disclosure to third parties under contract with SSA or other agencies to perform research and statistical activities and to the Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes. The proposed routine uses are consistent with the provisions of the Privacy Act and our disclosure regulation (20 CFR Part 401). Section 401.310 of the regulation permits us to disclose information for a routine use when necessary to administer our program. The routine uses will be used solely for that purpose; e.g., we will disclose a limited amount of information to the Bureau of the Census and to contractors to collect and process statistical data directly related to the purpose served by this proposed system. The specific statements of routine use are as follows:

Disclosure may be made to a contractor under contract with SSA (or another agency with funds provided by SSA) for the performance of research and statistical activities directly related to the purpose served by this system of records.

Disclosure may be made to another government agency (such as the Bureau of the Census) serving as a data source, collecting agent or data processor for SSA in connection with the performance of research and statistical activities directly related to the purpose served by this system of records.

We will establish and maintain security and safeguards for this proposed system in accordance with the HHS Automated Data Processing (ADP) System Manual, Part 6, ADP System Security; standards established by the Bureau of Census for protection of data collected by that Bureau under title 13, United States Code; and standards established under provisions of 26 U.S.C. 6103(p)(4) regarding safeguards applicable to Federal tax return information. This will include maintaining the data in an enclosure attended by security guards, and using locked files and passwords. Only authorized personnel who have a need for the data in the performance of their official duties and who have the appropriate identification and clearance will be permitted in areas containing records. In compliance with section 6103 of the Internal Revenue Code, no Federal tax return information contained in the proposed system of records will be disclosed by SSA to contractors or other agencies without the express approval of the Internal Revenue Service.

We are proposing this system of records in accordance with the Privacy Act and will collect and disclose information only as discussed above. We, therefore, do not anticipate any untoward effects on the personal privacy rights of individuals.

Dated: October 27, 1983.

Lou Enoff,

Acting Deputy Commissioner for Programs and Policies.

09-60-0211

SYSTEM NAME:

Beneficiary, Family, and Household Surveys, Records and Extracts System (Statistics), HHS/SSA/OP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records in this system may be located at the following locations:

Office of Research, Statistics and International Policy, Social Security Administration, 1875 Connecticut Avenue, NW., Washington, D.C. 20009;

Office of Systems, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235;

Datacrown/SDL, 770 Brookfield Road, Ottawa, Ontario K1B 6J5, Canada;

Parklawn, 5600 Fishers Lane, Rockville, Maryland 20857;

National Institute of Health, 9000 Rockville Pike, Bethesda, Maryland 20205; and

Bureau of Census, Washington, D.C. 20857.

Records also may be maintained at contractor sites (contact the system manager at the address below to obtain contractor addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Samples of United States individuals and households presently or potentially receiving benefits from the Department of Health and Human Services (HHS) or other related Federal/State programs, and other comparison individuals and households.

CATEGORIES OR RECORDS IN THE SYSTEM:

Basic demographic characteristics; marital and childcare histories; medical and disability information; information which relates to ability to work; living conditions; attitudes; socioeconomic information; earnings and employment history; financial assets and liabilities; real and personal property; benefit and pension information; use of medical and rehabilitative services; and participation in HHS and related Federal/State welfare programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 702 and 1110 of the Social Security Act; and 13 U.S.C. 182.

PURPOSE:

This system will enable the SSA Office of Research Statistics and International Policy to collect, compile, and analyze data through survey and record extracts. Data collected through the surveys in their developmental and operational phases will be used within ORSIP for program planning and evaluation purposes, subject to applicable restrictions of title 13, U.S. Code, regarding data supplied by the Bureau of the Census; and 26 U.S.C. 6103(p)(4) regarding Federal tax return information. In compliance with section 6103 of the Internal Revenue Code, no Federal tax return information contained in the proposed system of records will be disclosed by SSA to contractors or other agencies without the express approval of the Internal Revenue Service. Information resulting from these efforts will provide HHS with: (1) Reliable estimates of future outlays under various program alternatives; (2) a base for validation of other data sources currently used in policy analysis; and (3) an evaluation of the Retirement, Survivors and Disability Insurance program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To a contractor under contract with SSA or another agency for the performance of research and statistical activities directly related to the purpose served by this system of records.

2. To another government agency (such as the Bureau of the Census) serving as a data source, collecting agent, or data processor for SSA in connection with research and statistical

activities directly related to the purpose served by this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on hard copy forms, discs, or magnetic tape.

RETRIEVABILITY:

Records will be indexed by Social Security number (SSN) during the matching steps but identifiers will not be retained by SSA after matching is completed.

SAFEGUARDS:

Safeguards have been established in accordance with the HHS Automated Data Processing (ADP) System Manual, Part 6, ADP System Security; standards established by the Bureau of Census for protection of data collected by the Census under title 13, U.S. Code; and in accordance with 26 U.S.C. 6103(p)(4), which provides for protection of Federal tax return information, principally earnings records. These safeguards include maintaining the data in an enclosure attended by security guards, and using locked files and passwords. Only authorized personnel who have a need for the data in the performance of their official duties and have the appropriate identification and clearance will be permitted in areas containing records.

Employees having access to records will receive prior notification of criminal sanctions for unauthorized disclosure of personal information about individuals. Magnetic tape and other files with personal identifiers will be retained in secured storage areas accessible only to authorized personnel who have a need to enter the areas in the performance of their official duties. Microdata files prepared for purposes of research and analysis will be stripped of personal identifiers and will be subject to procedural safeguards to assure anonymity.

RETENTION AND DISPOSAL:

Records with identifiers will be held in secured storage areas at SSA or at the Bureau of Census and will be disposed of as soon as they are determined to be no longer needed for analysis. Means of disposal will be appropriate to the records storage medium (e.g., erasure of tapes, shredding of printouts, etc.).

SYSTEM MANAGERS AND ADDRESS:

Director, Office of Research, Statistics, and International Policy, Social Security Administration, Room 1121 Universal North Building, 1875 Connecticut Avenue, Washington, D.C. 20009.

NOTIFICATION PROCEDURE:

This system will contain limited data selected for statistical analysis about which individuals normally would not be interested. Individuals inquiring about their records in SSA programs may wish to consult other SSA systems of records which contain more complete information.

However, if an individual wishes notification of or access to information that may be maintained in this system during processing stages, he/she should write to the system manager at the address above and provide his/her name, SSN, and a description of the information he/she is seeking. Also, to verify identity, the individual should provide his/her address and date of birth. Disclosure of the SSN is voluntary. If an individual is unable or unwilling to provide his/her SSN, he/she should provide date and place of birth and both parents' names to enable us to attempt to locate the number so that we can use it to attempt to locate any requested records.

RECORDS ACCESS PROCEDURES:

Same as notification procedures. Requesters should reasonably identify the information they are seeking. These procedures are in accordance with HHS regulations (45 CFR Part 5b).

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification. These procedures are in accordance with HHS regulations (45 CFR Part 5b).

RECORD SOURCE CATEGORIES:

Records in this system of records will be derived from other existing systems of records maintained by SSA for its retirement, disability, and income supplementation programs (e.g., the Master Beneficiary Record, 09-60-0090; the Supplemental Security Income Record, 09-60-0103; the Earnings Recording and Self-Employment Income System, 09-60-0059; the disability data systems, 09-60-0049 through 09-60-0051); Census survey data obtained from the Bureau of Census; Medicare records obtained from the HHS Health Care Financing Administration; and survey records from personal interviews.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-30428 Filed 11-9-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-83-705]

Amended Delegations of Authority—Departmental Reorganization

AGENCY: Office of the Secretary, HUD.

ACTION: Amended delegations of authority.

SUMMARY: On September 12, 1983, by Notice (48 FR 40958), the Secretary of Housing and Urban Development delegated to each of HUD's ten Regional Administrators all authority necessary to continue operating HUD's programs following a reorganization of HUD's Regional and Field offices which took effect beginning September 6, 1983. The Notice also authorized each Regional Administrator to redelegate, but limited the duration of such redelegations to 60 days (i.e., to November 5, 1983) in the anticipation that HUD would issue at least a preliminary revision of all Regional and Field redelegations by that time. Because such a preliminary revision has not proved necessary the 60 day limitation on Regional Administrators' redelegation is rescinded, pending the development of a permanent set of Regional and Field redelegations.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: David D. White, Assistant General Counsel for Administrative Law, Room 10254, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755-7137 (this is not a toll-free number).

Amendment of Delegation

The Delegation of Authority to Regional Administrators published at 48 FR 40958 (September 12, 1983) is amended by removing the second sentence of paragraph 2.

Dated: November 4, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 83-30380 Filed 11-9-83; 8:45 am]

BILLING CODE 4210-32-M

Office of the Under Secretary

[Docket No. N-83-1302]

Advisory Committee on Contract Document Reform; Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of first meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The first meeting of the Committee on Contract Document Reform will be held on November 29, 1983 at 9:30 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Thereafter, the Committee will meet on the fourth Tuesday of every month at 9:30 a.m. in the Under Secretary's Conference Room.

The purpose of the first meeting is to establish the structure of the Committee, select a chairperson, and determine the scope of the work to be undertaken by the Committee.

All meetings are open to the public. Any interested persons may attend, appear before, or file statements with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the Committee.

The Committee Members of the Contract Document Reform Advisory Committee are listed below:

Mr. Harold F. Blasky (Attorney), Schnader, Harrison, Sega & Lewis, 1111 Nineteenth Street, N.W., Washington, D.C. 20036;

Mr. Joseph L. Serafini (Attorney), Rackemann, Sawyer & Brewster, 28 State Street, Boston, MA 02109;

Mr. Henry B. Keiser (Attorney), Federal Publications, Inc., 1120, 20th Street, N.W., Washington, D.C. 20036;

Mr. Gerard J. Turner (Attorney) Southeast Bank Building, P.O. Box 6472, Hollywood, Florida 33021;

Mr. John J. Petro (Attorney), McNamara and McNamara, 88 East Broad Street, Columbus, Ohio 43215;

Mr. Muriel E. Bray (Attorney), Old Chester Road, P.O. Box 206, Goshen, New York 10924;

Mr. Donald G. Gavin (Attorney); 8230 Boone Blvd., Vienna, VA 22180;

Mr. Charles G. Moerdler (Attorney), Stroock & Stroock & Lavan, 61 Broadway, New York, New York 1006; and

Mr. Lawrence J. McGough (Contractor), McGough Construction Company, 2737 N. Fairview Avenue, St. Paul, MN 5513.

FOR FURTHER INFORMATION CONTACT: Bernard Shriber, Office of Housing Room 9100, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone: (202) 755-6606. [This is not a toll-free number.]

Dated: November 4, 1983.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 83-30414 Filed 11-9-83; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Systems of Records Notices

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is hereby given that the Department of the Interior proposes to revise existing notices describing records maintained by the National Park Service. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative or system revisions which have occurred since the publication of the material in the **Federal Register** on April 11, 1977 (42 FR 19072), March 6, 1981 (46 FR 15587), and August 6, 1982 (47 FR 34208). The revised system notices are published in their entirety below.

Substantive changes, being made to specific notices, are:

1. A compatible disclosure to consumer reporting agencies, as authorized by 5 U.S.C. 552a(b)(12) and the Debt Collection Act of 1982 (Pub. L. 97-365), is being added to all the system notices published below except NPS-7 and NPS-21.

2. The system name for NPS-16 is changed from "Position and Manpower Reporting System" to "Organization - Roster, PAY/PERS" with no substantive change to the categories of records maintained on National Park Service employees.

3. A compatible routine disclosure to the general public is added to the notice for NPS-13, which pertains to concessioner records.

4. The notice describing law enforcement records, NPS-19, is revised to clarify that fingerprint information is included in the records, and a compatible routine disclosure to local and regional law enforcement agencies of fingerprint data has been added.

5. The notice describing NPS payroll records, NPS-20, is being revised to reflect the conversion of such records to the recently established Department-wide integrated payroll system (PAY/PERS). The notice also clarifies the routine disclosure of pertinent payroll information to insurance carriers, charitable institutions, and Federal and State agencies. Also added is a compatible routine disclosure to other Federal agencies for the purpose of collecting debts owed the Federal government through administrative or salary offset.

6. NPS-7 which pertains to historical files is revised to add a compatible disclosure to historical researchers.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before December 12, 1983, will be considered. The system notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: November 3, 1983.

Oscar W. Mueller, Jr.,

Acting Director, Office of Information Resources Management.

INTERIOR/NPS-1

SYSTEM NAME:

Special Use Permits—Interior, NPS-1.

SYSTEM LOCATION:

Substantially all Regional and Park Offices of the National Park Service (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Visitors to Natioanl Parks who receive special use permits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains permittees' names, tracts numbers, addressses, terms, and conditions of permits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is for (1) Park managemen. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to

appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation of, or enforcing or implementing the statute, rule, regulation, order, or license; (3) from the record of an individual in response to an inquiry from a Congressional Office made at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as deifned in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintianed in manual form in file folders.

RETRIEVABILITY:

Indexed by tract number or permittee's name.

SAFEGUARDS:

Stored in lockable metal file cabinets or unlocked cabinets in secured rooms or buildings on either United States Government-owned or leased facilities.

RETENTION AND DISPOSAL:

Ordinarily disposed of one year after termination of special use permit.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Park Operations, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

To determine whether the records are maintained on you in this system, write to the Systems Manager or to the offices cited under "Records Location." (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager or the offices cited under "Records Location." Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURE:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/NPS—2

SYSTEM NAME:

Land Acquisition and Relocation Files—Interior, NPS—2.

SYSTEM LOCATION:

All project offices and Regional land offices of the National Park Service (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners and tenants of land within National Parks.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains property owners' and tenants' names, assigned tract numbers, addresses, title evidence, appraisals, negotiator's reports, property plats, all documents relative to acquisition of properties by direct purchase, donation, or condemnation proceedings, general correspondence, and relocation claims with supporting documents and payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1, 44 U.S.C. 3101, and 42 U.S.C. 4651.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is for: (1) Land acquisition and relocation purposes. Disclosures outside the Department of the Interior may be made: (1) To authorized title companies and closing agents for title policies and closings, (2) to the United States Department of Justice for preliminary and final title opinions and condemnation proceedings, (3) to the United States Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order, or license, (5) from the record of an individual in response to an inquiry from a Congressional Office at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by tract and generally cross-indexed alphabetically by landowner's name.

SAFEGUARDS:

Stored in lockable metal file cabinets or unlocked cabinets in secured rooms or buildings on either United States Government-owned or leased facilities.

RETENTION AND DISPOSAL:

Pertinent land acquisition documents retired to park superintendent's offices and Land Resources Division, Washington, when land acquisition matters complete and remainder of file disposed of. Reserved tract relocation files retained at Regional Lands Offices. Pertinent relocation documents filed with the National Park Service, Finance Office and remainder of files disposed of one year after all claims are processed for payment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Land Resources Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the Systems Manager or to the Regional Land Offices cited under "Records Location." (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager or the land acquisition offices cited under "Records Location." Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of materials from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Title companies, mapping contractors, contract appraisers, individuals on whom tract files are maintained.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to have access to any information compiled in reasonable

anticipation of a civil action or proceeding.

INTERIOR/NPS-3

SYSTEM NAME:

Land Acquisition Management Information System—Interior, NPS—3.

SYSTEM LOCATION:

Division of Land Resources, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

KATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners of land within National Parks.

CATEGORIES OF RECORDS IN THE SYSTEM:

Management and monitoring of active land acquisition projects. Contains records for each tract acquired, scheduling, and progress data, landowners' names and addresses, and descriptive data on each tract.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1, 44 U.S.C. 3101, and 42 U.S.C. 4651.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for: (1) Land acquisition statistics for the National Park Service personnel, Congressional, or public information. Disclosure outside the United States Department of the Interior may be made:(1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule regulation, order, or license, (3) Disclosures from the record of an individual may be made in response to an inquiry from a Congressional Office at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized.

RETRIEVABILITY:

Indexed by tract number but retrievable by tract number or landowner's name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Maintained until superseded by updated or revised version.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Coordination and Control, Division of Land Resources, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether records are maintained on you in this system, write to the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Project and Regional Offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/NPS-4

SYSTEM NAME:

Travel Records—Interior, NPS-4.

SYSTEM LOCATION:

(1) Office of the Chief of Finance, National Park Service, United States Department of the Interior, Washington, D.C. 20240, (2) All Regional Offices of the National Park Service, (3) Input documents prepared in substantially all facilities of the National Park Service (See Appendix for Regional and other office addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Park Service employees who travel on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Traveler's name, address, social security number, organization number, amounts of travel funds advanced, and/or vouchered, and itinerary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq., 16 U.S.C. 1, 44 U.S.C. 3101, FPM R 101-7, GAO Titles 5 and 7.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is for: (1) Travel advance control, control of GTR's and preparation of travel authorization, and vouchers. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on prescribed standard forms.

RETRIEVABILITY:

Travel advance cards, outstanding GTR's, and intineraries are filed alphabetically. Travel authorizations and vouchers are filed numerically, but cross-referenced on the preceding documents.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Travel records are retained in office of origin three years, then sent to Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Finance, Washington Office et al. (See System Location).

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.71)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and respective travel office.

INTERIOR/NPS-5

SYSTEM NAME:

Retirement Record—Interior, NPS–5.

SYSTEM LOCATION:

Office of the Chief of Finance, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the National Park Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Federal employment history, and retirement contribution of all National Park Service employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8301, et seq., 16 U.S.C. 1 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) To keep current the employee's Federal employment history and retirement contribution. Disclosures outside the Department of the Interior may be made: (1) To the Civil Service Retirement System, (2) to another Federal agency for the record of an employee who has transferred to that agency, (3) to the United States Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosues may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on SF–2806.

RETRIEVABILITY:

Filed alphabetically.

SAFEGUARDS:

Maintained with safeguards meeting requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

The original SR–2806 is retained until termination of the National Park Service employment. Upon retirement or upon transfer to a Federal agency outside Interior, the original SF–2806 is sent to OPM and a reference copy is kept for five years. Upon transfer within Interior, the original SF–2806 is sent to the receiving agency and a reference copy is kept for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Finance, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in the system, write to the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, and pay and personnel records.

INTERIOR/NPS-7

SYSTEM NAME:

National Park Service Historical Library—Interior, NPS–7.

SYSTEM LOCATION:

Harpers Ferry Center, National Park Service, Harpers Ferry, West Virginia 25425.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and retired employees of the National Park Service and its Associates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Interviews of historical recollections.

AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

16 U.S.C. 1, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) Historical Research. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license, (3) Disclosures from the record of an individual may be made in response to an inquiry from a Congressional Office at the request of that individual, and (4) Subject to restrictions imposed by the donor (i.e. the interviewee), disclosure of this material may be made to historical researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tapes or paper documents.

RETRIEVABILITY:

Indexed by name of person interviewed.

SAFEGUARDS:

Maintained in accordance with requirements of 43 CFR 2.51 for manual and automated records.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Historical Library, Harpers Ferry Center, National Park Service, Harpers Ferry, West Virginia 25425.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained and recollections of others.

INTERIOR/NPS-8

SYSTEM NAME:

Property and Supplies Accountability—Interior, NPS–8.

SYSTEM LOCATION:

All National Part Sevice facilities (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Park Service employees, contractors, and contract employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the user's name and description of the accountable property or supply.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) To identify the responsible individual for accountability of property and supplies. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Accountable capitalized property maintained on computer with subsequent inventory listings furnished to individuals. Inventory listings and hand receipts for other property and supplies maintained manually in file folders arranged by individual names.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized and manual records.

RETENTION AND DISPOSAL:

Record destroyed when property is returned to stock or when individual is transferred.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the offices cited under "Records Location." (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write to the offices cited under "Records Location." Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

Write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

Interior/NPS–13

SYSTEM NAME:

Concessioners—Interior, NPS–13.

SYSTEM LOCATION:

(1) Division of Concessions, National Park Service, United States Department of the Interior, Washington, D.C. 20240. (2) All Regional Offices and area offices with the above functions (See appendix for addresses)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the National Park Service concessioners (System also contains records on corporations and other business entities holding concession contracts which are not subject to the Privacy Act).

CATEGORIES OF RECORDS IN THE SYSTEM:

Concessioners' names, addresses, types of services provided.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) To maintain a mailing list of concessioners for management information.

Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license, (3) from the record of an individual in response to an inquiry from a Congressional Office made at the request of that individual, and (4) to the general public, upon request.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on word processing system on floppy disks; printed listings maintained in booklet entitled "National

Parks Visitor Facilities and Services," for distribution.

RETRIEVABILITY:

Indexed by park and concessioners name.

SAFEGUARDS:

Maintained with safeguards meeting requirements of 43 CFR 2.51 for computerized records.

RETENTION AND DISPOSAL:

Maintained on current basis; printed listings updated bi-annually.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Contracts, Division of Concessions, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/NPS–14

SYSTEM NAME:

Concessioner Financial Statement and Audit Report Files, Interior, NPS–14.

SYSTEM LOCATION:

(1) Division of Concessions, National Bank Service, United States Department of the Interior, Washington, D.C. 20240. (2) All Regional Offices and area offices with the above functions (See appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the National Park Service Concessioners (System also contains records, not subject to the Privacy Act, on corporations and other business entities holding concession contracts).

CATEGORIES OF RECORDS IN THE SYSTEM:

Concessioners names and address, annual financial reports, audit reports, and related financial data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) To management for contract compliance and information. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license, (3) from the record of an individual in response to an inquiry from a Congressional Office made at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders for most recent five years. Prior years are stored on microfiche.

RETRIEVABILITY:

Indexed by park and concessioner's name.

SAFEGUARDS:

Maintained with safeguards meeting requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Paper records are destroyed after microfiching. Microfiche is retained until obsolete and than destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Financial Management, Division of Concessions, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether records are maintained on you in this system, write to the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

The National Park Service Concessioners, Office of Inspector General.

INTERIOR/NPS–15

SYSTEM NAME:

Concessions Management Files—Interior, NPS–15.

SYSTEM LOCATION:

(1) Division of Concessions, National Park Service, United States Department of the Interior, Washington, D.C. 20240. (2) All Regional Offices and area offices with the above functions (See appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The National Park Service concessioners and prospective concessioners (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the systems which pertain to individuals may reflect personal information, however, only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and related data concerning award of contracts, negotiation of contracts, and operations pursuant to contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) To management for contract compliance and interpretation. Disclosures outside the Department of the Interior may be made: (1) to the United States Department of Justice when related to litigation or anticipated litigation, (2) of

information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche.

RETRIEVABILITY:

Indexed by park and concessioner's name.

RETENTION AND DISPOSAL:

Paper records are destroyed after microfiching. Microfiche are retained until obsolete and then destroyed.

SAFEGUARDS.

Maintained with safeguards meeting requirements of 43 CFR 2.51 for computerized records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Contracts, Division of Concessions (See Location).

NOTIFICATION PROCEDURE:

To determine whether records are maintained on you in this system, write to the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, park and Regional Offices.

INTERIOR/NPS–16

SYSTEM NAME:

Organization Roster, Pay/Pers.—Interior, NPS–16.

SYSTEM LOCATION:

Chief, Budget Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All National Park Service employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Organizational entity, employee name, position title, pay plan, grade and step, Service computation date and birth date, and other data as required.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1, 5 U.S.C. 301, 43 U.S.C. 1457, OMB Circular A–11.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) To issue reports on authorized positions and data related to positions and the incumbents. Disclosures outside the Department of the Interior may be made: (1) To the United Stated Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on tape.

RETRIEVABILITY:

Indexed alphabetically by name and by position number and organization code.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for automated records.

RETENTION AND DISPOSAL:

When incumbent leaves position, all personal information is purged.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Budget (See location).

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in the system, write to the Systems Manager. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Department of the Interior Integrated Personnel and Payroll System.

INTERIOR/NPS–17

SYSTEM NAME:

Employee Financial Irregularities, Interior, NPS–17.

SYSTEM LOCATION:

Office of the Chief of Finance, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the National Park Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

National Park Service employees or former employees with actual or claimed employment related financial irregularities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) To aid management in seeking recovery of funds stolen or otherwise misappropriated. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or

prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order, or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on letter memos, memos for record, and investigation reports conducted by park Administration, Secretary's Office, U.S. Secret Service, or FBI.

RETRIEVABILITY:

Cases filed alphabetically.

SAFEGUARDS:

Maintained with safeguards meeting requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Case file is maintained 10 years after final disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Finance, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and correspondence from financial organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552 a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), and the portions of 43 CFR, Part 2, Subpart D which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/NPS–18

SYSTEM NAME:

Collection, Certifying and Disbursing Officers, and Imprest Fund Cashiers, Interior, NPS–18.

SYSTEM LOCATION:

(1) Office of the Chief of Finance, National Park Service, United States Department of the Interior, Washington, D.C. 20240; (2) all Regional Offices and area offices with the above functions (see Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the National Park Service with the above funds handling titles.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, title, and dates of appointment and cancellation of same.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is: (1) The control of funds handling appointments. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to apropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on letter memorandums or prescribed standard forms in OPF's and in responsible office files.

RETRIEVABILITY:

OPF's are filed alphabetically, and respective office files are in title sequence.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Standard retention procedure is followed for OPF copies. Individual office files are maintained for active appointments only.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Finance (see System location).

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in the system, write to the Systems Manager. (See 43 CFR 2.60.)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63.)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71.)

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/NPS–19

SYSTEM NAME:

Law Enforcement Files: Statistical Reporting System, incident card reference and related files—Interior, NPS–19.

SYSTEM LOCATION:

(1) United States Park Police, 1100 Ohio Drive, SW., Washington, D.C. 20242. (2) New York Field Office, Bldg. #275, Floyd Bennet Field, Brooklyn, N.Y. 11234. (3) San Francisco Field Office, Fort Mason, San Francisco, CA 94123. (4) National Park areas and Regional Offices (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual complainants in criminal cases, individuals investigated or arrested for criminal or traffic offenses, or involved in motor vehicle accidents, or certain types of non-criminal incidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, date and case number of incident, report of incident, and fingerprint information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (1) To identify incidents in which individuals were involved, (2) to retrieve the report for information for the

individual involved, such as accident reports and reports of found property, (3) to aid National Park Service Law enforcement officers on a need to know basis, (4) as the basis for criminal investigations conducted by the United States Park Police, and commissioned law enforcement employees, and (5) to assist local and Regional law enforcement agencies working in areas contiguous to areas under the jurisdiction of the NPS. Disclosures outside the Department of the Interior may be made: (1) To law enforcement officers from other agencies in their work on a need to know basis, (2) to the United States Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation a statute, regulation rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license, (4) to local and Regional law enforcement agencies for the purpose of inclusion in automated fingerprint data systems.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681 a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records, magnetic disk, diskette, and computer tapes.

RETRIEVABILITY:

(1) Manually, by name of individual and park, and (2) automated, by name and incident number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual and automated records.

RETENTION AND DISPOSAL:

Records are maintained for various lengths of time, depending of the seriousness of the incident. Records are retired to the Federal Records Center or purged, depending on the nature of the document.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Commander, Information Management Section, U.S. Park Police, National Park Service, United States Department of the Interior, Washington, D.C. 20242. (2) Associate Director, Park Operations, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

RECORD SOURCE CATEGORIES:

Incident information obtained from individual on whom information is maintained, witnesses, and investigating officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the general exemption authority provided by 5 U.S.C. 552a(j)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(a), which exempts this system from all of the provisions of 5 U.S.C. 552a and the regulations in 43 CFR, Part 2, Subpart D, except subsections (b), (c), and (1), and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) of 5 U.S.C. 552a and the portions of the regulations in 43 CFR Part 2, Subpart D implementing these subsections. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/NPS–20

SYSTEM NAME:

Payroll—Interior, NPS–20.

SYSTEM LOCATION:

(1) Office of the Chief, Branch of Payroll Operations, National Park Service, United States Department of the Interior, Post Office Box 25287, Lakewood, Colorado 80225. (2) Washington Central Office and all Regional Offices and field areas of the National Park Service (See Appendix for addresses). Records contained in this system are part of the Departmental integrated system (PAY/PERS) maintained for the Service in a computer operated by the Bureau of Reclamation which is located in Denver, Colorado.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All National Park Service employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee identification, pay rate and grade, retirement and location data; length of service; pay, leave, time and attendance, allowances, and cost distribution records; deductions for FICA, savings bonds, insurance, union dues, taxes, allotments, quarters, charities; overtime authorizations, awards, shift schedules, pay differentials, IRS tax lien data; and related personnel data. Also included is information on debts owed to the Government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the record are for fiscal operations, for payroll, attendance, leave, insurance, tax, retirement, and cost accounting programs; and to prepare related reports to other Federal agencies including the Treasury Department and the Office of Personnel Management. Disclosures outside the Department of the Interior may be made: (1) To the Department of the Treasury for preparation of payroll checks and other checks to Federal, State, and local Government agencies, non-governmental organizations, and individuals; (2) to the Internal Revenue Service and to State, local, tribal, and territorial Governments for tax purposes; (3) to the Office of Personnel Management in connection with programs administered by that office; (4) to another Federal agency to which an employee has transferred; (5) to the United States Department of Justice when related to litigation or anticipated litigation, (6) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) to a Congressional Office from the records of an individual in response to an inquiry from that Congressional Office made at the request of the individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (9) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearnace, contract, license, grant, or other benefit; (10) to appropriate Federal and State agencies to provide required reports including data on unemployment insurance; (11) to the Social Security Administration to report FICA deductions; (12) to labor unions to report union dues deductions; (13) to insurance carriers to report withholdings for health insurance; (14) to charitable institutions to report contributions; (15) to a Federal agency for the purpose of collecting a debt owed the Federal Government through administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records maintained on microfilm and hard copy, and computer media.

RETRIEVABILITY:

Indexed by name, social security number, and organizational code.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained on-site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with the fiscal records program approved by GAO, as appropriate, or General Records Schedule 2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Payroll Operations, National Park Service, United States Department of the Interior, Post Office Box 25287, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the Systems Manager. A written, signed request stating that the individual seeks information concerning his/her records is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the records are maintained, supervisors, timekeepers, official personnel records, previous employers, Internal Revenue Service.

INTERIOR/NPS-21

SYSTEM NAME:

Visitor Statistical Survey Forms—Interior, NPS–21.

SYSTEM LOCATION:

Various National Park Service areas within the National Park Service system (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Visitors to the National Park Service administered areas who have participated in surveys conducted during their visits to the areas or via mail, or telephone as a result of their visit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, some addresses, some telephone numbers, and information obtained during the surveys on completed questionnaires or by in-person or telephone interviews, or both. The survey information includes experiences, ideas, and expressions collected voluntarily from the visitors on what they think of the area's resources, facilities, and area programs. The responses are treated confidentially and are used only to compile statistical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Federal Records Act of 1950, 44 U.S.C. 2904 and 3102, and 5 CFR Part 1320.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are: (1) To evaluate existing management programs through statistical analysis of the replies furnished by the visitors, (2) to develop new thrusts that might be suggested by the visitors' comments. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license, and (3) from the record of an individual in response to an inquiry from a Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Usually maintained in file folders.

RETRIEVABILITY:

Sometimes filed alphabetically by name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

When personal data included, questionnaires and interview sheets are usually destroyed after aggregation of responses so that individual identification will no longer be possible. Others are retained until final completion of the survey and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in the system, write to the offices cited under **"RECORDS LOCATION."** (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write to the offices cited under **"RECORDS LOCATION."** Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are will to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/NPS-22

SYSTEM NAME:

Motor Vehicle Operations Program—Interior, NPS–22.

SYSTEM LOCATION:

National Park Service, Department of the Interior, Washington, D.C. 20240. All Regional Offices (See Appendix for addresses) of the National Park Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Park Service employees who are assigned United States Government

Motor Vehicle Operator Permits for temporary use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information identifying the employee such as: Name, sex, birth date, color of hair, color of eyes, height, weight, birthplace, social security number, accident summary, accident reports, driver's license number, date issued, date license expires, types of vehicles operated, corrective lenses, or any other impairments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 211j of the Federal Property and Administrative Services Act of 1949, as amended (68 Stat. 1128; 40 U.S.C. 491(j)) and the related Motor Vehicle Operator Regulations and Standards issued by the Office of Personnel Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (1) Authorize a person to operate a Government vehicle. Disclosures outside the Department of the Interior may be made: (1) To the United States Department of Justice when related to litigation or anticipated litigation, (2) of information indicting a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) to a Federal agency where necessary to obtain information relevant to the issuance of an operator's permit, (4) from the record of an individual responding to an inquiry from a Congressional Office made at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

STORAGE:

A computer program is maintained with four printouts listing individual permit holders by card number, organization code, alphabetical list, and permit date of expiration. These printouts are accessible by the System Manager.

RETRIEVABILITY:

Permit information can be retrieved by number of card issued, name, or organization code of agency.

SAFEGUARDS:

Completed forms maintained in official Personnel Folder in locked cabinets.

RETENTION AND DISPOSAL:

Permits are issued for a period of three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Engineering and Safety Services Division, Chief, Branch of Safety, National Park Service, Washington, D.C. 20240, for Washington Office employees; and (2) Administrative Officer, appropriate Regional Office listed in the Appendix for Regional Office employees.

NOTIFICATION PROCEDURE:

All inquiries should be addressed to System manager for Washington Office employees and the appropriate Regional Office for Regional employees (See 43 CFR 2.60).

RECORD ACCESS PROCEDURES:

Requests for access should be addressed as follows: (1) Washington Office employees should contact the System Manager, (2) Regional employees should contact the appropriate Administrative Officer at the location listed in the Appendix (See 43 CFR 2.63).

CONTESTING RECORD PROCEDURES:

Petitions for correction should be addressed as follows: (1) Washington Office employees should contact the System Manager; (2) Regional employees should contact the appropriate Administrative Officer at the location listed in the Appendix (See 43 CFR 2.71).

RECORD SOURCE CATEGORIES:

Individual, Agency Officials, local, and State authorities.

[FR Doc. 83-30358 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

Federal Minerals Exchange, Mohave County, Arizona; Realty Action

Correction

In FR Doc. 83-27290 beginning on page 45614 in the issue of Thursday, October 6, 1983, make the following correction on page 45615: In the first column, under "Township 21 North, Range 15 West," in "Sec. 29" immediately following "NW¼ NE¼" add ", N½NW¼,".

BILLING CODE 1505-01-M

Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice 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 originally scheduled for October 28, 1983, as announced in the October 7 **Federal Register** has been rescheduled for November 30, 1983.

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.

Pieter J. VanZanden,

Acting Eastern States Director.

[FR Doc. 83-30468 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57761 SD]

South Dakota; Correction; Realty Action—Competitive Sale of Public Land in Custer County, South Dakota

AGENCY: Bureau of Land Management, Miles City District, South Dakota, Resource Area Office, Interior.

ACTION: Notice of Realty Action M-57761 SD, competitive sale of public land in Custer County, South Dakota.

SUMMARY: The legal description of the parcel of public land should read:

Black Hills Meridian

Township 6 South, Range 2 East, Section 25, NE¼NW¼, containing 40 acres.

Method of Bidding

Instructions in the original Notice of Realty Action for submitting sealed bids to the South Dakota Resource Area Office, 310 Roundup Street, Belle Fource, South Dakota 57717 by 1:00 p.m. M.S.T., December 28, 1983, should have specified bids that should be in an envelope marked in the lower left-hand corner as follows: Public Land Sale M-57761 SD, Date: December 28, 1983.

Other details of the combination of sealed and/or oral bids utilizing competitive bidding procedures were correct as they appeared in the original

Notice of Realty Action that appeared in the **Federal Register** November 3, 1983.

Robert N. McWhorter,

Acting District Manager.

[FR Doc. 83-30441 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 24849Wa]

Washington; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by direct sale and conveyed to the parties shown: Mr. & Mrs. Billy R. Zanol, Post Office Box 25, Star Route, Orondo, Washington 98843.

Willamette Meridian, Washington

T. 25 N., R. 21 E.,

Sec. 28, W½W½SW¼NE¼SW¼.

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 Mr. & Mrs. Zanol.

Dated: November 2, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30442 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[ORE-01989, ORE-011509

Oregon; Proposed Continuation of Withdrawals

The Bonneville Power Administration proposes that the existing land withdrawals made by Public Land Order No. 821 of April 28, 1952, be continued in its entirety and Public Land Order No. 2722 of July 16, 1962, be continued in part for an indefinite period pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The lands involved consist of two parcels, one containing 40 acres located one mile west of Redmond, Oregon, in T. 15 S., R. 13 E., W.M., and the other containing 1.8 acres located approximately 12 miles southeast of Brothers, Oregon, in T. 21 S., R. 19 E., W.M., Deschutes County, Oregon.

The purpose of the withdrawals is to protect the Redmond and Hampton substations. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuations should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 4, 1983.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30418 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 21787(WASH), OR 33889(WASH)]

Washington; Proposed Continuation of Withdrawals

The Veterans Administration proposes that the existing land withdrawals made by the Executive orders of May 13, 1859, and January 13, 1878 be continued in part for an indefinite period pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The lands involved consist of two parcels, one containing 81.11 acres located in the city of Walla Walla in T. 7 N., R. 36 E., W.M., and the other containing 53.08 acres located in the city of Vancouver in T. 2 N., R. 1 E., W.M., Walla Walla and Clark Counties, Washington.

The purpose of the withdrawals is to protect the Veterans Administration hospitals and medical centers at Walla Walla and Vancouver. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose of segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuations should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 4, 1983.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30419 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 22384 (WASH), OR 22389 (WASH), OR 22391 (WASH), OR 22397 (WASH), OR 22399 (WASH), OR 22400 (WASH)]

Washington; Proposed Continuation of Withdrawals

The Bureau or Reclamation proposes that the existing land withdrawals made by the Secretarial Orders of October 17, 1903, January 22, 1906, July 27, 1904, November 14, 1906, August 23, 1905, and September 7, 1909 be continued in part for a term of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The lands involved are located in central Okanogan County, northwesterly of the town of Okanogan, Washington, and aggregate 981.35 acres within Tps. 33 and 34 N., R. 26 E.; T. 35 N., Rgs. 24 and 25 E., and T. 36 N., T. 25 E., Willamette Meridian, Okanogan County, Washington.

The purpose of the withdrawals is to protect the project uses and facilities associated with the Okanogan Reclamation Project. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuations should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 4, 1983.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30420 Filed 11-9-83; 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: Realty Action, I-19970, Modified Competitive Sale of Public Lands in Gem County, Idaho.

Correction

In FR Doc. 83-28601, appearing on page 48718 in the issue of Thursday, October 20, 1983, make the following corrections:

1. Patent reservation #2 in column 2 should include geothermal resources with the right to explore and remove under applicable law;

2. The first sentence of the first new paragraph in column 3 should read, "Except for oil, gas, and geothermal resources, the Federally owned mineral interests will be offered for conveyance in the sale."; and

3. Under subheading "Supplementary Information:" in column 3, the second and third sentences are modified to read, "Jessie Little Naylor, Emmett, Idaho 83617, and Cecil Haynes, Boise, Idaho 83703, will be the designated bidders 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, Mr. Haynes' deeded property adjoins the parcel on four sides, and there is no legal access."

Dated: November 3, 1983.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 83-30421 Filed 11-9-83; 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, Interior.

ACTION: Realty Action, I-19969, Modified Competitive Sale of Public Lands in Gem County, Idaho

Correction

In FR Doc. 83-28600, appearing on page 48718 in the issue of Thursday, October 20, 1983, make the following correction:

Under subheading "Supplementary Information:" in column 1, the second third sentences are modified to read. "Jessie Little Naylor, Emmett, Idaho 83617; Cecil Haynes, Boise, Idaho 83703; and Colin McLeod, Jr., Caldwell, Idaho 83605; will be the designated bidders to have preference right to purchase the parcel at the highest bid. The preference right is offered because Mrs. Naylor and Mr. McLeod, Jr., are the historical grazing users, Mr. Haynes' and Mr. McLeod, Jr.'s, deeded properties adjoin the parcel on three sides and there is no legal access."

Dated: November 3, 1983.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 83-30422 Filed 11-9-83; 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: Realty Action, I-19967, Modified Competive Sale of Public Lands in Gem County, Idaho.

Correction

In FR Doc. 83-28599, appearing on page 48717 in the issue of Thursday, October 20, 1983, make the following corrections:

1. Patent reservation #2 in column 1 should include geothermal resources with the right to explore and remove under applicable law;

2. The first sentence of the first new paragraph in column 2 should read, "Except for oil, gas, and geothermal resources, the Federally owned mineral interests will be offered for conveyance in the sale."; and

3. Under subheading **"ADDRESSES:"** in column 2, the 7th should read, ". . .

instructions may be obtained *from* Mike . . ."

Dated: November 3, 1983.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 83-30423 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81679]

Wyoming; Conveyance Sale of Public Land in Park County, Wyoming

November 3, 1983.

Notice is hereby given that pursuant to Section 203 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1713 (1976), H. D. Bischoff has purchased and received a patent for the following described public land in Park County, Wyoming.

Sixth Principal Meridian

T. 54 N., R. 102 W.,
Sec. 1, lots 5, 6, and 7.
Containing 120.51 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-30439 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18935]

Arizona; Public Lands Exchange, Maricopa and Yavapai Counties, Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action; exchange of public lands in Maricopa and Yavapai Counties, Arizona.

SUMMARY: The following described public lands are under consideration for potential suitability of disposal by exchange under Section 206 of the Federal Land Management and Policy Act of October 21, 1976, U.S.C. 1716:

Gila & Salt River Meridian, Maricopa County, Arizona

T. 7 N., R. 4 W.,
Sec. 21, S½ SE¼SW¼, 20 acres public land.

In exchange for these lands, the Federal Government will acquire non-Federal land, surface estate only, from Charles W. Copus described as follows:

Gila & Salt River Meridian, Yavapai County, Arizona

T. 10 N., R. 5 W.,
Sec. 29, N½NW¼, NW¼SW¼, S½SW¼SW¼NW¼, 10 acres.

The exchange proposal involves the surface estate only on the non-Federal lands to be acquired. The mineral estate belongs to the Federal Government. The Federal mineral estate, with the exception of oil and gas, will be considered for transfer with the Federal surface.

The purpose of the exchange is twofold: The 10 acre parcel of private land is completely surrounded by a Township of public land. The action would aid in making the area more manageable. Second, the 20 acres of public lands that would be disposed of is next to patented lands, also making management easier. The exchange is consistent with the Bureau's planning system. The public interest would be well served by making the exchange.

The value of the lands and interests to be exchanged is approximately equal. Upon the completion of a final appraisal, acreages may be adjusted or a cash payment made to equalize the value difference. Where a monetary payment is required to equalize values, the payment shall not exceed 25 percent of the value of the public interests being conveyed.

Lands being considered for transfer from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1980 (26 Stat. 391:43 U.S.C. 945).

2. A reservation of all oil and gas to the United States.

The publication of this notice in the Federal Register will segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the Federal Register of a termination of the segregation, or 2 years from the date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the environmental analysis, is currently in the process of being compiled and written and will be available for review at the Lower Gila Resource Area Office. A record of public discussion will also be compiled.

For the period of time until the final Notice of Realty Action is issued with its required 45 day comment period, interested parties may submit comments to the District Manager.

ADDRESS: The public may visit the office or send comment to: Bureau of Land Management, District Manager, Phoenix District Office, 2929 W. Clarendon Avenue, Phoenix, Arizona

Dated: November 4, 1983.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 83-30434 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18908]

Arizona; Public Lands Exchange, Yavapai County, Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action; exchange of public lands in Yavapai County, Arizona.

SUMMARY: The following described public lands have been determined to be potentially suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 13 N., R. 4 W.,
Sec. 24: All;
Sec. 25: All;
Sec. 26: All;
Sec. 27: All;
Sec. 28: N½, SE¼.
Comprising 3,040 acres of public land.

In exchange for these lands, the Federal government will acquire non-Federal land from Phelps Dodge Corporation, described as follows:

Gila and Salt River Meridian, Arizona

T. 16 N., R. 3 E.,
Within Sections 15, 16, 21, and 22.
Comprising 721 acres of private land.

The exchange proposal involves the surface and mineral estate of the private land and the surface and mineral estate of the public land with the exception of oil and gas.

Purpose of the exchange is to acquire non-Federal land located within the boundaries of the Tuzigoot National Monument which is administered by the National Park Service.

Publication of this notice in the Federal Register will segregate the public lands described herein to the extent they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2201.1(b), and subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This

segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

ADDRESS: For a period of 45 days, interested parties may submit comments to: Bureau of Land Management, District Manager, Phoenix District Office, 2929 W. Clarendon Avenue, Phoenix, Arizona 85017.

Dated: November 4, 1983.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 83-30431 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Carson City District Advisory Council.

DATE: December 15, 1983; 8:30 a.m. and 1:30 p.m.

ADDRESS: Churchill County Museum (morning), 1050 South Maine St.; Churchill County Public Library (afternoon), 553 South Maine St., Fallon, Nevada.

FOR FURTHER INFORMATION CONTACT: Stephen A. Weiss, Public Affairs Officer, Carson City District BLM, 1050 E. William St., Suite 335, Carson City, Nevada 89701, (702) 882-1631.

SUPPLEMENTARY INFORMATION: The Carson City District Advisory Council comprises ten citizens representing different interests and expertise, appointed by the Secretary of the Interior to advise the District Manager on planning and management of public lands and resources. The December 15 meeting will focus on the subject of cultural resources management. A field trip of cultural sites will begin at 8:30 at the museum. The public is welcome to attend, but transportation will not be provided. The business portion of the meeting will begin at 1:30 p.m. in the library. The agenda will include a presentation and discussion about the Bureau's cultural resource management program. The public is invited, and anyone may appear before the Council at 3:00 p.m.

Thomas J. Owen,

District Manager.

[FR Doc. 83-30438 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Filing of Plats of Survey

November 4, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., November 4, 1983.

The plat representing the dependent resurvey of the Second Standard Parallel South (south boundary), the Twelfth Guide Meridian West (east boundary), the north and west boundaries, and subdivisional lines, and the survey of the subdivision of certain sections, T. 10 S., R. 97 W., Sixth Principal Meridian, Colorado, Group Nos. 578 and 708, was accepted October 19, 1983.

The supplemental plat, creating lots 14, 15, and 16, in Section 22, T. 4 S., R. 81 W., Sixth Principal Meridian, Colorado, was accepted October 19, 1983.

The survey was executed and the supplemental plat prepared to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037-20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 83-30435 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[C-19462]

Proposed Reinstatement of Oil and Gas Lease; Montezuma County, Colorado

Notice is hereby given that a petition for reinstatement of oil and gas lease C-19462 for lands in Montezuma County, Colorado was timely filed and was accompanied by all the required rentals and royalties accruing from December 1, 1979, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

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, as amended (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective December 1, 1979, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to the undersigned of the Colorado State Office at (303) 837-5551.

Evelyn W. Axelson,

Acting Chief, Mineral Leasing Section.

[FR Doc. 83-30432 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[I-20052 and I-18532]

Idaho; Conveyance of Public Lands

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C 1713), patents were issued to the following:

Henry L. Driskell and Harva L. Driskell, Grand View, Idaho for the following-described public land:

Owyhee County, Serial No. I-20052

Boise Meridian, Idaho

T. 5 S., R. 2 E.,
Sec. 24, E½NE¼.
Containing 80.00 acres.

Janet C. Wray, Willard S. Wray, Janis K. Wray, Clark S. Wray, Connie Ann Wray, Berkley Wray, James Marvin Wray, and Lorraine M. Wray doing business under the firm name of Wray Farms, Blackfoot, Idaho.

Bingham County, Serial No. I-18532

Boise Meridian, Idaho

T. 2 S., R. 37 E.,
Sec. 19, lot 3.
Containing 20.25 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Dated: November 3, 1983.

Vincent S. Strobel,

Acting Deputy State Director for Operations.

[FR Doc. 30426 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

Roswell, New Mexico District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Roswell District Advisory Council.

DATE: December 6, 1983, beginning at 10:00 a.m. A public comment period will be held at 2:00 p.m.

ADDRESS: Motel Stevens, 1829 South Canal, Carlsbad, New Mexico.

FOR FURTHER INFORMATION CONTACT: Richard Bastin, Associate District

Manager or Tim Kreager, Chief, Planning and Environmental Assistance Staff, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201 (505) 622-7670 or FTS 476-9251.

SUPPLEMENTARY INFORMATION: The proposed agenda will include: (1) Potash Enclave Mapping Project, (2) Hunter Access Programs, (3) Update on Roswell Resource Area Land Use Plan-MFPA/EIS, (4) Merger/Budget Program for Fiscal Year 84, (5) Cooperative Management Agreements.

This meeting is open to the public. Interested persons may make oral statements to the council during the public comment period or may file written statements. Anyone wishing to make an oral statement must notify the District Manager by November 30, 1983. Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting. Copies will be available for the cost of duplication.

Earl R. Cunningham,

District Manager, Rosewell, New Mexico.

[FR Doc. 83-30425 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 35082]

Realty Action—Proposed Land Exchange Between State of Oregon and Bureau of Land Management; Correction

In FR Doc. 83-4425 beginning on page 7814 in the issue of Thursday, February 24, 1983, the second full paragraph of the third column of page 7818 should be deleted and replaced with the following paragraph:

"Both parties in the exchange will reserve all minerals in the lands being exchanged."

Dated: November 2, 1983.

Joshua L. Warburton,

District Manager.

[FR Doc. 83-30429 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[M 45059-C, M 45059-D, M 45059-E]

South Dakota; Issuance of Disclaimer of Interest to Lands in South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of Section 315 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1745 (1976), intends to disclaim and release all interest in the following described property to-wit:

5th Principal Meridian

T. 90 N., R. 45 W.,
Sec. 32, lots 4, 5 and 8;
Sec. 33, lots 4, 5 and 6 and NE¼SW¼.

The area described contains 194.84 acres in Union County.

The United States through the Bureau of Land Management (BLM) claimed these lands for a time under the principle enunciated in *Towl V. Kelly*, 54 I.D. 455 (1934):

"Where surveyed public lands of the United States bordering upon a navigable stream, and to which the United States has not parted with title, are eroded in their entirety by the action of the stream, and later restored by accretion, title to the lands so restored is in the United States, and not in the owners of the remote nonriparian lands, which for a time were the shore lands."

That holding was overruled in *Ralph F. Rosenbaum, et al.* 66 IBLA 374 (1982) and since the United States has no other basis for a claim on the lands, it is proper for BLM to issue a disclaimer.

Any person wishing to submit a protest or comments on the above disclaimer should do so in writing before the expiration of 90 days from the date of publication of this notice. If no protest(s) is received, the disclaimer will be issued as set out below.

EFFECTIVE DATE: Disclaimer of title and release of all interest of the United States shall not be issued before February 8, 1984.

ADDRESS: Information concerning these lands and the proposed disclaimer may be obtained from and protest filed with: Montana State Director, Bureau of Land Management, 222 No. 32nd Street, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, (406) 657-6090.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 83-30430 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[U-50824]

Issuance of Land Exchange Conveyance Document; Exchange of Public and Private Lands in Uintah County, Utah

The United States issued an exchange conveyance document to Elden R. Gardner and Carole Gardner Patent No. 43-84-0002, on November 3, 1983, for the following described land pursuant to Section 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Salt Lake Meridian, Utah

T. 3 S., R. 19 E.,
Sec. 14, NW¼NW¼.
Containing 40 acres.

In exchange for these lands the United States acquired the following described lands from Elden R. Gardner and Carole Gardner:

Salt Lake Meridian, Utah

T. 3 S., R. 19 E.,
Sec. 12, NE¼NW¼.
Containing 40 acres.

The purpose of this exchange would give the United States a short portion of access along Pine Ridge, which is a well-used access road in the fall.

The values of Federal public land and non-Federal land in the exchange were appraised at $14,000 respectively.

Dated: November 3, 1983.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30436 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[U-45314]

Issuance of Land Exchange Conveyance Document; Exchange of Public and Private Lands in Grand County, Utah

The United States issued an exchange conveyance document to Donald K. Bazemore Patent No. 43-84-0001, on October 31, 1983, for the following described lands pursuant to Section 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Salt Lake Meridian, Utah

T. 21 S., R. 16 E.,
Sec. 1, lots 7, 10, 14, 15.
T. 21 S., R. 17 E.,
Sec. 6, lots 6, 11, 12, 13, 14, 17, 18, E½SW¼.
Containing 495.79 acres.

In exchange for these lands the United States acquired the following described lands from Donald K. Bazemore:

Salt Lake Meridian, Utah

T. 20 S., R. 16 E.,
Sec. 3, lots 8, 9, 10.
Containing 60.29 acres.

The purpose of this exchange was to acquire the non-Federal lands to insure a takeout point for river users and for the development of a recreation site for the Green River in Desolation and Gray Canyons. The public interest was well served through completion of this exchange.

The values of Federal public land and non-Federal land in the exchange were appraised at $61,000.00 respectively.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30437 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[OR-22095-B(WASH)]

Washington; Proposed Continuation of Withdrawal

The U.S. Coast Guard proposes that the existing land withdrawal made by the Secretarial order of October 1, 1851, be continued in part for an indefinite period pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The land involved is located on Dungeness Spit approximately 17 miles west of Port Angeles, Washington, and contains 23.77 acres within Sec. 18, T. 31 N., R. 3 W., Willamette Meridian, Clallam County, Washington.

The purpose of the withdrawal is to protect the New Dungeness Light Station. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand of the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 4, 1983.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30434 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[OR-22099 (WASH)]

Washington; Proposed Continuation of Withdrawal

The U.S. Coast Guard proposes that the existing land withdrawal made by the Executive Order of June 8, 1866, be continued in its entirety for an indefinite period pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The land involved is an unsurveyed island known as Destruction Island located approximately four miles off the Washington coast, and contains approximately 33.4 acres within T. 25 N., R. 14 W., Williamette Meridian, Jefferson County, Washington.

The purpose of the withdrawal is to protect the Destruction Island Light Station. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 2, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-30427 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81678]

Wyoming; Conveyance Sale of Public Land in Park County, Wyoming

Notice is hereby given that pursuant to Section 203 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1713 (1976), Rock Creek Ranch, Inc. has purchased and received a patent for the following described public land in Park County, Wyoming.

Sixth Principal Meridian

T. 57 N., R. 102 W.,
Sec. 22, NE¼SW¼.
Containing 40.00 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-30433 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-FES 83-57]

Sioux Falls Unit Pick-Sloan Missouri Basin Program, South Dakota; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on the proposed Sioux Falls Unit in eastern South Dakota. The unit would provide a supplemental water supply for the City of Sioux Falls, outdoor recreation, and fish and wildlife development.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Bureau of Reclamation, Department of the Interior, 18th & C Streets, NW., Room 7622, Washington, DC 20240, Telephone: (202) 343–4991

Division of Management Support, General Services, Library Branch, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Federal Building, 316 North 26th, Billings, MT 59103, Telephone: (406) 657–6214

South Dakota Reclamation Representative, Bureau of Reclamation, 810 West Fifth Street, Pierre, SD 57501, Telephone: (605) 224–6351

Single copies of the statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. Copies will also be available for inspection in libraries in the project vicinity.

Dated: November 2, 1983.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 83-30162 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Oil and Gas Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that SONAT Exploration Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2038, Block 231, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Land Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 4, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-30440 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fifty-ninth meeting of the Board of International Food and Agricultural Devleopment (BIFAD) on December 2, 1983.

The purpose of the meeting is to discuss BIFAD recommendations on international agricultural research centers and the final report on the study of the process for matching university resources and AID project needs; to hear a presentation on technology transfer in agriculture by Irwin Feller, Director of the Institute for Policy Research and Evaluation, Pennsylvania State University, with commentary by USDA and AID representatives; and to consider reports by a joint AID-BIFAD work group on the concept and operational details of AID-University Memoranda of Understanding, and by the Joint Committee on Agricultural Research and Development on its activities.

The meeting will begin at 9 a.m. and adjourn at 12 noon, and will be held in Room 1107, New State Department Building, 22nd and C Streets NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Mr. Leonard Yaeger, Deputy Assistant Administrator for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, Washington, D.C. 20523, or telephone him at (202) 632–4871).

Dated: November 7, 1983.

Leonard Yaeger,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 83-30474 Filed 11-9-83; 8:45 am]

BILLING CODE 6116-01-M

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the seventh meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food And Agricultural Development (BIFAD) on November 30 and December 1, 1983.

The purpose of the meeting is to assist AID in implementing the Components of the Title XII program by providing a two-way communications link for concerns of AID and concerns of the universities. The meeting will be addresssing some of the issues identified in JCARD's "Program of Work for 1983" and begin plans for the 1984 Program of Work.

JCARD will meet from 1:00 p.m. to 5:00 p.m. on November 30, and from 9:00 a.m. to 5:00 p.m. on December 1, in Rooms 1406 and 1408, respectively, New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff.

Washington, D.C. 20523 or telephone him at (202) 632-8532.

Dated: November 7, 1983.

John C. Rothberg,

Assistant Director for Operations, BIFAD Support Staff.

[FR Doc. 83-30473 Filed 11-9-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6; Sub-169]

Burlington Northern Railroad Company; Abandonment; in Marion County, AL; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 8.46-mile rail line between Milepost 665.61 near Winfield, and Milepost 664.07 near Brookside, in Marion County, AL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 115.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30401 Filed 11-9-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18; Sub-50]

Chesapeake and Ohio Railway Company; Abandonment; in Clark County, KY; Findings

The Commission has issued a certificate authorizing the Chesapeake and Ohio Railway Company to abandon its line of railroad known as the Lexington Subdivision extending from milepost 624.23 to railroad milepost 625.38 at or near Winchester, a distance of 1.15 miles, in Clark County, Ky. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left hand corner of the envelope containing the offer "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30396 Filed 11-9-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-223X]

Narragansett Pier Railroad Company, Inc.; Abandonments; in Washington County, RI; Exemption

The Narragansett Pier Railroad Company, Inc. (applicant) has filed a notice of exemption for an abandonment under 49 CFR 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is approximately 5.1246 miles long, from Rodmans Crossing (station 323+38) to the west side of Ministerial Road (station 52+80).

Applicant has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Rhode Island has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on December 12, 1983 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by November 21, 1983, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by November 30, 1983, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Anthony Guarriello, Jr., 2 Columbia Street, Peace Dale, RI 02882.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 2, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30400 Filed 11-9-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10; Sub-27]

Norfolk and Western Railway Company and Wabash Railroad Company—Abandonment, Discontinuance of Operations and Discontinuance of Trackage Rights—in Chariton, Linn, Livingston, Daviess, Gentry, Nodaway, and Atchison Counties, MO; Page, Fremont, Mills and Pottawattomie Counties, IA; and Douglas County, NE; Findings

The Commission has found that the public convenience and necessity permit: (1) Norfolk and Western Railway Company and Wabash Railroad Company to abandon and discontinue operations over a 222.3-mile line of railroad owned by Wabash Railroad Company and leased and operated by Norfolk and Western Railway Company between Kelly, MO (milepost 188.56) and Council Bluffs, IA (milepost 410.96); and (2) Norfolk and Western Railway Company to discontinue trackage rights over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company between Council Bluffs, IA (milepost 410.43) and Omaha, NE (milepost 410.66+) and over the Union Pacific Railroad Company between Omaha, NE (milepost 410.66+) and South Omaha, NE (milepost 418.89+), a total distance of 8.46+ miles. A certificate will be issued authorizing this abandonment, discontinuance of operations, and discontinuance of trackage rights unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has

offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face in the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–30297 Filed 11–9–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–225; Sub-No. 1]

Portland Traction Company—Abandonment in Multnomah County, OR; Findings

The Commission has issued a certificate authorizing Portland Traction Company to abandon its 4.64-mile rail line between Linnemann Junction (milepost 14.0) and East Gresham (milepost 18.64) in Multnomah County, OR. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (though subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–30402 Filed 11–9–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55; Sub-No. 87]

Seaboard System Railroad, Inc.; Abandonment, in Alachua County, FL; Findings

The Commission has issued a certificate authorizing the Seaboard System Railroad, Inc., to abandon its line of railroad extending from railroad milepost ARB–741.2 near Gainesville, FL, to ARB–749.5 at Rochelle, FL, and from milepost AS–728.60 near Hawthorne, FL to milepost AS–742.59 at Micanopy Jct., FL, a total distance of 22.29 miles, in Alachua County, FL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in boldface on the lower left hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–30399 Filed 11–9–83; 8:45 am]

BILLING CODE 7035–01–M

LEGAL SERVICES CORPORATION

General Assurances as Conditions for Approval of Grant; LSC Instruction 83–5

AGENCY: Legal Services Corporation.

ACTION: Adoption of LSC Instruction 83–5.

SUMMARY: The Legal Services Corporation requires that its recipients provide certain assurances as to their use of Corporation funds as a condition for receipt of such funds. This Instruction sets forth the language contained in these general assurances.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: Gail Francis, Manager, Grants and Budget Unit, Office of Field Services, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, D.C. 20005, (202) 272–4080.

SUPPLEMENTARY INFORMATION:

Authority: Section 1008(e) of the Legal Services Coroporation Act, of 1974, as amended; 42 U.S.C. 2996g(e).

I. Purpose

The purpose of this Instruction is to provide notice and direction to recipients of Legal Services Corporation funding regarding grant conditions and assurances. The Corporation requires all recipients of basic field, Native American, Migrant, state support, training, technical assistance, national support, and other delivery or support funding to certify that they shall comply with certain general conditions and assurances. Other special conditions may also be attached to grants for classes of recipients or individual recipients.

The recipient program will affirm its agreement to the conditions of each grant award by signature confirmation of the appropriate contracting parties. These documents must be returned to the Corporation within a reasonable period of time after receipt of the grant award letter in order that funds may be released by the Office of the Comptroller.

Under certain circumstances, the Corporation may specifically waive one or more general conditions or assurances.

A listing of current general assurances is provided herein and shall be made a part of each grant award.

II. General Assurances

Each recipient of Corporation funds shall assure and certify that:

1. It will comply with the Legal Services Corporation Act of 1974 as amended, 1977, and the rules and regulations, policies, guidelines, instructions, and other directives issued by the Legal Services Corporation thereunder.

2. It has the legal authority to apply for and receive the grant.

3. It will restrict the use of Corporation funds to activities permitted by organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954.

4. It will not discriminate, on the basis of race, color, religion, sex, age, handicap, or national origin, against (1) Any person applying for employment or employed by the applicant with respect to any personnel action proposed or taken concerning the applicant or employee; or (2) any person seeking participation in, or the benefits or proceeds of, the program or programs supported in whole or part by this grant.

5. It will, within 45 days of the effective date of this grant, submit to the Corporation's Equal Opportunity Office for approval a copy of its Equal Opportunity Policy Statement. It will also submit an Affirmative Action Plan if the program receives $50,000 or more from Corporation sources and employs 50 or more persons.

6. It will, upon request, cooperate with all data collection and evaluation activities undertaken by the Corporation, and give any authorized representative of the Legal Services Corporation or the Comptroller General of the United States access to all records, books, papers, or documents, provided that neither the Corporation nor the Comptroller General shall have access to any reports, records, or information subject to the attorney-client privilege.

7. It will provided for an initial evaluation of its accounting system and internal controls by an auditor eligible under LSC's Audit and Accounting Guide for Recipients and Auditors and it will submit such report to the Corporation within 30 days after receipt of funds from LSC, in accordance with instructions from the Audit Division of the Corporation.

8. It will provide for an annual financial audit as of the close of its fiscal year by an auditor eligible under LSC's Audit and Accounting Guide for Recipients and Auditors. It will submit such audit report to the Corporation within 90 days after the close of its fiscal year, in accordance with instructions in the Corporation's Audit Guide cited above. Applicants remain responsible to LSC for proper expenditure of, accounting for, and audit of all grant funds, whether or not delegated to other agencies or subgrantees.

9. It will not change its bylaws or board structure without prior written approval from the Corporation.

10. It understands and agrees that the Corporation may, in its sole discretion, grant funds in greater or lesser amounts and/or for greater or lesser periods of time than requested in this application.

11. By accepting funds awarded to it pursuant to this grant, it assents to any modification in the requested or approved budget that may be made by the Corporation.

12. Any delegate agency or organization that undertakes responsibility for any part of the approved program will be bound by these assurances.

13. If this grant is terminated before its expiration date, or if applicant ceases to be a grantee of the Legal Services Corporation after the expiration of this grant, applicant hereby gives assurance that it will follow the Corporation's directions with respect to the use or disposition of fund balances, records, and any equipment, supplies or property purchased with grant funds.

14. It will allocate at least the minimum amount of Corporation funds as prescribed by the Corporation rules, regulations, guidelines and instructions, to provide for the involvement of private attorneys in the delivery of legal assistance to eligible clients.

Dated: October 28, 1983.

Gregg L. Hartley,

Director, Office of Field Services.

[FR Doc. 83-30443 Filed 11-9-83; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering.

Date and time: November 30–December 1, 1983.
9:00 a.m.–5:00 p.m.
November 30, 1983
9:00 a.m.–3:00 p.m.
December 1, 1983

Place: National Science Foundation, 1800 G Street, NW., Room 540, Washington, D.C. 20550.

Type of meeting: Open.

Contact person: Mrs. Mary Poats, Executive Secretary, Advisory Committee for Engineering, Room 537, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357–9571.

Summary minutes: Mrs. Mary Poats at the above address.

Purpose of advisory committee meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Summarized agenda: Discussions on the Engineering Initiative; National Science Board Statement on Engineering Mission; Current Status of Information Networks; Presidential Young Investigator Awards (PYIA); Draft Report from the Task Group on Women in Engineering; Update on the Study of Education and Utilization of the Engineer, 1980–2000; NSF Legislative process; as well as other items.

Dated: November 7, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-30388 Filed 11-9-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences—Subpanel for Anthropology (Archaeology/Physical Anthropology).

Date and Time: November 28–30, 1983, 8:30–5:00 p.m., Rm. 523.

Place: National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. John E. Yellen, Program Director for Anthropology, National Science Foundation, Room 320, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendation concerning support for research in archaeology and physical anthropology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: November 7, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-30385 Filed 11-9-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Behavioral and Neural Sciences; Advisory Subpanel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L., 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences, Subpanel for Psychobiology.

Date and Time: November 30, 1983–December 2, 1983, 8:30 a.m.–5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 338, Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C., 20550, Telephone (202) 357–7949.

Purpose of subpanel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: November 7, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-30387 Filed 11-9-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Behavioral and Neural Sciences; Subpanel for Sensory Physiology and Perception Program; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for Sensory Physiology and Perception Program of the Advisory Panel for Behavioral and Neural Sciences.

Date and time: November 28, 29, and 30, 1983: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 1224, National Science Foundation 1800 G St., NW., Washington, DC.

Type of meeting: Closed.

Contact person: Dr. James O. Larimer, Program Director, Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, DC 20550, telephone (202) 357–7428.

Purpose of panel: To provide advice and recommendations concerning support for research in sensory physiology and perception.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Dated: November 7, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-30386 Filed 11-9-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel for Law and Social Sciences of the Advisory Panel for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, and amended, the National Science Foundation announces the following meeting:

Name: Subpanel for Law and Social Sciences of the Advisory Panel for Social and Economic Science.

Date and time: December 1st and 2nd, 1983: 9:00 a.m. to 5:00 p.m.

Place: Room 642, National Science Foundation, 1800 G. Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Felice J. Levine, Program Director, Law and Social Sciences Program, Room 312, National Science Foundation, 1800 G. Street, NW., Washington, D.C. 20550; telephone (202) 357–9567.

Purpose of subpanel: To provide advice and recommendation concerning support for research in Law and Social Sciences.

Agenda: Closed portion: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10 (d) If Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: November 7, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-30388 Filed 11-9-83; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Notice of Hearing and Availability of Reports, Recommendations and Responses

Hearing:

Notice is hereby given that an accident investigation hearing in the matter of the accident involving Air Illinois, Inc., Hawker Siddley 748–2A, of United States Registry, N748LC, near Pinckneyville, Illinois, on October 11, 1983, will be held commencing at 9 a.m. (local time) on November 29, 1983, in the Continental Room of the Holiday Inn, Carbondale, Illinois.

Reports Issued:

Aircraft Accident Report: North American Rockwell Aero Commander Model 560E, N3827C, and Cessna 182Q, N96402, Midair Collision, Livingston, New Jersey, November 20, 1982 (NTSB/AAR–83/03) (NTIS Order No. PB83–910403).

Marine Accident Report: Engineroom Flooding and Near Foundering of U.S. Tankship Ogden Willamette, Caribbean Sea, June 16, 1982 (NTSB/MAR–83/06) (NTIS Order No. PB83–916406).

Pipeline Accident Report: Mississippi River Transmission Corporation Natural Gas Flash Fire, Pine Bluff, Arkansas, October 1, 1983 (NTSB/PAR–83/03) (NTIS Order No. PB83–916503).

Railroad Accident Report: Collision of Missouri-Kansas-Texas Railroad Company Train No. 103 with Standing Freight Cars, near Temple, Texas, March 17, 1983 (NTSB/RAR–83/08) (NTIS Order No. PB83–916308).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Recommendations to:

Marine—*U.S. Coast Guard: Oct. 26: M–83–69:* Develop and implement a national program to address the hazards of alcohol use in recreational boating safety including education and enforcement programs. *M–83–70:* In coordination with the National Association of State Boating Law Administrators, revise the boating accident report form to include a specific causal entry for alcohol involvement in recreation boating accidents. *M–83–71:* Assist national recreational boating safety educational organizations including, but not limited to, the United States Coast Guard Auxiliary, the United States Power Squadrons, the American National Red Cross, the Boat Owners Association of the United States, the National Boating Federation, and the National Safe Boating Council, Inc., to develop and incorporate into their safe boating courses information regarding the hazards of alcohol use and its effects on recreational boat operators.

National Association of State Boating Law Administrators: Oct. 26: M–83–72: In coordination with the United States Coast Guard, develop uniform guidelines for a model education program that can be implemented by the States to address the hazards of alcohol use and its effects on recreational boat operators. *M–83–73:* In coordination with the United States Coast Guard, develop a model enforcement program that can be uniformly implemented by the States to reduce accidents, fatalities, and injuries related to alcohol use in recreational boating operations. At a minimum, include in

the model enforcement program a defined level of intoxication and toxicological and chemical testing requirements. *M–83–74:* In coordination with the United States Coast Guard, develop a model State boating accident report form to include a specific accident causal entry for alcohol involvement in recreational boating accidents.

United States Coast Guard Auxiliary, the United States Power Squadrons, the American National Red Cross, the Boat Owners Association of the United States, the National Boating Federation, and the National Safe Boating Council, Inc.: Oct. 26: M–83–75: In cooperation with the United States Coast Guard, develop and incorporate into your safe boating courses materials on the hazards of alcohol use and its effects on recreational boat operators.

States of Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia: Nov. 7: M–83–76: Adopt legislation to clearly define the level of legal intoxication for recreational boat operators in order to strengthen your State's enforcement program for reducing accidents, fatalities, injuries, and property damage caused by the use of alcohol.

States of Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Virginia, Washington, West Virginia, Wyoming and the District of Columbia: Nov. 7: M–83–77: Adopt legislation to allow a chemical test of blood, breath, or urine if a recreational boating operator is suspected of being intoxicated and toxicological tests in the event of a recreational boating accident fatality.

States of Arizona, Alaska, Colorado, Louisiana, Maine, Maryland, Nebraska, Tennessee, Utah, and Wisconsin: Nov. 7: M–83–78: Require procedures for toxicological tests in the event of a recreational boating fatality to document the role of alcohol in recreational boating accidents and fatalities.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from:

Aviation—*Federal Aviation Administration: Oct. 13: A–75–81 and –82:* FAA Order 5010.4, Airport Safety Data Program, issued Jan. 27, 1981; a new FAA Order 5010–1, Airport Master Record; and an increased participation by State aviation organizations and private contractors in inspection of public-use airports has improved the collection and dissemination of airport data, including obstruction information. The controlling object for the approach is recorded on the FAA Form 5010–1 and is published in the Airport/Facility Directory which replaced the airport data sections of the Airman's Information Manual. The directory summarizes conditions of a permanent nature, whereas the Notice to Airmen (NOTAM) system is used primarily to report flight conditions of a temporary nature. With increased inspection activity and proper guidance on collection of data, the FAA considers it unnecessary to promulgate regulations requiring airport operators to issue NOTAM's on permanent obstructions. *Oct. 13: A–83–44:* Does not believe that the action of one operator who failed to comply with known maintenance procedures on a Cessna Model 421C (affected by Cessna Service Information Letter ME 79–11) that later experienced a left main landing gear collapse because of a filed trunnion should formulate the basis for issuance of an Airworthiness Directive. *Oct. 18: A–83–54 and –55:* Believes the various programs and educational materials disseminated by FAA and industry provide adequate guidance to pilots, flightcrew members, and instructors concerning effective scanning techniques and vigilance to enhance collision avoidance.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

November 7, 1983.

[FR Doc. 83-30373 Filed 11-9-83; 8:45 am]

BILLING CODE 4910-58-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–20342; File No. SR–NYSE–83–53]

Self-Regulatory Organizations; Proposed Rule Change; New York Stock Exchange, Inc.

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 28, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for Exchange trading of options on a 17-stock "broad" index stock group based on a newly created "NYSE Basic Industries Index". The Index derives from the prices of stocks representative of the aluminum, automotive, chemical, rubber and steel industries.

Transactions in options on broad index stock groups ("broad index options") based on the NYSE Basic Industries Index ("NYSE Basic Industries Index options") will be governed by the Exchange's 700 series rules, the rules of the Exchange that apply to the Exchange's presently-trading NYSE Composite Index options. The 700 series rules, with minor exceptions, can apply without modification to NYSE Basic Industries options. The contract specifications, save for the composition of the index itself, are identical to those for NYSE Composite Index options.

(A) *Index Calculation and Dissemination*—The Exchange will arrange for the calculation and dissemination of the values of the NYSE Basic Industries Index. The index is market-weighted (i.e., the price of each stock is weighted by the number of shares outstanding). A standardized base value for the index will be specified on the date the index is initiated. Index values will be calculated on the basis of consolidated transaction prices.

(b) *Specification Rules*—Changes are proposed to the definition of "broad index stock group" and to Rule 715 to take into account the fact that the NYSE Basic Industries Index is derived from the prices of 17 stocks. The Exchange also proposes $200 million in value as the ceiling for position and exercise limits applicable to options on the NYSE Basic Industries Index.

(C) *Regulatory Issues*—Because the NYSE Basic Industries Index includes both a relatively small number of stocks and is not representative of the entire stock market, the question is presented as to whether it is properly characterized as a "broad" index or an "industry" index. In support of its characterization of the NYSE Basic Industries Index as a "broad" index, the proposed rule change points both to the inter-industry classification of the index by the Office of Management and Budget's *Standard Industrial Classification Manual* and to athe

absence of single-stock and single-industry dominance in the determination of the index's values.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis, for, the Proposed Rule Change

(1) *Purpose*— The general purpose of the proposed rule change is to provide for Exchange trading of NYSE Basic Industries Index options, which will provide a useful tool for capitalizing on or hedging against price changes in the basic industries sector.

The particular purpose of the changes of substance included in the proposed rule change are summarized in the Exchange's response to Item I.

(2) *Statutory Basis*—The statutory basis for the proposed rule change is section 6(b)(5) of the 1934 Act in that the trading of NYSE Basic Industries Index options will serve investors by enabling them to hedge against risks associated with that particular industrial sector.

In addition, the proposed rule change relates to section 6(b)(1) of the 1934 Act in that it will provide a regulatory framework for a market on the Floor in NYSE Basic Industries Index options. The proposed rule change will give the Exchange the capacity to carry out the purposes of the 1934 Act, to comply with the provisions of the 1934 Act, the rules and regulations thereunder and the rules of the Exchange, and to enforce compliance therewith by members, Option Trading Right ("OTR") holders, and persons associated with members and OTR holders.

Except for the few changes necessary or appropriate to accommodate NYSE Basic Industries Index options trading on the Floor, the Exchange's recently-approved option rules apply to the Exchange's proposed market in NYSE Basic Industries Index options. Those option rules in turn generally apply the Exchange's stock and bond rules, and hence the bases and polices underlying those rules, to Exchange-traded options. Thus, the proposed rule change contemplates the application to Exchange trading of NYSE Basic Industries Index options of long-established regulatory principles and techniques that are designed to assure the fairness, orderliness and quality of the Exchange's stock and bond markets.

In particular, the proposed rule change would apply to NYSE Basic Industries Index options rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in connection with transactions in NYSE Basic Industries Index options, all as required by section 6(b)(5) of the 1934 Act. The Exchange believes that its proposed market for NYSE Basic Industries Index options will be consistent with the standards of section 6(b)(5), since the Exchange expects such a market to provide increased investment flexibility with respect to portfolios of stocks similar to that provided by the options markets on other national securities exchanges with respect to individual stocks. Consequently, the Exchange believes the public interest will be advanced by Exchange trading of NYSE Basic Industries Index options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that neither the proposed rule change nor the existing rules as amended by the proposed rule change will impose any burdent on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 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: November 3, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30455 Filed 11-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23105 (70-6907)]

The Connecticut Light and Power Co., Northeast Nuclear Energy Co. and Western Massachusetts Electric Co.; Proposed Amendments to Plant Maintenance Agreement Providing for Cost of Capital and Debt-Related Expenses

November 4, 1983.

The Connecticut Light and Power Company ("CL7&P"), P.O. Box 270, Hartford, Connecticut 06141, Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, and Northeast Nuclear Energy Company ("NNECO"), subsidiaries of Northeast Utilities ("Northeast"), a registered holding company, have filed an application-declaration with this Commission under Sections 12 and 13 of the Public Utility Holding Company Act

of 1935 ("Act") and Rules 90 and 91 under the Act.

CL&P and WMECO ("Owners") are joint owners of Millstone Nuclear Power Station ("Millstone"). Under an existing plant agreement, NNECO acts as agent for the Owners with respect to maintenance and operation of Millstone Units Nos. 1 and 2. CL&P and WMECO also collectively own 65% of Unit No. 3, currently under construction. (The remaining 35% is divided among several companies including New England Power Company and Montaup Electric Company, subsidiaries of registered holding companies.) NNECO manages Unit No. 3 for its owners and is responsible for design, construction, operation, and maintenance.

The existing plant agreement does not expressly provide NNECO with a return on capital or with reimbursement for debt-related expenses incurred to fulfill its responsibilities to the Owners. It is now proposed that the plant agreement be amended and restated to reflect, among other things, NNECO's responsibilities with respect to Unit No. 3, and to (1) provide that NNECO will be reimbursed by the Owners for all interest, preferred stock dividends and other fees and expenses related to borrowings and issuances of securities by NNECO to finance the costs of its performance under the restated plant agreement; and (2) obligate the Owners to pay NNECO a return on capital under an arrangement whereby the Owners will be required to pay to NNECO monthly an amount equal to one-twelfth of the Annual Equity Return on NNECO's Total Equity Capitalization as at the end of the preceding month. The terms Annual Equity Return and Total Equity Capitalization are defined in the proposed amended agreement. The Total Equity Capitalization would include, among other things, any noninterest bearing evidences of indebtedness issued by NNECO to the Owners, Northeast, or any other associate company. Owners of the 35% interest in Unit No. 3 shall either pay directly to NNECO or reimburse the Owners for that portion of the debt-related expenses and return on capital attributable to their separate respective ownership shares in Unit No. 3.

It is also proposed that the amended and restated agreement be effective as of December 1, 1982. If approved, the Annual Equity Return for the month of December 1982 and for 1983 would be 16.081% and 16.514%, respectively, based on rates of return permitted on equity in recent rate proceedings for CL&P and WMECO of 16.4% and 17%, respectively.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 39, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing and will receive a copy of any notice or order issued. After said date, the application-declaration, as then amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 83-30457 Filed 11-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20351; File No. SR-BSECC-83-7]

Filing of Proposed Rule Change by the Boston Stock Exchange Clearing Corporation

November 4, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(l), notice is hereby given that on September 6, 1983, the Boston Stock Exchange Clearing Corporation ("BSECC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

BSECC intends to revise comprehensively many of its rules to reflect recent changes in its operations and in its relationships with the National Securities Clearing Corporation and the Depository Trust Company. This proposed rule change is part of that comprehensive effort and would establish new rules respecting, among other things, qualifications for, and certain obligations of, membership, clearing fund rules and related liabilities, services BSECC provides to its members, and BSECC's rules of business conduct. In addition, BSECC believes these revisions, in part, will conform BSECC's rules to the Division of Market Regulation's standards for full registration of clearing agencies. [1]

In order the assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-BSECC-83-7.

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, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copyipg at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30459 Filed 11-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20352; File No. SR-BSECC-83-9]

Filing of Proposed Rule Change by the Boston Stock Exchange Clearing Corporation

November 4, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 2, 1983, the Boston Stock Exchange Clearing Corporation ("BSECC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the

[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

proposed rule change from interested persons.

BSECC intends to revise comprehensively many of its rules to reflect recent changes in its operations and in its relationships with the National Securities Clearing Corporation and the Depository Trust Company. This proposed rule change is part of that comprehensive effort and, among other things, would establish new rules: (i) For setting participant fees; (ii) governing a participant's voluntary termination of membership; (iii) for fining, suspending, or expelling a participant, or otherwise limiting its access to services; (iv) establishing disciplinary hearing procedures; (v) for managing a participant insolvency; and (vi) authorizing BSECC's board of directors to suspend its rules under appropriate circumstances or to delegate certain decisions to board members or corporate officers. BSECC believes these revisions, in part, will conform BSECC's rules to the Division of Market Regulation's standards for full registration of clearing agencies.[1]

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Reference should be made to File No. SR-BSECC-83-9.

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, 450 Fifth Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30460 Filed 11-9-83; 8:46 am]

BILLING CODE 8010-01-M

[Release No. 13615; (811-3671)

Guaranty Savings' Tax-Free Money Market Fund; Filing of Application

November 4, 1983.

Notice is hereby given that Guaranty Savings' Tax-Free Money Market Fund ("Applicant"), 2100 6th Street North, St. Petersburg, FL 33710, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 17, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant has never made a public offering of its securities, has fewer than 100 securityholders for purpose of Section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind. The application further represents that Applicant does not have and never has had any security holders. Applicant further represents that it is not now engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 30, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30461 Filed 11-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13614; (812-5664)]

Homart Commercial Paper Corp.; Filing of Application

November 4, 1983.

Notice is hereby given that Homart Commercial Paper Corp. ("Applicant"), c/o Homart Development Co., Xerox Center, Suite 3100, 55 West Monroe Street, Chicago, IL 60603, a Delaware corporation, filed an application of September 29, 1983, requesting an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of applicable provisions.

Applicant states that it is not presently engaged in any business, and that it was established for the sole purpose of assisting Homart Development Co. ("Homart") and various joint ventures and partnerships in which Homart participates from time to time in the financing of pre-development expenses, construction expenses, and general working capital requirements incurred in connection with their business of constructing, developing, and managing various commercial properties. It is further stated that Homart, a Delaware corporation, is a wholly-owned subsidiary of the Coldwell Banker Real Estate Group, Inc., which is a wholly-owned subsidiary of Sears, Roebuck and Co.

Applicant represents that following the execution of a credit agreement ("Agreement") between Applicant, Crocker National Bank ("Crocker"), and other participating banks ("Banks"), Applicant's sole business will be to issue short-term promissory notes of the type generally referred to as commercial paper, to borrow money pursuant to certain revolving credit notes issued by Applicant to Crocker and the Banks, and then to loan the proceeds of these commercial paper and revolving credit borrowings to Homart or, at Homart's direction, to various joint ventures and partnerships in which Homart participates. Applicant states that

neither Homart nor any of its joint ventures or partnerships are investment companies as defined in the Act. According to the application, these loans from Applicant will be evidenced by unsecured notes payable from Homart and the joint ventures and partnerships to Applicant, and at any given time, these notes will comprise substantially all of Applicant's assets. Applicant further represents that neither Crocker nor any Bank nor any of their respective affiliates owns or in the future will own any of Applicant's outstanding stock, and there has not been and will be no public offering of Applicant's common stock.

Applicant states that each commercial paper note that it issues will be accompanied by an attached irrevocable letter of credit issued by Crocker pursuant to the terms of the Agreement. Applicant further states that each letter of credit will be issued in an amount equal to the principal and interest (if any) of its corresponding note and will expire 15 days after the maturity date of that note. Applicant represents that its ability to issue commercial paper notes with letters of credit attached or to draw down revolving loans will be determined by the credit limit specified in the Agreement. Based upon the letters of credit, Applicant proposes to offer and sell its commercial paper notes without registration under the Securities Act of 1933 ("Securities Act"), in reliance upon the exemption contained in Section 3(a)(2) of the Securities Act. Applicant states that it will not offer or sell its commercial paper notes prior to receiving an opinion of counsel that registration of the notes is not required under the Securities Act. Applicant represents that prior to their issuance, the commercial paper notes, as backed by Crocker's letters of credit, will receive one of the three highest available investment grade ratings from at least one national rating service.

According to the application, the commercial paper will be sold in "bearer" form in denominations of $100,000 minimum to $5,000,000 maximum. Applicant presently contemplates that the notes generally will be sold to Dean Witter Reynolds Inc. ("Dean Witter") and that Dean Witter will then market the notes solely to institutional and sophisticated individual investors who customarily purchase commercial paper. Applicant represents that while an announcement of the establishment of the Commercial paper facility will be made, the notes will not be advertised.

Applicant undertakes to ensure that Dean Witter and any other dealer in Applicant's notes will furnish each offeree with memoranda describing the businesses of Applicant and Crocker and providing the most recent annual and quarterly financial information for Crocker. Applicant represents that these memoranda will be updated as promptly as practicable to reflect material adverse changes in the financial status of Applicant or Crocker and will be at least as comprehensive as memoranda customarily used in offering commercial paper.

Applicant further represents that upon proper presentation of Applicant's commercial paper notes and attached letters of credit to a "depositary bank" (presently expected to be Irving Trust Company), holders will be paid by that depositary bank, acting as paying agent for Crocker, from Crocker's account with that bank. Applicant states that Crocker will then be reimbursed by Applicant according to procedures set forth in the Agreement. Applicant further states that under the terms of the letters of credit, Crocker will be obligated to pay all holders upon proper presentation to the depositary bank regardless of the financial condition of Applicant, Homart, or any joint venture or partnership. Applicant represents that in consideration for Crocker's commitment to issue letters of credit to provide for the payent of holders upon maturity of Applicant's commercial paper notes, and in consideration for the agreement of Crocker and other banks to make revolving loans to Applicant, Homart will guaranty repayment to Crocker, for the benefit of Crocker and the other Banks, of all of Applicant's obligations with respect to the letters of credit and the revolving loans.

In support of the relief requested, Applicant states that its sole purpose and only business will be to serve as a vehicle to facilitate debt financing for Homart and its joint ventures and partnerships on favorable terms. Applicant also states that, with the exception of certain temporary investments in short-term high quality debt instruments or other investments approved by Crocker from time to time, its only significant assets will be the unsecured note of Homart and Homart joint ventures and partnerships. Because the Agreement so limits Applicant's investment discretion, Applicant asserts that even in the event of non-performance by Crocker, return to investors will be based upon the ability of Homart and Homart's joint ventures and partnerships to repay their borrowings from Applicant and not upon Applicant's management of a portfolio of securities. Applicant further asserts that if Homart and Homart joint ventures and partnerships were to issue commercial paper directly, neither Homart nor its joint ventures and partnerships would be subject to the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 30, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30454 Filed 11-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20350; (SR-NYSE-83-8)]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 4, 1983.

I. Introduction and Summary

On March 8, 1983, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Commission a proposed rule change [1] that would extend its Registered Representative Rapid Response Service ("R4") for a year, at the same time expanding the program in a number of respects. Because of the important questions raised by the expansion of the R4 program, the Commission determined to institute a review proceeding to consider whether to approve or disapprove the proposed rule change.[2] The Commission particularly sought to provide interested commentators an opportunity to discuss

[1] *See* File No. SR-NYSE-83-8. The rule change was filed pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder.

[2] *See* Securities Exchange Act Release No. 19858 (June 9, 1983), 48 FR 27872 ("June Release").

fully the benefits and costs associated with the R4 program.

After considering the comments received, the Commission has determined to approve the proposed rule change, allowing the NYSE to expand R4 and extend it for a further year. While the Commission continues to believe that R4 raises important questions regarding best execution of customer orders and the manner of execution of small orders by exchange markets, and the effects of such orders on the trading process, in the Commission's opinion there has been insufficient experience with R4 to evaluate fully the costs and benefits of the system or to determine that significant problems will result from its operation. The Commission intends, however, to monitor the operation of R4 during the further period provided in the proposed R4 extension.

A. Background

On September 14, 1982, the Commission approved a NYSE rule change to implement R4 as a six month pilot program. [3] The NYSE's present R4 service allows a registered representative in a participating broker-dealer firm [4] to execute, in its office, an order of up to 299 shares in 30 stocks at the prevailing consolidated quotation, and then report the execution to the specialist in the stock who guarantees that price for the customer. [5] On receiving this report, if the R4 execution price is at the bid or offer then prevailing on the floor, it is allocated to the *contra* side interest on the floor which is responsible for the bid or offer.[6] If the R4 execution report is not at the prevailing quotation it is allocated to other interest at that price at time of receipt or accepted by the specialist.[7] The execution then is reported by the specialist to exchange trade reporters for inclusion in the consolidated tape. [8]

On March 8, 1983, the NYSE submitted a proposed rule change to the Commission that would extend the R4 program for a year, expand the program to 200 stocks, include additional broker-dealer participants, and provide the NYSE with the flexibility to execute orders of up to 599 shares through the system. [9] The NYSE believes the extension is necessary to obtain additional experience with the program.

B. Issues Raised in the June Release

In the June Release, the Commission specifically solicited comment on questions related to two major concerns raised by the operation of R4.

1. *Customer Protection Issues.* The June Release recognized that R4 offers investors the advantages of an instant execution report. The June Release noted, however, that R4 could reduce the likelihood of investors receiving the most favorable execution price for their orders because they would not receive a better price even if a better priced order were present on the exchange floor.[10] The Release estimated, based on NYSE statistics, that, if R4 became the primary means for processing small orders on the NYSE, investors could lose up to 85 million dollars annually using R4.[11]

Moreover, the Commission was concerned that the removal of R4 orders from the exchange floor also could affect adversely the execution of agency orders represented on the floor. In addition, less liquidity might result from the fact that fewer small orders would participate in the floor trading process, and the ability of firms to work large institutional orders against smaller orders may be reduced.

2. *Market Structure Issues.* a. *Impact on the Pricing Mechanism.* The June Release noted that centralizing all orders so that they may interact (*i.e.*, intramarket order exposure) constitutes a basic operating premise of exchange markets, making possible trades between the spread that provide more favorable executions for both parties to the trade. The Release suggested that because systems such as R4 do not permit opportunities for orders to interact with other floor interest prior to their execution, these systems are inconsistent with this principle. More importantly, the Release noted that, if these systems were to attract most small orders, they could lead to the removal of up to 65 percent of the transactions and 12 percent of the share volume from direct participation in the exchange trading process,[12] with potentially adverse effects on the pricing mechanism of the market.

b. *Impact on Market Maker Competition.* The June Release also requested comment on the effect of R4 on market maker competition. The Release noted that because systems such as R4 result in the execution of orders in the NYSE at the best consolidated quotation, regardless of the NYSE market, even if another market maker was displaying the best quotation, market makers would not have an opportunity to attract the order either directly or through the Intermarket Trading System ("ITS"). The Commission noted that these R4 orders still would be routed to the NYSE even though the NYSE specialist did not publicly display to the other markets its willingness to trade at the quoted price. Because superior quotations are displayed by competing markets primarily in an attempt to attract order flow, the Commission was particularly interested in the views of commentators concerning the competitive implications of a system that would deprive competing market makers of the ability to attract small order flow through these competitive quotations.

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[3] *See* Securities Exchange Act Release No. 19047 (September 14, 1982), 47 FR 41896.

[4] At present the two firms participating in R4 are Merrill Lynch, Pierce, Fenner and Smith, Inc. ("Merrill Lynch") and Dean Witter Reynolds ("Dean Witter").

[5] The report is subject to validation checks at predetermined price parameters around the NYSE last-sale in the stock before being passed to the specialist.

[6] Determination of which party receives the *contra* side of the trade is controlled by the NYSE's rules of priority. *See* NYSE Rule 77. The NYSE has indicated that for the past four months between 61 and 69 percent of R4 reports have been at the prevailing quote.

[7] The NYSE recently amended its R4 filing by clarifying that "[i]f the R4 execution report is not at the prevailing quote, the execution is allocated to the *contra* side interest which was responsible for the bid or offer at the time of the R4 execution. If that interest has been filled by an intervening transaction, or has been withdrawn from the market, the specialist will guarantee the execution price as a matter of last resort." *See* Letter to George A. Fitzsimmons, Secretary, SEC, from James E. Buck, Secretary, NYSE, dated August 12, 1983; Amendment No. 1 to SR–NYSE–83–8, submitted on October 6, 1983.

[8] If the execution report is outside the best intermarket quotation at the time it is received on the floor, the trade will be reported as late, or "sold." Accordingly, even though transactions on an exchange generally must be reported within 90 seconds, an R4 trade could be reported as if it were a normal trade even though the execution may have occurred upstairs over 90 seconds earlier. Indeed, according to NYSE statistics, over 12 percent of R4 reports on average arrive on the NYSE floor over five minutes after execution.

[9] *See, supra* note 1. *See also* Securities Exchange Act Release No. 19573 (March 8, 1983), 48 FR 10788.

[10] The Commission also noted that all of the regional exchanges' automatic execution systems, except for the Philadelphia Stock Exchange, Inc.'s ("Phlx") PACE system, provided some mechanism for orders to interact with other interest on the exchange floor.

[11] The Commission suggested that R4 could improve customer protection by adding a stop procedure in which a registered representative "stops" rather than "executes" an order so the price can be improved if trading interest between the quote is present when the order reaches the floor. The NYSE believed that such a procedure would complicate the R4 execution process. Both Merrill Lynch and Dean Witter concurred with the NYSE assessment, although Prudential-Bache believed that a stop procedure would provide a useful adjunct to the R4 service.

[12] R4 orders, of course, could interact with other public orders composing the quotation. Moreover, R4 orders would become part of the specialist's inventory position and thus would indirectly affect the exchange pricing mechanism by influencing the prices quoted by the specialist.

II. Comment Letters

In response to the June Release, the Commission received comment letters from the NYSE,[13] three regional stock exchanges,[14] both broker-dealer firms partricipating in the current R4 pilot,[15] four other large wire-houses,[16] two smaller broker-dealers,[17] an Ad Hoc Committee of specialists, floor brokers, and institutions,[18] the Alliance of Floor Brokers,[19] and Kidder, Peabody & Co.[20] In general, the NYSE, Dean Witter, Merrill Lynch, and two other broker-dealers [21] supported extension of the R4 pilot, while the regional exchanges, four upstairs broker-dealers,[22] the Ad Hoc Committee, and the Alliance of Floor Brokers opposed extension of the pilot. No commentator offered any new hard data on the costs and benefits of R4's operation. To the limited extent data was discussed, it supported the data used in the Commission's June Release.

A. Summary of the Comments

The NYSE stated that the "basic question" raised by the R4 pilot expansion is "whether the Exchange should be permitted not merely to test a system that aims at responding to specific needs of its member organizations but to compete with other SEC approved automated execution systems." The NYSE claimed that, compared to competing systems, R4 is "a more efficient and cost-effective system offering our member organizations the unique opportunity to provide their customers with instantaneous execution reports plus access to the NYSE pricing mechanism."

The three regional exchange commentators opposed an expansion of R4. They believed that R4 did not provide agency orders with opportunities to receive best execution. They also argued that by removing small orders from the market, R4 harmed the pricing efficiency of the markets in listed stocks.

The four upstairs broker-dealers supporting extension of R4 argued that further experience was necessary to assess whether R4 would have detrimental effects on the markets. Of these broker-dealers, Merrill Lynch and Dean Witter also argued that R4 provided appreciable benefits for customers and registered representatives and their firms, as discussed below. Four upstairs broker-dealers, the Ad Hoc Committee, and the Alliance of Floor Brokers argued in opposition to R4 that it would impair pricing efficiency, result in poorer executions for customers, and have other deleterious effects discussed below.

B. R4 Benefits Cited by commentators

1. *Execution Processing Efficiencies.* Dean Witter believed that R4 is superior to all existing automated systems with respect to execution efficiency "because one half of the normal order/report processing cycle is eliminated. This reduces [order execution time] for all parties—client, Account Executive, branch operations, central order room, and all floor personnel," with a concomitant reduction in sources of errors and misunderstandings. Merrill Lynch suggested that "efficient operations and lower costs [yielded through R4] benefit the industry and investing public as a whole and anything which promised to provide more efficient means of processing transactions should be encouraged."

2. *Price Certainty.* The NYSE and Dean Witter believed that the immediate execution features of R4 would be attractive to those investors wanting to know their trade price and proceeds immediately. They indicated that this certainty in price is important to investors involved in trading in active markets or seeking to reinvest their proceeds. Moreover, they noted that a customer would be afforded the choice of using R4 or sending its order through DOT for an execution on the floor of the NYSE. Therefore, the NYSE and Dean Witter argued that any best execution concerns raised by R4 were ameliorated by the ability of the customer to choose the type of execution it would receive.

Dean Witter indicated that it offered retail customers over 50 investment related products, many which were attractive because of their immediate execution and certainty of price features. In this respect, Dean Witter believed that R4 enabled listed equities to compete with some of these other investment products on execution speed.

3. *Account Executive Time Management Efficiencies.* The NYSE and Dean Witter stressed that R4 allows account executives to make better use of their time. The NYSE explained that once a R4 report is sent to the exchange floor, "the member firm executing the order has no need for further contact with its customer to whom the trade already has been confirmed. From the member firm's standpoint, this can be a desirable time-saving consideration in periods of high volume." [23] In fact, Dean Witter believed that this feature of R4 constituted the "Key element in the efficiency of R4." [24]

C. Problems Cited by Commentators

1. *Customer Protection Concerns.* Hutton, Prudential-Bache, and Smith Barney each expressed customer protection concerns with respect to the current R4 system. Hutton observed that R4, "as a derivative quote-based automatic execution system, does not afford eligible orders an opportunity to improve their execution levels through interaction with other eligible orders or with orders represented in the crowd." [25]

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[13] Letter to George A. Fitzsimmons, Secretary, SEC, from James E. Buck, Secretary, NYSE, dated August 12, 1983.

[14] Letter to Douglas Scarff, Director, Division of Market Regulation, from Charles J. Mohr, Chairman and Chief Executive Officer, Boston Stock Exchange ("BSE"), dated August 11, 1983; letter to George A. Fitzsimmons, Secretary, SEC, from Jim Gallagher, President, Pacific Stock Exchange ("PSE"), dated August 1, 1983; and letter to George A. Fitzsimmons, Secretary, SEC, from Nicholas A. Giordano, President, Phlx, dated August 25, 1983.

[15] Letter to George A. Fitzsimmons, Secretary, SEC, from Edmund C. Puckhaber, Executive Vice President, Dean Witter, dated August 5, 1983; and letter to George A. Fitzsimmons, Secretary, SEC, from Robert P. Rittereiser, Executive Vice President, Merrill Lynch, dated August 18, 1983.

[16] Letter to George A. Fitzsimmons, Secretary, SEC, from Norman M. Epstein, Executive Vice President & Managing Director, E. F. Hutton & Co., Inc. ("Hutton"), dated August 1, 1983; letter to George A. Fitzsimmons, Secretary, SEC, from Sam Scott Miller, Senior Vice President and General Counsel, Paine, Webber, Jackson & Curtis, Inc. ("Paine Webber"), dated September 8, 1983; letter to George A. Fitzsimmons, Secretary, SEC, from Leland B. Paton, Executive Vice President, Prudential-Bache Securities, Inc. ("Prudential-Bache"), dated August 18, 1983; and letter to George A. Fitzsimmons, Secretary, SEC, from George A. Vonder Linden, President and Chief Operating Officer, Smith Barney, Harris Upham & Co., Inc. ("Smith Barney"), dated September 2, 1983.

[17] Letter to George A. Fitzsimmons, Secretary, SEC, from Richard B. Fitzpatrick, F. Eberstadt & Co., Inc. ("Eberstadt"), dated September 8, 1983; and letter to George A. Fitzsimmons, Secretary, SEC, from Robert J. Chamine, Managing Director, Wertheim & Co., Inc., dated July 27, 1983.

[18] Letter to George A. Fitzsimmons, Secretary, SEC, from the Ad Hoc Committee to Monitor and Evaluate the Evolution of the National Market System, dated September 28, 1983. The Ad Hoc Committee members are Frank Graham, Jr., President, Purcell Graham & Co., Inc.; John Duffy, Spear Leeds & Kellogg; Kevin Reilly, Robb, Peck & McCooey; William Devin, Vice President, Fidelity Management and Research Co.; Aime Girard, Director of Trading, Connecticut General Life Insurance Co.; Thomas Lewis, Newhard Cook & Co., Inc.; John McKeown, McKeown & Co., Inc.; and David Shields, Advest, Inc.

[19] Letter to the Commissioners, from David V. Shields, President, Alliance of Floor Brokers, dated October 25, 1983.

[20] Letter to Douglas Scarff, Director, Division of Market Regulation, from Ralph DeNunzio, President and Chief Executive Officer, Kidder, Peabody & Co., Inc., dated October 10, 1983. In general, Kidder, Peabody believed that registered representatives looked upon R4 with indifference

[21] Paine Webber and Eberstadt.

[22] Hutton, Smith Barney, Wertheim & Co., and Prudential-Bache.

[23] NYSE comment letter, *supra* note 13.

[24] Dean Witter comment letter, *supra* note 15.

[25] Hutton comment letter, *supra* note 16.

Smith Barney expressed this proposition slightly differently, "[i]f R4 co-exists with the DOT system,[26] we believe that a bias may occur toward R4. While it is possible that R4 could provide an Account Executive with increased efficiency of his time, it may have a detrimental impact on the customer's net price." [27] Prudential-Bache stated that the estimates cited in the June Release (*e.g.*, an 8.5 percent increase over the average commission charge of $110.10) represented a fair quantification of the cost to investors if they utilize R4 and forego the possibility of an improved execution price. Finally, the BSE and the PSE noted that every missed opportunity of an R4 customer to receive an execution between the sepread represented a similar lost opportunity for a customer on the *contra* side of the trade.

Dean Witter and Merrill Lynch, however, argued that investors are capable of making a choice between obtaining an immediate execution and the lost opportunity of obtaining a better (or worse) price by having their orders directed to the floor. Dean Witter observed that "[t]his decision process is well within the range of decision choices the Account Executive deals with every day in his interaction among clients, products, and markets." [28] Merrill Lynch observed that" [i]f a customer does not believe there is a benefit in using the R4 system, he will not do so. We see no point in the Commission denying him that choice and therefore substituting its judgment for the judgment of the individual investor."[29]

2. *Market Structure Concerns.* a. *Negative Effect on Pricing Mechanism.* Hutton, Prudential-Bache, and Smith Barney said that an expanded R4 program could adversely effect the pricing mechanism of the market. Specifically, Hutton believed that "R4 will encourage the member firm community to withhold its unexecutable limit orders until such time as they are marketable pursuant to R4." [30] Hutton believed that this practice would increase specialists' economic risk as well as reduce specialists' opportunities to capture floor income. Hutton concluded that removing all limit and market orders of less than 600 shares from the auction process "may damage dramatically the pricing mechanism of the auction markets." [31] Additionally, Smith Barney believed that R4 "may reduce the effectiveness and efficiency of the auction market system [because] under the expanded R4 up to 64 percent of NYSE trades could be removed from direct interaction of orders." [32] In a similar vein, Prudential-Bache stated that "[a]lthough we cannot see a precise effect [on pricing efficiency], we believe that there would be one. We expect that the specialist's quote would tend to widen as he attempts to protect himself from adverse market moves." [33] The Ad Hoc Committee, which includes representatives of three specialist units, concurred with this analysis. The Ad Hoc Committee stated that "the expansion and proliferation of derivative pricing systems will make the central marketplace less meaningful as a barometer for determining whether customers are receiving the best price based on overall supply and demand." [34]

The BSE stated that "[s]mall orders are essential to the pricing mechanism of the market and while the impact of blocks is, generally, temporary, it is the interaction of small orders that sets the trends through the forces of supply and demand." [35] Accordingly, the BSE believed that R4 could severely impair the pricing mechanism of the market and market liquidity. The BSE also believed that negative effects caused by R4 would not be immediately evident for the 100 most active issues, but rather, would become evaluated in "the next tier of stocks and beyond." [36]

On the other hand, the Dean Witter letter pointed out "[i]n 1961, over 20 years ago, 50% of all trades executed in NYSE securities were odd-lots executed by dealers. * * * An expansion of R4 to most NYSE listed stocks up to 499 shares would probably only return the ratio of such trades to the 50% experience of 20 years ago. * * * The effect of orders from odd-lot systems (on-floor and upstairs) or R4 still enters the marketplace. Effects, if any, are probably best found by examining the odd-lot systems' operation over many decades." [37]

b. *Effect on Market Maker Competition.* The BSE said that because R4 isolates captive order flow from the national market system, competition in many of those stocks could cease completely. In a similar vein, Smith Barney stated that R4 has "the potential to undermine the current ITS auction market system. If R4 were to capture significant order flow, it could reduce the order flow that regional exchanges now receive. The inability to attract order flow to regional exchanges through competitive quotes or services is a legitimate concern." [38]

c. *Increased Frequency of Trading Halts.* Hutton stated that R4 could increase the frequency of temporary trading halts. These halts now are imposed to permit an orderly dissemination of news or to resolve an existing significant order imbalance. Hutton believed that because "specialists are obligated to accept R4 execution reports irrespective of their aggregate size and at prices subject only to certain NYSE validation checks, [specialists] will find it necessary to request trading halts at times they perceive that market factors or conditions could reasonably result in an inordinate influx of execution reports whose aggregate share-volume could greatly outsize the market then existing." [39]

3. *Other Adverse Effects.* Hutton believed that R4 may create an "operational/compliance quagmire" in terms of the interaction between investors and account executives, and between broker-dealer firms and specialists. With respect to the former relationship, Hutton believed that the availability of two execution modes (R4 and regular-way) "will lead inexorably to confusion and misunderstandings between investors and their Account Executives which will not only effect their relationships unfavorably but, more importantly, have an adverse impact on investors' perceptions of the integrity of our securities market." With respect to problems between firms and specialists, it appeared that some firms were concerned about the use of fictional prices in R4 reports as well as reporting delays caused by firms. Similarly, Smith Barney was concerned that an undue amount of time and expense will be required to adequately control potential abuses that could arise from "encouraging certain individuals to become opportunistic."

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[26] The NYSE's DOT System is a computerized order routing system that delivers orders directly from a firm's order room to a specialist for execution under normal procedures.

[27] Smith Barney comment letter, *supra* note 16.

[28] Dean Witter comment letter, *supra* note 15.

[29] Merrill Lynch comment letter, *supra* note 15.

[30] Hutton comment letter, *supra* note 16.

[31] *Id.*

[32] Smith Barney comment letter, *supra* note 16.

[33] Prudential-Bache comment letter, *supra* note 16.

[34] Ad Hoc Committee comment letter, *supra* note 16.

[35] BSE comment letter, *supra* note 14.

[36] *Id.*

[37] Dean Witter comment letter, *supra* note 15.

[38] Smith Barney comment letter, *supra* note 16.

[39] Hutton comment letter, *supra* note 16. Although Wertheim did not state specifically that R4 would increase the frequency of trading halts, it did express "reservations about the feasibility of an expanded R4 system as presently constituted. A significantly increased volume of small order flow, in rapidly declining markets, would present increased and unwarranted risks which we do not believe the specialists would accept."

III. Discussion

The Commission continues to believe that the development of derivative execution systems such as R4, raises important questions with respect to best execution of customers' orders, market maker competition, and optimal functioning of the pricing mechanism in general. At the same time, however, the Commission also is aware that, if the NYSE is to remain competitive in attracting small orders, it may be necessary for it to implement some form of accelerated execution system for small orders. In addition, the Commission recognizes that R4 has special attributes that, under present conditions, make it useful for some large wire houses, and that immediate executions can be desirable to customers and registered representatives. Indeed, the diversity of the commentators' views reflected this tension between the desire for an efficient execution and procedure, which ensured investor protection. [40] Accordingly, the Commission, is unable to conclude, based on this limited record and the split of opinion among the commentators, that the potential negative effects of R4 outweigh the system's potential benefits. Therefore, the Commission has determined to approve the proposed rule change, allowing R4 to operate in an expanded pilot mode for a further year. During this period, the Commission encourages the NYSE to continue to explore new systems and procedures that would achieve small order execution efficiencies without giving rise to potential customer protection or market structure concerns. [41]

The Commission believes that, while best execution concerns remain, the use of R4 during the one year pilot will not rise to a level which would cause the kind of major structural effects feared by some commentators. While the Commission would expect a number of firms to experiment with R4, the past year's experience suggests that registered representatives will increase use of the system slowly. Nevertheless, because of the differences between an R4 and a normal DOT transaction, [42] the Commission believes that a broker-dealer providing an R4 execution has a duty to disclose to its customers the alternative of a DOT execution. In this connection, Dean Witter, Merrill Lynch and Prudential-Bache all noted the need for customers to be fully informed of the advantages and disadvantages of an R4 execution. Therefore, the Commission believes that broker-dealers should explain to their customers [43] that, in a perior of rapid price movement, systems with different execution speeds can result in differing transaction prices because of possible changes in the market between the time the order is entered and the time the order reaches the trading floor. (On average, however, such systems should provide an equal number of superior and inferior executions, depending on market direction.) In addition, the Commission believes that broker-dealers also should clearly disclose that customers choosing an R4 execution are foregoing the opportunity to obtain a superior execution at a price between the published bid or offer, which often occurs for small orders executed through DOT when the quoted market spread is greater than an eighth.

With respect to the longer run implications of R4, the Commission recognizes that expansion of the system raises profound structural questions and, therefore, it will continue to monitor closely use of R4 and any effects of the system on the markets. In this connection, the Commission intends to continue to examine the relationship between R4 and upstairs executions in general. For example, several commentators recognized the similarities between the advantages derived from R4, and those resulting form pure upstairs execution of orders. Indeed, several commentators noted the basic similarity in the execution process for odd-lots, which are not subject to off-board trading prohibitions, and R4 orders. [44] Should the Commission ultimately determine that the execution efficiencies of a derivative execution system such as R4 exceed any negative effects caused by removing small orders from the auction, then it may be more difficult for the NYSE to justify continuing to apply off-board trading restrictions to small orders. [45] In effect, through its R4 system, the NYSE would itself largely have removed these orders from the trading floor. Accordingly, although the type of upstairs execution occurring under R4 still provides for limited participation by other public orders, [46] allowing upstairs firms to develop their own in-house small order execution facilities might well provide efficiencies surpassing those of R4. [47]

In light of the above considerations, the Commission finds that the proposed one year extension and expansion of R4 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in particular, the requirements of Section 6 and 11A, and the rules and regulations thereunder. [48]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

IV. Request for Further Comment

Publication is expected to be made in the **Federal Register** during the week of November 7, 1983. In order to encourage continued dialogue on R4 during the expanded pilot, interested persons, including issuers, broker-dealers, specialists, and investors, are invited to submit written comments concerning the rules change by September 1, 1984. Persons desiring to make written comment should file six copies with the Secretary of the Commission, Securities

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[40] Several commentators suggested that R4's effect on the market could best be tested through expanding the R4 pilot.

[41] Indeed, the NYSE already has developed enhancements to DOT that will increase the operational efficiency of that system. For example, on June 20, 1983, the Commission approved a NYSE proposed rule change that allows for automatic execution of certain orders through DOT facilities, the so-called Super-DOT system. Super-DOT presently is programmed to execute automatically any DOT order that is not executed manually by the specialist within five minutes. *See* File No. SR-NYSE-83-21, Securities Exchange Act Release No. 19896 (June 20, 1983), 48 FR 29642. The NYSE also is experimenting with touch-screen technology that apparently will speed the execution of DOT orders by displaying these orders on cathode-ray tube screens to be executed and reported to the consolidated tape by touching the screen. Moreover, in the connection with the execution of certain odd-lots, the NYSE is developing procedures for the automatic execution of such orders through DOT.

[42] For example, the NYSE has indicated that 26 percent of DOT orders are executed within the NYSE published quote. June Release, *supra* note 2, at 2787 n.28.

[43] Broker-dealers, of course, should determine the most effective method for making such disclosure, *e.g.*, by a mailing to customers at the time the broker-dealer decides to participate in R4 or by individual telephone disclosure by registered representatives who offer their customers an R4 execution.

[44] *See, e.g.*, Dean Witter and Merrill Lynch letters, *supra* note 15. Indeed, Merrill Lynch and Prudential-Bache, in their comment letters, supported the idea of increasing the size of the odd-lot. Other commentators, however, such as the NYSE and the PSE, questioned the relevance of odd-lot trading to approval or disapproval of R4.

[45] In this regard, the BSE stated that "[s]ince the orders are not being exposed in the auction market, why shouldn't the specialist have a market making function upstairs? Why not non-specialists also?" BSE comment letter, *supra* note 14.

[46] As noted above, R4 permits other agency interest publicly disseminated as part of the quotation to interact with R4 orders.

[47] For example, these in-house systems would eliminate the communication and handling costs of routing an R4 report to the floor of the exchange.

[48] The NYSE originally had requested a one year extension from the date on which the initial six-month pilot program for 30 stocks terminated. Because usage of R4 has been limited to that pilot program during this proceeding, the Commission has determined that the extension will run until one year after the date on which this release is published in the **Federal Register**.

and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. All communications should refer to File No. SR-NYSE-83-8. Copies of the rule change, including all amendments and all written statements with respect to the rule change that are filed with the Commission, and all written communications relating to the rule change between the Commission and any other persons, other than those that may be withheld from the public [49] will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30458 Filed 11-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20348 (SR-Phlx-83-18)]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 4, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 2, 1983, the Philadelphia Stock Exchange, Inc. ("Phlx") 1900 Market Street, Philadelphia, PA 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would reduce the minimum exercise price interval for Japanese yen option contracts from two cents to one cent. The Phlx believes that a lack of volatility in the underlying currency indicates a need for narrower intervals to attract trading interest in the option.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to file No. SR-Phlx-83-18.

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 above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities associations and in particular, the requirements of Section 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the proposal is technical and non-controversial in nature and in that the Phlx is providing at least a week's advance notice to its members to allow them to prepare for this change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30456 Filed 11-9-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2106; Amendment No. 1]

Oklahoma; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 50652) is amended in accordance with the President's declaration of October 26, 1983, to include Cotton County in the State of Oklahoma as a result of damage from severe storms and flooding beginning on or about October 19, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on December 27, 1983, and for economic injury until the close of business on July 26, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: November 3, 1983.

Michael DeBernard,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 83-30451 Filed 11-9-83; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 4:00 p.m., Monday, December 12, 1983, at the Federal Building, 26 Federal Plaza, Room 305, New York, New York 10278, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Office of Capital Ownership Development, Small Business Administration, Room 602, 1441 L Street, N.W., Washington, D.C. 20416, in writing or by telephone (202) 653-6526, no later than December 5, 1983.

Dated: November 4, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83-30452 Filed 11-9-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-062]

Registration of House Flag of United States Lines, Inc.

1. In accordance with 46 U.S.C. 12118, the Commandant, United States Coast Guard, has registered the house flag of United States Lines, Inc., as described below:

The house flag is rectangular in shape and white in color. The hoist is 4 feet and the fly is 5 feet. There is an eagle with its wings in full horizontal spread and with its breast and front outward toward the viewer centered on the field. The eagle is blue (PMS Blue 286). The eagle's wing span, horizontally, is 43 inches, with 14 feather segments on the

[49] 17 CFR 240.24b-2

external edge of each wing. The top of the head to the lower tip of the eagle's tail measures 21 and ½ inches. The eagle clutches an olive branch in its right claw, the branch having a sprig containing 13 leaves and 12 berries, pointing toward the tip of its right wing. The eagle clutches 13 arrows in its left claw, with the points of all arrows pointing towards the tip end of its left wing. The eagle's tail feathers consist of 7 points with 17 feather segments. The eagle's head is turned full profile facing to the eagle's right above the top edge of its right wing.

2. The house flag previoulsy registered in the name of United States Lines, Inc., is hereby cancelled.

Dated: November 1, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 83-30470 Filed 11-9-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review.

On November 4, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0054
Form Number: 1000
Type of Review: Revision
Title: Ownership Certificate

OMB Number: None
Form Number: None
Type of Review: Existing Collection
Title: Records in general (26 CFR 31.6001-1); Additional records under Federal Insurance Contributions Act (26 CFR 31.6001-2); Additional records under Railroad Retirement Tax Act (26 CFR 31.6001-3); Additional records in connection with collection of income tax at source on wages (26 CFR 31.6001-5); Notice by district director requiring returns, statements, or the keeping of records (26 CFR 31.6001-6).

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0284
Form Number: 5110/37
Type of Review: Reinstatement
Title: DSP Processing—Record of Spirits Used, Denatured Spirits Produced, Received, Removed or Otherwise Disposed of.

OMB Number: 1512-0248
Form Number: 5110/1
Type of Review: Reinstatement
Title: DSP—Receipt, Use and Disposition of Liquor Bottles.

OMB Number: 1512-0283
Form Number: 5110/36
Type of Review: Reinstatement
Title: DSP Processing Records—Receipt, Use in Spirits, or Other Dispositions of Denaturants.

OMB Number: 1512-0258
Form Number: 5110/11
Type of Review: Reinstatement
Title: DSP Processing—Manufacture of Articles.

OMB Number: 1512-0388
Form Number: ATF REC 7570/3
Type of Review: Reinstatement
Title: Importers, Dealers, Collectors of Ammunition, Records and Supporting Date of Acquisition and Disposition of Pistol Interchangeable Ammunition.

OMB Number: 1512-0387
Form Number: ATF REC 7570/2
Type of Review: Reinstatement
Title: Importers, Dealers Collectors of Firearms; Records Supporting Data of Acquisition and Disposition.

OMB Number: 1512-0251
Form Number: ATF REC 5110/4
Type of Review: Reinstatement
Title: DSP Processing Record—Recovered Denatured Spirits and Articles Received, and/or Denatured.

OMB Number: 1512-0249
Form Number: 5110/2
Type of Review: Reinstatement
Title: DSP—Strip Stamps and Alternative Device Receipts, Used, Dispositions, and Inventories.

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy L. Thomas,

Department Reports Management Office.

November 4, 1983.

[FR Doc. 83-30405 Filed 11-9-83; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: A closed meeting of the Art Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held November 30, 1983.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CCC:E:V, 1111 Constitution Avenue, NW., Room 5553, Washington D.C. 20224, Telephone No. (202) 566-4196 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Advisory Panel will be held on November 30, 1983, beginning at 9:30 a.m. in Room 3411, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discusion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

Dated: October 21, 1983.

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 83-30379 Filed 11-9-83; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 219
Thursday, November 9, 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

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From November 8th Open Meeting

November 4, 1983.

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the November 8, 1983 Open Meeting and previously listed in the Commission's Notice of October 31, 1983.

Agenda, Item No., and Subject

Video—1—Title: "Response to Notice of Apparent Liability" filed July 25, 1983, by Cablevision of Chicago. Summary: Cablevision of Chicago seeks rescission or mitigation of the forfeiture assessed against it for violation of § 76.610(b) of the Commission's Rules.

Issued: November 4, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1377-83 Filed 11-8-83; 8:58 am]

BILLING CODE 6712-01-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-48]

TIME AND DATE: 2:30 p.m., Monday, November 21, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain valves (Docket No. 982).
5. Investigations 731-TA-116 and -117 (Final) (Carton-Closing Staples and Nonautomatic Carton-Closing Staple Machines from Sweden)—Briefing and vote.
6. Investigation 731-TA-119 (Final) (Certain Lightweight Polyester Filament Fabric from the Republic of Korea)—Briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1376-83 Filed 11-8-83; 9:43 am]

BILLING CODE 7020-02-M

3

NATIONAL SCIENCE BOARD

DATE AND TIME:

November 17, 1983, 9:30 a.m. Open Session
November 18, 1983, 9:00 a.m. Closed Session
November 18, 1983, 10:30 a.m. Open Session

PLACE: National Science Foundation, Washington, D.C.

STATUS: Most of this meeting will be open to the public. Part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Open Sessions: *Thursday, November 17, 1983—9:30 a.m.:*

1. Minutes—October 1983 Meetings.
2. Chairman's Items.
3. Director's Report.
4. Behavioral and Neural Sciences Program Review.

Friday, November 18, 1983—10:30 a.m.:

5. Grants, Contracts, and Programs.
6. Criteria for Vannevar Bush Award.
7. Reports of Board Committees.
8. Board Representation at Advisory Committees and Other Meetings.
9. Other Business.
10. Next Meeting.

Closed Session: *Friday, November 18, 1983—9:00 a.m.:*

A. Minutes—October 1983 Meetingf.
B. NSB and NSF Staff Nominees.
C. East-West Technology Transfer.
D. Grants, Contracts, and Programs.

[S-1379-83 Filed 11-8-83; 10:16 am]

BILLING CODE 7555-01-M

4

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 48 FR 50811, November 3, 1983.

STATUS: Open meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, October 31, 1983.

CHANGE IN THE MEETING: Deletion. The following item will not be considered at an open meeting scheduled for Wednesday, November 9, 1983, at 2:30 p.m.

Consideration of a request by the Board of Governors of the Federal Reserve System for the views of the Commission regarding the exclusion of money market funds shares from the definition of "margin stock" under the Board's Regulations U and G. For further information, please contact Susan P. Hart at (202) 272-2098.

Chairman Shad and Commissioners Evans and Treadway determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2092.

November 7, 1983.

[S-1380-83 Filed 11-8-83; 10:16 am]

BILLING CODE 8010-01-M

5

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1321]

TIME AND DATE: 4:30 p.m. (c.s.t.), Tuesday, November 15, 1983.

PLACE: National Fertilizer Development Center, Muscle Shoals, Alabama.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on November 2, 1983.

Old Business Items

1. Proposed arrangements for limited interruptible power to TVA's directly served customers.

New Business Items

B—Purchase Awards
B1. Requisition 77—Barge services to transport coal to Allan, Colbert, Cumberland, Gallatin, and Paradise steam plants purchased under contract 77P-41-T10.
C—Power Items
C1. Lease and amendatory agreement with East Mississippi Electric Power Association, covering arrangements for single-point 161-kV delivery at the

Louisville 161-kV substation for distributor's total loads in Winston County, Mississippi.

C2. Amendment to letter agreement with Southern Company Services, Inc., relating to power supply arrangements.

C3. Cooperative Agreement No. TV-61960A with Duke Power Company for the Atmospheric Fluidized Bed Combustion Demonstration Project.

C4. Contract No. TV-62044A with Duke Power Company for Phase II of the Atmospheric Fluidized Bed Combustion Demonstration Project.

C5. Revision of TVA's industrial facility ownership guidelines.

C6. Contract No. TV-62774A between Electric Power Research Institute, acting on behalf of the Boiling Water Reactor Owners Group II, and TVA providing for research relating to materials used in boiling water reactor systems.

C7. Action plan for low-level radioactive waste management.

E—Real Property Transactions

E. Resolution designating 2 tracts of land, containing 2.45 acres and 2.25 acres, respectively, in the Muscle Shoals Reservation in Colbert County, Alabama, as surplus and for sale at public auction—Tract Nos. X2MPT-11 and X2MPT-12.

E2. Modification of deed affecting approximately 1.9 acres of Pickwick Reservoir land located in Colbert County, Alabama, to permit the construction of habitable structures—Tract No. XPR-247.

E3. Filing of condemnation cases.

F—Unclassified

F1. Agreement between TVA and the State of Tennessee, Department of Health and Environment, to allow TVA to assist the State by analyzing certain samples that relate to the monitoring of environmental conditions throughout the State of Tennessee.

F2. Memorandum of understanding with the Water and Power Development Authority of Pakistan to establish a framework for cooperative activities in the areas of electric generation, flood control, navigation and river basin development.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: November 8, 1983.

[S-1561-83 Filed 11-8-83; 4:02 pm]

BILLING CODE 8120-01-M

federal register

Thursday
November 10, 1983

Part II

Environmental Protection Agency

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

[Notice No. IV-404002-BJE; A-4-FRL 2466-8]

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Determination and Notice of Public Hearing.

SUMMARY: Section 404(c) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) provides that, the Administrator of the U.S. EPA is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreation areas. The procedures for implementations of 404(c) are set forth in 40 CFR Part 231. This notice of the proposed determination and public hearing is being published in accordance with 40 CFR 231.3 by the Regional Administrator of the EPA's Region IV

In 1980, the Corps of Engineers advertised a permit application No. AL-80-00327-C for the deposition of fill material in approximately 55 acres of wetlands (waters of the United States) adjacent to Three Mile Creek. The proposed disposal area was subsequently reduced to 25 acres of wetlands per the applicant's request. The applicant is Mr. M. A. Norden, P.O Box 2245, Mobile, Alabama 36601, who proposes to construct an office, warehouse and a storage yard on the filled wetlands. The proposed site borders Three Mile Creek and One Mile Creek and is bound on the east by Conception Street within the city limits of Mobile, Alabama.

EPA proposes to prohibit the specification of the wetland area described herein as a disposal site for dredged or fill materials under the provisions set forth in 40 CFR Part 231 based on the anticipated unacceptable adverse effects on shellfish beds and fishery areas (including spawning and breeding areas), and wildlife areas

In accordance with 40 CFR 231.4, I find that it would be in the public interest to hold a hearing on the proposed determination.

Purpose of Public Notice

This notice serves as a notice of proposed determination and public hearing on permit application No. AL80-00327-C. Region IV would like to obtain comments on EPA's proposal to prohibit disposal on the wetlands in question and whether or not the impacts of destroying 25 acres of tidally influenced wetlands in the Three Mile Creek floodplain area represent an unacceptable adverse effect as described in Section 404(c) of the Clean Water Act.

Hearing Date

December 15, 1983, beginning at 7 p.m.

Hearing Address

Airport Ramada Inn, 600 Beltline Highway So., Mobile, Alabama.

Comments may be submitted prior to the hearing or presented at the hearing. The hearing record will remain open after the hearing until close of business, December 30, 1983, for the submittal of written comments. Comments submitted prior to or after the hearing or requests for copies of the proposed determination should be submitted to EPA's designated Record Clerk, Ms. Earline Hanson, Office of Policy and Management, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. Oral and written comments should directly address whether the proposed determination should become the final determination or whether corrective action could be taken to reduce the adverse impact of the discharge. All such comments will be considered in reaching my decision to either withdraw the proposed determination or prepare a recommended determination to prohibit or deny the specification or the use for specification of the area as a disposal site. If a recommended determination is made, it and the administrative record will be forwarded to the Administrator of EPA for review and the making of the final determination. The procedures to be used by the Administrator in making the final determination are specified at 40 CFR 231.6

Copies of all comments submitted in response to this notice will be available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. EPA at the address above

Hearing Procedures

a. The Regional Administrator of EPA's Region IV, or his designee, will be the Presiding Officer at the hearing.

b. Any person may appear at the hearing and submit oral or written statements and data and may be represented by counsel or other authorized representative. Any person may present written statements for the hearing file prior to the time the hearing file is closed to public submissions, and may present proposed findings and recommendations. The Presiding Officer shall afford the participants an opportunity for rebuttal.

c. The Presiding Officer will establish reasonable limits on the nature, amount or form of presentation of documentary material and oral presentations. No cross examination of any hearing participant shall be permitted, although the Presiding Officer may make appropriate inquiries of any such participant.

d. The hearing file will be open for submission of written comments until close of business, December 30, 1983.

Background

Under Section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*), any person who wishes to discharge dredged or fill material into the waters, including wetlands, of the United States must first obtain a dredge or fill permit from the Secretary of the Army, acting through the Chief of Engineers. Mr. M. A. Norden purchased the wetland in question in August of 1980 and applied to the Mobile District Corps of Engineers for a Section 404 permit to fill 65 acres (55 acres of which were determined to be wetlands).

Controversy regarding placement of fill in Three Mile Creek swampland was well documented prior to Mr. Norden's purchase of the property. As early as 1974 the Corps of Engineers attempted to use the area for disposal of dredged materials but were unsuccessful because of the unstable wetland substrate. Other studies conducted by the Corps addressed the frequent and severe flooding problems in the Three Mile Creek area.

A Public Notice describing Mr. Norden's plans for filing wetlands within the Three Mile Creek flood plain was distributed by the Corps on October 7, 1980. Review agencies, including EPA, the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) objected to permit issuance on the basis of the project's non-water dependency, applicant's failure to adequately consider less

damaging alternatives, and the potential for loss of functioning wetlands, adverse environmental effects anticipated to fish and wildlife, loss of water filteration benefits and loss of stormwater storage capacity.

On April 21, 1982, Mr. Norden modified his application by reducing the proposed fill area to 25 acres of wetlands. Mr. Norden indicated he had considered upland alternatives, but determined those alternatives to be too costly.

On June 3, 1982, EPA responded to the Corps indicating that the revised proposal did not comply with the Section 404(b)(1) Guidelines and that no ecological justification was found to alter the previously stated EPA denial position. On August 3, 1983, Colonel James B. Hall, Acting Division Engineer of the Corps of Engineers' South Atlantic Division, wrote to EPA indicating the Division's decision to direct the Mobile District Engineer to issue the permit.

In accordance with the existing Section 404(q) Memorandum of Agreement between EPA and the Department of the Army, EPA wrote to Mr. William R. Gianelli, Assistant Secretary of the Army (Civil Works) on August 30, 1983, requesting a review of the Division's decision by a higher authority in the Department of the Army. In his September 22, 1983, response, Mr. Gianelli declined referral of the application to a higher authority level, having determined that EPA's objections constituted a technical disagreement between Division and EPA, not an issue of national importance. He suggested that provisions contained in Section 404(c) of the Clean Water Act would more appropriately address the technical disagreements between EPA and the Division Engineer. On September 30, 1983, EPA initiate procedures to prohibit the specification of the site in question as a disposal site as provided in 40 CFR 231.3(a)(2).

Potential Adverse Impacts of Permit Issuance

Mr. Norden's proposed Permit No. AL80-00327-C, if granted, would allow deposition of an undisclosed volume of demolition material and sand into and onto approximately 25 acres of highly productive, tidally influenced wetlands.

EPA staff inspected the originally proposed project site twice in 1980. From these inspections, EPA concluded that the tract, composed of diverse deep marsh habitat with a scattered canopy of wetland tree species, appeared to perform many beneficial functions including providing fish and wildlife habitat, hydrological buffering, water purification, pollution and erosion traps, and food chain production. In a letter to the Corps dated January 22, 1981, EPA recomended denial of permit application No. AL80-00327-C based on noncompliance with the 404(b)(1) Guidelines as follows: (1) There had been no demonstration that other practicable, less environmentally damaging alternatives were unavailable; (2) the proposed activity was not water dependent; (3) adverse ecological impacts, both individual and cumulative in nature, would result from filling the wetland; and (4) existing flooding problems in the lower Three Mile Creek watershed would be further exacerbated by the placement of fill in the floodplain.

On June 3, 1982, EPA again objected to issuance of the proposed permit as revised and indicated that there was no ecological basis for changing the Agency's position.

Ecological surveys conducted by EPA technical staff in October, 1983, confirmed the importance of the subject wetlands to the commercially valuable downstream fisheries resources of Mobile Bay. The wetlands export detrital materials which serve as a base for the estuarine and marine food web. These wetlands are important wildlife habitat, a fact confirmed by the abundance of migratory and resident waterfowl, wading birds, song birds and raptor species. American alligators were observed on the property bordering and in Three Mile Creek. Numerous other reptile species were noted as was evidence of small mammal use of the habitat.

Observations by EPA indicated that the 25-acre marshy substrate supports a lush and diverse herbacious community typically adapted for life and reproduction in saturated and unconsolidated soil conditions and that the community functions as an effective filter, assimilating and removing pollutants from tidal waters and stormwaters, thereby helping to purify these waters and lessening the downstream pollutant discharge to important fisheries.

Therefore, based on a thorough site re-evaluation and review of all available information, the Regional Administrator of EPA Region IV is of the opinion that the unnecessary destruction of the 25 acres of wetlands in question could result in an unacceptable adverse effect on shellfish beds and fishery areas (including spawning and breeding areas) and wildlife areas. EPA proposes to prohibit the specification of this wetland site for disposal of dredged or fill materials because such disposal could result in the direct loss of fish and wildlife habitat, loss of detrital materials which are exported to downstream fisheries by tidal exchange and upland runoff and, the loss of the assimilative capacity (which aids in purification of waters by removing nutrients and pollutants).

FOR FURTHER INFORMATION CONTACT:
E. T. Heinen, Chief, Environmental Assessment Branch, Office of Policy and Management, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365, (404) 881-7901.

Dated: November. 1, 1983.

Charles R. Jeter,

Regional Administrator, Region IV.

[FR Doc. 83-30159 Filed 11-7-83; 8:45 am]
BILLING CODE 6560-38-M

federal register

Thursday
November 10, 1983

Part III

Department of the Interior

Fish and Wildlife Service

Proposal To Remove the Brown Pelican in Southeastern United States From List of Endangered and Threatened Wildlife; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Proposal To Remove the Brown Pelican in Southeastern United States From List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to remove the brown pelican (*Pelecanus occidentalis*) from the list of Endangered and Threatened Wildlife in Alabama, Florida, Georgia, South Carolina, North Carolina, and points northward along the Atlantic coast. The brown pelican is currently listed as Endangered throughout its entire range, which includes, in addition to the area affected by this proposal, Mississippi, Louisiana, Texas, California, Mexico, Central and South America, and the West Indies. This proposed change in status is based on evidence that, due to its large and stable population numbers and productivity, the species is no longer Endangered or Threatened in the subject area. The Service is requesting information from the public on the delisting of the brown pelican in this area.

DATES: Comments from affected States and the public must be received by January 9, 1984. Requests for public hearings must be received by December 27, 1983.

ADDRESSES: Comments and data should be sent to Mr. Dennis B. Jordan, Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, 300 Woodrow Wilson Avenue, Suite 3185, Jackson, Mississippi 39213–7685. Comments and materials will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan, Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 3185, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213–7685 (601/960–4900).

SUPPLEMENTARY INFORMATION

Background

The brown pelican is one of two species of pelicans in North America; the other is the white pelican (*Pelecanus erythrorhynchos*). The brown pelican weighs up to 8 pounds (4 kg) and may have a wingspan of 7 feet (2 m). It feeds almost entirely on fishes captured by plunge diving in coastal waters. Brown pelicans are rarely found away from salt water and do not normally venture more than 20 miles (32 km) out to sea.

Within the area affected by this action, pelicans nest on coastal islands in North Carolina, South Carolina, Florida, and Alabama. Islands chosen as rookery sites are usually 5 acres or less in size, and generally of very recent origin, being mangrove islands, natural sand spits or dredge spoil sites. Elevation of these islands is essentially at or only a few feet above sea level. The dune islands, in particular, are subject to erosion and flooding by storm and spring tides, and they are constantly shifting position.

In Florida, most brown pelicans nest 2–25 feet (roughly 1–10 meters) above the high tide line on islands composed of black (statewide) and red (west coast) mangroves. Brown pelicans have also been observed nesting in white mangrove, Australia pines, red cedars, live oaks, redbay, and seagrape.

In North and South Carolina, pelicans nest almost without exception on the ground, on low sand islands of natural or artificial origin. Nesting is concentrated on the highest portion of these islands (rarely more than 6 feet above mean high tide), which are often characterized by a panicgrass-cordgrass association. Nesting also occurs in seashore saltgrass, pigweed, and other characteristic beach and dune species. The elevation of the area appears to be a more essential feature governing nest site selection than the specific vegetation present, although the two factors are in many cases related.

This proposed rule specifically addresses the eastern subspecies of the brown pelican (*Pelecanus occidentalis carolinensis)* in a portion of its range: U.S. Atlantic Coast, Florida, and Alabama (subspecies range is coastal areas of Atlantic Ocean, Gulf of Mexico, and Caribbean Sea). In the United States, large numbers of this subspecies historically nested on small coastal islands in Texas, Louisiana, Florida, and South Carolina; some nesting also occurred in North Carolina. There were no verified reports of nesting in Mississippi, Alabama, Georgia, or the States north of North Carolina until 1983, when four pairs were found trying to nest on a spoil island in Mobile Bay, Alabama.

Between 1957 and 1961, the brown pelican disappeared as a nesting species on the Louisiana coast and seriously declined on the Texas coast. Prior to this decline, the brown pelican population in these two States may have numbered about 50,000 individuals (King *et al.*, 1977). Of the several species of coastal breeding birds along the Louisiana and Texas coasts, only the brown pelican was known to suffer so severely. There was no adequate explanation for this population crash, but the severity of the decline, which affected all age groups, suggested the involvement of a highly toxic agent. Subsequent research has implicated the organochlorine pesticide endrin as the probable causative substance (Blus, Cromartie, *et al.*, 1979).

Around the same time (late 1960's, early 1970's), brown pelican populations in South Carolina showed some evidence of decreased reproduction, primarily resulting from eggshell thinning (Blus, Cromartie, *et al.*, 1979). This decrease in reproduction was similar to, although less severe than, the concomitant situation in California, where thin-shelled eggs and other complications had resulted in a complete reproductive failure of brown pelicans (Anderson and Hickey, 1979). This impairment of reproduction has been attributed primarily to the organochlorine pesticide DDT and its principal metabolite DDE. These substances, which are not easily broken down, accumulate in the tissues of species at the top of the foodchain, such as the brown pelican. DDE interferes with calcium deposition during shell formation, resulting in the production of thin-shelled eggs that are easily crushed during incubation (Peakall, 1975).

In summary, organochlorine pesticide pollution apparently contributed to the endangerment of the brown pelican via two mechanism—direct toxicity (affects all age classes) and impaired reproduction (reduces recruitment into the population). As a result of the observed population declines, the threat of increased declines from contaminated food supplies, and the unknown population status of the species in other areas, the brown pelican was listed as Endangered throughout its U.S. range on October 13, 1970 (35 FR 16047), and in its foreign range on June 2, 1970 (35 FR 8495).

Since the time of listing, the Environmental Protection Agency has placed a ban on the use of DDT in the United States (37 FR 13369–13376, July 7, 1972) and has sharply curtailed the use of endrin. As a result, the environmental residue levels of these persistent compounds have steadily decreased in most areas. There has also been a corresponding increase in the eggshell thickness and reproductive success of brown pelicans as well as of many other avian predators, including bald eagles and peregrine falcons. Pesticide residue levels in brown pelican eggs in the area

affected have steadily decreased since they were first measured in 1969 (Blus, Cromartie, *et al.*, 1979; Blus, Lamont, and Neely, 1979; Schreiber, 1980).

Breeding population censuses of the eastern brown pelican, conducted annually since the late 1960's, now indicate stable or increasing breeding populations in many areas, as indicated below:

Number of nests of brown pelicans counted:

Year	Florida	South Carolina	North Carolina	Louisiana[1]	Texas	Total
1968	6936	NS	NS	0	2	
1969	6133	1266	NS	0	5	
1970	7690	1116	NS	0	8	
1971	5923	1469	NS	13	3	
1972	7990	1415	NS	28	9	
1973	6010	1646	NS	50	6	
1974	6090	1670	NS	83	7	
1975	5950	2400	NS	62	11	
1976	5491	2540	75	38	11	8,155
1977	6532	3376	82	91	17	10,098
1978	7780	3353	172	125	25	11,455
1979	8942	4236	426	173	37	13,814
1980	8095	5346	425	244	51	14,161
1981	8125	5705	658	300+	56	14,844
1982	8546	6653	600+	300+	ca.100	16,199
1983	6980	4919	1250	NA	NA	NA

[1] Birds transplanted from Florida 1968–1980 and their offspring.
NS Not surveyed adequately
NA Not available.

In Florida, over the past 16 years, brown pelicans have nested on a total of 46 colony sites located throughout the State's coastal areas. The westernmost known breeding site in the State is near Panama City.

In contrast to the situation in Florida, South Carolina brown pelicans breed on only two sites. The average number of nests is currently (1980–83) above the reported historical level of 5,000.

The decline in the number of nests counted in Florida and South Carolina in 1983 is believed due to an unusually late nesting season in Florida and the partial loss of one of the two sites in South Carolina (to be discussed further below). Such fluctuations in annual numbers are to be expected.

The explosive increase of brown pelicans in North Carolina is believed to be related to the expansion of the South Carolina population. North Carolina is at the northern periphery of the brown pelican's breeding range and, as such, populations may be expected to fluctuate more dramatically than they would in more centrally-located breeding areas. The fact that some North Carolina brown pelicans nest on recently-created dredge spoil islands may also have contributed to the birds' increase in the State. Brown pelicans currently use 3 to 7 colony sites in 2 disjunct North Carolina coastal areas.

The 1983 breeding population expansion into Alabama is considered further evidence of the healthy state of this pelican population. In the coming years, additional new colonies may be expected to appear in these States. The pelican regularly occurs as far north as the mouth of the Chesapeake Bay, although numbers and timing (usually late summer) are dependent largely upon water temperatures and prey availability. Some years this post-breeding wandering occurs as far north as New Jersey.

In Florida and the Carolinas, pelican nesting populations are presently at or above historical levels. Furthermore, the average current fledgling rate is greater than or equal to the level of 1.0 young per nest considered necessary to maintain a stable population. Based on these data, the Eastern Brown Pelican Recovery Team has recommended that the pelican be removed from the List of Endangered and Threatened Wildlife in these and adjacent portions of its range covered by this proposed rule. The team had suggested the pelican be delisted from Mississippi to Florida and the Atlantic Coast. The Service has selected the Alabama-Mississippi border as a convenient boundary for the following two principal reasons; (1) pelicans from Louisiana would be protected when they wander into the coastal waters that separate that State and Mississippi, and (2) the boundary of Mississippi and Alabama offers little pelican habitat such that few pelicans would be expected there and law enforcement would be simplified as a consequence.

The brown pelican does wander after the nesting season. Bandings have shown that marked pelicans from the Carolinas may wander after nesting as far north as Virginia and Maryland, occasionally further. Birds from Florida may wander north to Georgia and the Carolinas on the Atlantic Coast and north and west to Alabama from Florida westcoast colonies. The 1983 nesting in Alabama is thought to be evidence of the expanding Florida population into an area not known to have had any nesting brown pelicans in the past. The above are the reasons for the inclusion of all Atlantic Coast areas as being part of the range of the species being selected for delisting at this time.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and the Service's listing regulations (50 CFR Part 424; under revision to accommodate 1982 amendments) set forth procedures for listing, reclassifying, or removing species. The Secretary of the Interior shall determine whether any species is an Endangered Species or a Threatened Species due to one or more of the five factors described in Section 4(a)(1) of the Act.

The regulations of § 424.11(d) further state that:

The factors for removing a species from the lists are those in paragraph (b) of this section. The data to support such removal must be the best scientific and commercial data available to the Director to substantiate that the species is neither Endangered nor Threatened for one or more of the following reasons:

(1) *Extinction.* Unless each individual of the listed species was previously identified and located, a sufficient period of time must be allowed before delisting to clearly insure that the species is in fact extinct.

(2) *Recovery of the species.* The principal goal of the Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted if the evidence shows that it is no longer Endangered or Threatened.

(3) *Original data for reclassification in error.* Subsequent investigations may produce data that show that the best scientific or commercial data available at the time that the species was listed were in error.

The findings are summarized herein under each of the five criteria of the Act. These factors, and their application to the brown pelican, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Brown pelicans generally nest on small (usually less than 5 acres) coastal islands, either on the ground or in shrubs or trees (U.S. Fish and Wildlife Service, 1980).

1. In Florida, most nesting occurs on mangrove islands. Due to coastal development, this type of habitat has decreased somewhat since the turn of the century, but the total number of acres of mangroves now seems to have stabilized, at least in southern Florida. Mangrove habitat in Florida is actively protected by State permitting authorities.

While there are several traditional, large rookeries in Florida, there are many smaller breeding sites that may shift from year to year. Availability of appropriate and widely distributed nesting island is apparently not a problem in Florida.

Approximately 40 percent of the brown pelican breeding population in Florida currently nests on National Wildlife Refuges. Another 5 percent uses National Park Service land for breeding purposes. Some 8 percent of the remaining breeders in Florida nest on National Audubon Society land, owned or leased by other conservation organizations (Florida Game and

freshwater Fish Commission, 1982). Thus, over 50 percent of Florida's brown pelicans nest on sites that are managed for the primary purpose of promoting and maintaining their reproductive success.

2. *North Carolina.* Up until 1982, brown pelicans in North Carolina used three to five colony sites in two disjunct coastal areas. In 1983, brown pelicans were observed nesting on two additional, more northerly colony sites.

The three longest-standing brown pelican colony sites in the State are currently being acquired by the National Audubon Society.

These colonies will continue to be protected and monitored regardless of the brown pelican's future classification status.

During late winter of 1983, the U.S. Army Corps of Engineers, in cooperation with the State of North Carolina and the U.S. Fish and Wildlife Service, succcessfully rebuilt one severely eroded brown pelican nesting island using dredge spoil material. This effort was motivated in part by the brown pelican's Endangered status.

3. *South Carolina.* Unlike the situation in Florida, pelicans in this State nest in only two colony sites which are not widely distributed. One is located on Cape Romain National Wildlife Refuge, and the other has been on one of several islands some 50–60 miles south of the refuge. Pelicans nesting within the refuge boundaries have been, and will continue to be protected and monitored whatever their status.

The more southerly brown pelican nesting site has shifted periodically, as the various islands used for nesting have eroded or been washed away. The most recent shift occurred after Hurricane David destroyed the existing pelican colony island, Deveaux Bank, in 1979. From 1980 to the present time, pelicans in the area have nested on Bird Key at the mouth of the Stono River.

This island was dedicated as a State sanctuary in 1982. In 1983, however, tidal erosion caused nest flooding and greatly reduced pelican reproductive success. This creates a temporary problem for South Carolina's brown pelican population, since it is believed that all appropriate brown pelican nesting sites in the State are currently occupied (Cely and Wilkinson, 1980). The South Carolina Department of Wildlife and Marine Resources is currently coordinating the effort to stabilize Bird Key with dredge spoil material, as was done in a similar situation in North Carolina. The probability of successful completion of this action is contingent upon the willing cooperation among State and Federal agencies.

4. *Alabama.* In July of 1983, four brown pelican nests were discovered on a spoil island in Mobile Bay, Alabama, that had been created by the U.S. Army Corps of Engineers. The Corps erected warning signs and has been carefully monitoring the progress of these nests.

5. *Other States.* As indicated above, pelicans in Georgia, Virginia, and States further north are from the nesting colonies in Florida and the Carolinas. Habitats in these coastal areas appear to be adequate to meet the future needs of the species.

In summary, a large percentage of the brown pelican's nesting habitat in the area affected by this proposed rule is protected from human intrusion and development. Furthermore, the availability of nesting habitat, on a range-wide basis, is not limiting to brown pelicans. This proposed action, if finalized, would likely result in a decreased concern for the maintenance and protection of brown pelican nesting habitat in some localized situations. However, it is believed that any resulting loss of nesting habitat would be minor, relative to the subspecies' overall needs.

B. *Utilization for commercial, recreational, scientific, or educational purposes.* Since the pelicans' plight has been widely publicized, some human intrusion into their nesting areas, both by scientists and the general public, has increased. While some researchers believe that such disturbance has had little effect, recent studies have indicated human disturbance can significantly decrease brown pelican productivity, by causing the adults to flush, resulting in egg breakage, thermal stress and increased predation on eggs and nestlings (Schreiber, 1979; Anderson and Keith, 1980). Access to brown pelican colonies is limited generally to scientific investigators and resource managers on federally-owned rookeries as well as those designated as sanctuaries.

Protection of other rookeries from human intrusion will be left up to States or individuals, if this proposed rule is made final. Losses from such intrusions have never been significant, however. Pelicans will remain protected from injury or taking by the Migratory Bird Treaty Act of 1918. No other Federal laws are needed in the view of the Service to ensure the continued protection from take of this species in these States. Present State laws would continue to protect the species from take in those States affected under this rule. The pelican is not in trade and is not listed under the Convention on International Trade in Endangered Species.

C. *Disease or predation.* Brown pelicans generally choose rookery sites that are free of mammalian predators that could attack eggs or young. Gulls, fish crows, and other avian predators occasionally destroy unguarded pelican nests, but if brown pelicans are undisturbed, at least one member of the breeding pair usually remains close to the nest, to protect eggs and vulnerable nestlings. In the absence of other disturbing factors, egg and nest predation does not impose a significant limitation on brown pelican reproduction. There is no significant predation on adult brown pelicans.

Like all other species of wildlife, brown pelicans are susceptible to certain diseases and parasitic infections. For example, a foot-rot disease of unknown origin has been observed in brown pelicans on the east coast of Florida. In Texas, where brown pelican numbers are still very low, reproduction was adversely affected by a tick infestation in 1981. Brown pelicans are known to host other parasites, including mites and liver flukes. However, disease and parasites normally pose no significant problems for a healthy brown pelican population.

D. *Absence of existing regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat.* In addition to the Endangered Species Act, the brown pelican is protected from taking by the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*). Brown pelican habitat is given protective consideration by the Fish and Wildlife Coordination Act (through consultation) (16 U.S.C. 661 *et seq.*), the Estuary Protection Act (16 U.S.C. 1221 *et seq.*), Section 10 of the Rivers and Harbors Acts (33 U.S.C. 401 *et seq.*) and Sections 402 and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1521 *et seq.*), as amended by the Clean Water Act (91 Stat. 1566). In addition, continuing pelican research or monitoring programs might be conducted using funds provided, in part, through the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669) and the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901). Funds may also still be available to the States under Section 6 of the Endangered Species Act, as State-listed species or State-candidates as well as federally listed species qualify for study funding. The pelican is listed as Endangered under the State laws of all the affected States except Florida, where it is presently listed as Threatened. State status might be changed following any final action by

the Service. The above regulations and laws, if enforced and/or funded, will provide adequate protection for the brown pelican and its habitat in the event that this proposal is made final, and the existing protection under the Endangered Species Act is thus removed.

E. *Other natural or manmade factors affecting its continued existence.*

1. *Natural factors.* Brown pelican reproductive success is strongly influenced by the weather at the time of breeding. High winds or waters can destroy or inundate nests; untimely cold snaps may contribute to the death of eggs or nestlings, and periodic food shortages may result in decreased nesting and/or fewer young reared (Schreiber, 1979). Therefore, brown pelican productivity normally fluctuates considerably from year to year and place to place. A complete local reproductive failure in one season in one locality is not an uncommon occurrence and no cause for immediate alarm, if the brown pelican population is at safe levels overall and the causes are largely natural fluctuations of their environment. The pelican is a long-lived species that has evolved with this "boom or bust" reproductive strategy.

Thus, brown pelicans may switch breeding sites from year to year, especially in Florida, where the breeding population is widely distributed. Therefore, abandonment of one or several rookeries is no indication of an overall declining population. Examples of localized population declines and reproductive failures are numerous. Brown pelican populations have apparently been delining in the Florida Keys recently and may be declining on the southwest coast of Florida as well. One colony of Florida's east coast is known to have experienced a 100 percent reproductive failure in 1982. Despite these localized problems, however, pelicans have increased in other areas, and the total population of brown pelicans in the State has remained relatively stable (see table of nest counts above). This situation emphasizes the necessity, particularly in Florida, for statewide monitoring around the time of peak nesting to determine overall population trends.

In summary, natural factors may adversely affect brown pelican reproduction on a short-term localized basis, but in and of themselves, pose no threat to the continued existence of the species.

2. *Man-related factors.*—a. *Environmental contamination* (except from oil and gas development). As stated above, susceptability to pesticides was the primary factor contributing to the original endangerment of the brown pelican. Due to environmental regulations promulgated over the past decade, the threat of organochlorine pesticide pollution has been greatly reduced, and the residues of those persistent compounds in brown pelican eggs have shown a steady decrease. The effects on brown pelicans from environmental contaminants other than the organochlorines are not thoroughly known; however, there are indications that some localized contaminant-related problems still exist for this highly susceptible species. A small (about 10 birds) recent pelican die-off in Florida, for example, is believed to be possibly related to the herbicides used on U.S. Air Force Base. In North Carolina, proposed large-scale farming operations may increase by a small amount the input of environmental contaminants into estuarine areas where brown pelicans feed.

As is the case with oil and gas development (see below) the present threat of environmental contaminants to the continued existence of the brown pelican is expressed as a potential and speculative, rather than actual, threat. The original decline of the brown pelican was not detected until the species was in serious trouble. Continued monitoring of a representative sample of pelican colonies should alert conservation authorities to any incipient problems in time to avert another decline of similar magnitude. The Service expects a major proportion of these colonies to be surveyed regularly at Federal, State, and private parks and refuges by biologists regardless of the species' classification, if any, under the Act.

b. *Commercial fishing activity.* Throughout much of its range, the diet of the eastern brown pelican is composed largely of Atlantic and Gulf menhaden. The menhaden fisheries are the largest in North America, comprising between 24 percent and 43 percent of the total U.S. fishery landings over the past decade.

There does not appear to be a conflict between pelican conservation and the menhaden fishery in the area of this proposed rule, since the portion of the Atlantic menhaden fishery that occurs within the range of the Atlantic coast pelican population is compatible with peak historical pelican numbers. There is virtually no commercial menhaden fishing in peninsular Florida.

c. *Recreational fishing activity.* Every year, a number of brown pelicans become hooked or entangled in monofilament line or caught by baited hooks, resulting in injury and some mortality. Although no overall records have been kept, it appears that in Florida, where the majority of recreational fishery-related pelican problems occur, only about 500 pelicans per year are injured or killed in such incidents. This level of injury or mortality is not a significant threat to the species given the fact that there are over 30,000 birds in Florida. Furthermore, this impact is largely accidental; therefore, this rule is not anticipated to have any effect on its occurrence. This problem is probably more effectively dealt with through educational, rather than legal, channels.

d. *Coastal oil and gas development.* Any oil and gas development could increase the likelihood of introducing some hydrocarbon pollutants into the marine environment. Demonstrated adverse effects of oil on avian species include decreased hatchability of eggs, direct toxicity and stress from oil ingested during feeding or preening, and feather fouling, resulting in decreased insulation and possible drowning (Holmes and Cronshaw, 1977). Brown pelicans breeding in North and South Carolina could be vulnerable to oil spills, because of their concentration on small areas during the breeding season.

Outer Continental Shelf (OCS) oil and gas leasing in the area of this proposed rule is in its infancy, and it is difficult even to speculate on the area's potential. The Minerals Management Service's (MMS) 1982 5-year OCS oil and gas leasing schedule proposes 6 sales within the area addressed by this proposed rule (East Gulf of Mexico and South Atlantic). Two of these sales have been held on schedule. Response has been moderate. To date, only 6 exploratory wells have been drilled in the South Atlantic area, and 25 wells in the East Gulf area. None of these wells has been productive. Interest in offshore leases has generally been confined to tracts 100 miles or more from the coastline.

Of the States in the proposed rule area in which brown pelican nest, only Florida and Alabama (one active well each) have any current oil and gas development in State waters. To date, only Alabama coastal area has shown any promise of productivity, and this has been for gas, rather than oil production. The States on North Carolina, South Carolina, and Florida, in particular, are very concerned about the potential adverse environmental effects of oil and gas development in coastal areas and are not encouraging oil and gas leasing in State waters. Florida recently passed a law prohibiting drilling in all bays, estuaries, rivers, and

within 1 mile of the coastline. Florida and North Carolina are currently conducting studies to determine whether, and what type of leasing should be allowed in State waters. The Florida Department of Environmental Regulation also has strict requirements for state-of-the-art equipment to prevent blowouts and spills and to protect the environment, should they occur.

Federal laws regulating offshore oil and gas operations have also become more stringent within the past decade. The oil content of water produced from offshore operational discharges is limited by effluent guidelines promulgated by EPA, which are enforced by National Pollution Discharge Elimination System permits. The U.S. Geological Survey is responsible for day-to-day inspection and monitoring of Outer Continental Shelf (OCS) oil and gas operations and monitoring hydrocarbon discharges resulting from such operations. Additionally, an Environmental Impact Statement must be prepared for all MMS OCS lease sales.

In summary, the possibility of oil spills impacting brown pelican nesting colonies in the area of this proposed rule is minimal and speculative due to: (1) The relatively great distance offshore of current and projected future OCS leases, (2) the general reluctance of the States involved to lease tracts in State waters, (3) the stringent regulations (both State and Federal) governing drilling operational procedures and equipment, and (4) the general lack of interest in this part of the coastline as a potential oil-producing region.

Future Conservation Measures

Biological data indicate that the brown pelican is not currently Endangered or Threatened in the area covered by this rule. However, in order to ensure maintenance of this non-endangered status, the Service will work to establish a Federal/State/private monitoring program for the brown pelican as a high priority item. The Service envisions the monitoring programs as including:

(1). Annual breeding censuses (nest counts) at the time of peak nesting. These counts should be made in the same way each year by all participating agencies, in order to detect long-term and overall population trends.

(2). On-site inspections of representative brown pelican rookeries, to check for broken or thin-shelled eggs, or large numbers of sick or dead birds. If any of the above are found, specimens should be obtained for diagnosis and tissue analysis.

In addition, brown pelican management should include public exclusion from rookeries during the nesting season, and, where possible, an organized banding effort to follow post-fledging movements and mortality.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service does not prepare Environmental Assessment for Section 4(a) actions. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals, which held that the preparation of NEPA documentation was not required as a matter of law for Section 4(a) actions under the Endangered Species Act. *PLF v. Andrus* 657 F.2d 829 (6th Cir. 1981).

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A more complete list of references is on file in its Jackson, Mississippi Office, as well as various letters, administrative reports, and other documents not referenced here. These are available for inspection along with the rest of the administrative record as indicated under the "Addresses Section" in this document.

Critical Habitat

Critical Habitat for the brown pelican was not designated at the time of listing and has not been since designated. Therefore, this proposed rule, if finalized, will have no effect on Critical Habitat for this species.

Available Conservation Measures

In addition to the effects discussed above, the effects of this proposal if published as a final rule include, but would not necessarily be limited to, those mentioned below:

The prohibitions pertaining to an Endangered species found in Section 9(a)(1) of the Act, as implemented at § 17.21, would no longer apply in the area covered by this rule. These include prohibitions on taking, possessing, selling or offering for sale, exporting, and shipping in interstate or foreign commerce. The protection afforded the brown pelican under Section 7(a) of the Act would also be eliminated in the area covered by this rule. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out, are not likely to jeopardize listed species or result in the destruction or adverse modification of designated Critical Habitat. Any economic consequences that may have occurred as a result of Sections 7 and 9 of the Act would be eliminated in the area covered by the rule. All prohibitions and provisions set forth in the Act would still apply to the brown pelican in those portions of its range not specifically addressed by this rule. The brown pelican would also receive protection under other Federal and State laws like the Migratory Bird Treaty Act.

Survey work leading to the recommendation for delisting was made possible by partial funding through grants-in-aid to qualifying States under Section 6 of the Act. An attendant effect of delisting may be to lower the Federal funding priority under the grant program. However, the Service strongly

recommends and solicits the participation of the affected States in carrying out continued monitoring of brown pelican reproductive success, should this proposal be finalized. Since the Service can provide funding under Section 6 for conservation programs for State listed species, the Service intends to give the pelican continued consideration for any available Section 6 monies for such study.

Information Collection and Recordkeeping Requirements

This rule will eliminate all recordkeeping and reporting requirements that presently exist under the Act involving Federal, State, and private agencies and individuals, including those involving permit requirements, in the area covered by this rule.

Public Comments Solicited

The Service intends that the rules finally adopted will be accurate and as effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

A. Biological or other relevant data concerning any threat (or) the lack thereof) to *Pelecanus occidentalis* in the southeastern United States;

B. Additional information concerning the range and distribution of this species;

C. Current or planned activities in the subject areas;

D. Suggestions concerning the necessity and sufficiency of the management program outlined above; and

E. Possible alternatives to this proposed rule.

Final promulgation of the regulations for the brown pelican will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to Mr. Dennis B. Jordan, Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 3185, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213–7685 (601/960–4900).

Author

The primary author of this proposal is Ms. Judy Jacobs, Jackson Endangered Species Field Station, Jackson Mall Office Center, Suite 3185, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213–7685 (601/960–4900). Extensive revisions of the text of this proposal were made in the Regional Office, Atlanta, and the Washington Office of the Service, primarily in the latter office.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. It is proposed to amend § 17.11(h) by revising the entry for the brown pelican under "Birds" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Pelican, brown	*Pelecanus occidentalis*	U.S.A. (Carolinas to TX, CA), West Indies, Central and South America, coastal.	Entire—except U.S. Atlantic coast, FL and AL.	E	2, 3, —	NA	NA.

Dated: October 6, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-30359 Filed 11-9-83; 8:45 am]

BILLING CODE 4310-55-M

federal register

Thursday
November 10, 1983

Part IV

Department of Health and Human Services

Public Health Service

Privacy Act of 1974; Proposed New Routine Uses

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Privacy Act of 1974; Proposed New Routine Uses

AGENCY: Public Health Service (PHS), HHS.

ACTION: Notification of new routine uses permitting disclosures of information from five Privacy Act systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act, PHS is publishing notice of a proposal to establish 24 new routine uses permitting disclosure of information from five Privacy Act systems of records maintained by the Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Management, which include: 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM." 09–37–0003, "PHS Commissioned Corps Medical Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM"; 09–37–0006, "PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM." Some of the routine uses added to system notice 09–37–0005 do not apply to that portion of the system that includes the Board for Correction of PHS Commissioned Corps Records. When a routine use does not apply to that portion of the system, the description of the new routine use will include a statement to that effect. When the routine use does apply to the Board for Correction of PHS Commissioned Corps Records, no additional statement will be made.

The new routine uses have been added to these systems of records to: (1) Comply with recent legislative changes affecting commissioned corps personnel administration; (2) more fully utilize improved technology available in the areas of records maintenance; (3) eliminate the need for separate written authorization from an individual to disclose information about that individual when that individual has already authorized an organization to gather information about him/her at his/her own request; and (4) permit disclosures which are consistent with those authorized for comparable personnel systems notices.

In addition, all notices include modifications for the purposes of clarity, timeliness, and correctness, and are complete as of the date of signature below. None of these additional modifications meet the OMB criteria either for a new or altered system report, or for an advance period of public comment.

PHS invites interested persons to submit comments on the proposed routine uses on or before December 12, 1983.

DATE: PHS will adopt the new routine uses without further notice 30 days after the date of publication (December 12, 1983), unless PHS receives comments which would result in a contrary determination.

ADDRESS: Send comments to the Commissioned Personnel Operations Division/OPM/OM, at the address listed below. Comments received may be inspected from 9 a.m. to 3 p.m., Monday through Friday, in Room 4A–09, Parklawn Building, at that address.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Blaner, Military Personnel Management Specialist, Commissioned Personnel Operations Division /OPM/OM, Room 4A–09, Parklawn, Building, 5600 Fishers Lane, Rockville, Maryland 20857, or call 301–443–2626. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The modifications being published at this time include the following:

A. The categories of individuals about whom information is maintained in all systems have been described more precisely.

B. The retention and disposal procedures for all systems have been explained in greater detail.

C. Information about the maintenance of off-site, duplicate records has been included to show that data essential to reconstruction of key personnel data is protected in the event original records are destroyed.

D. Additional safeguards have been added to all systems in anticipation of using contractors to refine records.

E. New safeguard procedures for use in daily personnel administration activities, designed to enhance the protection of individual privacy, have been included.

F. The routine use previously published in system 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM," permitting disclosure for unspecified research purposes, has been deleted.

G. System 09–37–0006 no longer includes applicants among the individuals about whom records may be maintained.

H. System 09–37–0008 no longer includes the Federal Record Center in St. Louis, Missouri, as a system location because any records not destroyed at the duty station are forwarded to the system manager for inclusion in system 09–37–0002 records and are thereafter treated in the same manner as other records in 09–37–0002.

I. The system manager for the Board for Correction of PHS Commissioned Corps Records has been more clearly identified, and all parts of the system notice have been clarified to show that the records of the Board for Correction of PHS Commissioned Corps Records are distinctly different from those kept and maintained for all other boards.

J. The following paragraphs show each proposed routine use that is being added (shown in quotation marks), the reason the routine use is being added, and the system notice in which it will appear:

1. "These records or information from these records may be used to locate individuals for personnel research or survey response, and in the production of sumary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such as way as to make the data individually identifiable by inference."

Because the commissioned corps is composed solely of health professionals, it is uniquely suited to studies concerning the use of health personnel by the Federal government. Before disclosures are made under this routine use, sufficient information must be provided to the Office of Personnel Management/OM/OASH to fully describe the purposes of the research and the safeguards that will be employed to protect the privacy of individuals whose records may be used in the survey process. This routine use is being addd to system 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS-OASH/OM."

2. "These records or information from these records may be used to disclose information, such as, but not limited to, name, home address, Social Security Number, earned income, withholding status, and amount of taxes withheld, to the Department of Treasury for the following purposes: Preparation and issuance of salary, retired pay, and annuity checks; issuance of U.S. Savings

bonds; recording income information; and collecting income taxes."

This office is responsible for payroll functions on behalf of active duty personnel, retirees, and annuitants. This routine use will permit the routine disclosure of information needed to collect Federal income taxes. This routine use is being added to system notice 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM."

3. "These records or information from these records may be used to disclose to State local government agencies having taxing authority pertinent records relating to employees, retirees, and annuitants, including name, home address, Social Security Number, earned income, and amount of taxes withheld, when these agencies have entered into tax withholding agreement with the Secretary of Treasury, but only to those State and local taxing authorities to which a member, retiree, or annuitant is or was subject to tax, regardless of whether tax is or was withheld."

This new routine use reflects the pay function performed by this office and its relationship with Government taxing authorities outside the Federal sector. This routine use is being added to system notice 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM."

4. "These records or information from these records may be used to disclose pertinent information to appropriate Federal, State, or local agencies; international agencies; of foreign governments responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, regulations, or orders, when PHS becomes aware of evidence of a potential violation of civil or criminal law."

General personnel files and disciplinary files occasionally contain information that may be useful in law enforcement activities. This routine use permits cooperation between this office and law enforcement officials. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM"; 09–37–0006, "PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files, HHS/OASH/OM"; 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

5. "These records or information from these records may be used to disclose information to an individual whom has been asked to provide a reference, to the extent necessary to clearly identify the individual to who the reference will pertain, to inform the source of the purpose(s) of the reference, and to identify the type of information requested from the source, where necessary to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit."

Often an individual who is asked to provide a reference is uncertain of the identity of the person the reference concerns. This is especially true in academic settings, where faculty members teach hundreds of students each year. Therefore, this routine use would permit disclosure of information to a referece source when needed to make a positive identification of the individual to whom the reference pertains. This routine use is being added to system notices 09–37–0002, " PHS Commissioned Corps Personnel Records, HHS/OASH/OM;" and 09–37–0008, PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

6. "These records or information from these records may be used to disclose to any agency in the executive, legislative, or judicial branch; the District of Columbia Government; a State or local Government agency; or a nonprofit institution; in response to its request, or at the intitation of the agency maintaining the records, information in connection with the hiring of an employee; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract; the issuance of a license, grant or other benefit by the requesting agency; or the lawful statutory, administrative, or investigative purpose of the agecny to the extent that the information is relevant and necessary to the requesting agency's decision on the matter."

Under this routine use, the Commissioned Personnel Operations Division (CPOD) would be allowed to release pertinent informationto an organization when that organization is performing some service on behalf of the individualto whom the record pertains. In most cases, the individual to whom the record pertains will have requested or authorized the organization to gather the information sought. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

7. "When the Department contemplates contracting with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system, relevent records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. These safeguards are explained in the section entitled "Safeguards"."

As personnel headquarters, this office must keep some on-site records concerning everyone who served in the commissioned corps personnel system and those who received benefits based on a sponsor's service. Because of the large number of records and the amount of space those records occupy, records maintenance technology (micro-fiche, computer tapes, etc.) may be used to reduce the physical volume of and provide easier access to those records. To accomplish this, it may be necessary to permit temmorary removal of the records from their present location for that period of time necessary to copy or refine the records. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and 09–37–0003, "PHS Commissioned Corps Medical Records, HHS/OASH/OM"; and 09–37–0005, "PHS Commissioned Corpsj Board Proceedings, HHS/OASH/OM."

8. "These records or information from these records may be used to disclose information to the Department of State and officials of foreign governments for the issuance of passports, visas, and other clearance before an active, retired, or inactive reserve officer is assigned to that country."

This routine use permits disclosure on behalf of an active duty officer when it is necessary to have an official passport/visa issued to the officer in order for him/her to effectively perform assigned duties. In the case of retired and inactive reserve officers, there is a statutory requirement that their employment with a foreign government be approved by the Department of State prior to acceptance. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

9. "These records or information from these records may be used to disclose information to the Department of Labor,

Veterans' Administration, Social Security Administration, or other Federal agencies having special employee benefit programs; to a national, State, county, or municipal agency; or to a publicly recognized charitable organization when necessary to adjudicate a claim under a benefit program, or to conduct analytical studies of benefits being paid under such programs, provided such disclosure is consistent with the purposes for which the information was originally collected."

This routine use would permit disclosure of information related to obtaining a benefit, even though an officer had not applied for a benefit. For example, when an individual leaves active service, a statement of service is automatically sent to the Veterans' Administration, which, in turn, calculates all benefits the individual may be entitled to and notifies the individual of his/her eligibility. It would also authorize disclosure of information for benefits which the officer initially seeks. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

10. "These records or information from these records may be used to disclose information to the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19, or for budgetary or management oversight purposes."

In recent years, OMB has studied the function, utilization, and composition of the commissioned corps. Individually identifiable data may be requested or provided to compare the qualifications of officers, assignments being performed, retention statistics, compensation levels of various officers, and other similar information with information about other personnel systems. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

11. "When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is legally responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled."

This routine use permits those caring for mentally incompetent individuals to have access to data critical in determining the individual's eligibility for monetary and service benefits. It does not permit access to information other than that needed to make a benefit claim. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0003, "PHS Commissioned Corps Medical Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

12. "These records or information from these records may be used in response to interrogatories in the prosecution of a divorce action or settlement for purposes stated in 10 U.S.C. 1408 ("The Former Spouses' Protection Act")."

The Former Spouses' Protection Act allows courts to divide retired pay as property. A court or the legal representative of the former spouse may need data from the personnel/payroll record of an officer before any judgement is made concerning division of property. This routine use allows that information to be provided without a subpoena from the court and without the individual officer's consent. This routine use in being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

13. "These records or information from these records may be used to disclose information about the entitlements and benefits of a beneficiary of a deceased active duty officer, retiree, or annuitant for purposes of making disposition of the estate."

PHS awards certain monetary benefits to the designed beneficiary of a deceased officer. In the case where no designation has been made, PHS must decide who the proper beneficiary is from among the claimants. In the course of the adjudication process, it may be necessary to reveal information about a beneficiary in an effort to resolve a dispute. This routine use is being added to system notice 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM."

14. "These records or information from these records may be used to disclose information to the Department of Defense, United States Coast Guard, or Federal Emergency Management Agency, to the extent necessary to facilitate participation of PHS members in planning, training, and emergency operations in support of civil defense activities, and to provide support in the event of a national emergency."

PHS commissioned officers are expected to participate in a number of emergency response plans being developed by various Federal agencies. In the course of the planning, it may be necessary to disclose personal information about individual officers so that emergency planners can identify specially trained health personnel available for use in emergency situations. This routine use is being added to system notice 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM."

15. "These records or information from these records may be used to disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (e.g., private vendors of training courses of programs, private schools) for training purposes, such as crediting of work experience in the Commissioned Officer Student Training and Extern Program, or verification of status or income."

Before an officer can be found eligible for certain educational benefits, his/her eligibility must be verified. Eligibility requirements vary with the type of training requested and the agency supporting the training. Therefore, verification of eligibility may include disclosing information about salary, educational background, performance, or home address. In addition, many academic institutions offer credit for work experience with PHS, making it necessary for PHS to disclose certain information to facilitate the awarding of credit. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM" (with the exception of the Board for Correction of PHS Commissioned Corps Records); and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

16. "These records or information from these records may be used to disclose to uniformed services health and medical facilities and to the Department of Defense, Office of the Civilian Health and Medical Program of the Uniformed Services, information

necessary to verify the eligibility of an officer, his/her dependents, or a former spouse for medical benefits in compliance with the Defense Enrollment/Eligibility Reporting System (DEERS)."

DEERS is a nationwide computer network containing information about all active duty members of the uniformed services, retirees, and their dependents. Because PHS participates in DEERS, information about PHS officers and their dependents can be learned by those authorized to access the system. The information available is limited to that needed to verify eligibility, and includes name, date of birth, Social Security Number (if available), home address, physical appearance, and relationship to the sponsor officer or retiree. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and, 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

17. "These records or information from these records may be used to disclose information to agencies or organizations established in medically underserved areas who apply to the National Health Service Corps for the assignment of commissioned officers to such agencies or organizations."

This routine use would permit the disclosure of information needed to review an officer's suitability for employment at a private medical facility that participates in the National Health Service Corps program. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and, 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

18. "These records or information from these records may be used to disclose information on officers assigned to Federal or private health care facilities to private sector (i.e., other than Federal, State, or local Government) agencies, boards, or commissions (e.g., the Joint Commission on Accreditation of Hospitals) to obtain accreditation or other approval rating, and only to the extent that the information disclosed is relevant and necessary for that purpose."

Athough the facility undergoing the accreditation process will have personnel information on officers assigned to the facility, that information will not be as complete as that maintained in the Official Personnel File (OPF) in this office. Therefore, the OPF should be made available when it will assist in the accreditation process. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

19. "When Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department may make such records available."

This routine use indicates our intent to cooperate with Federal agencies having law enforcement authority to the extent necessary for them to carry out their legal reponsibilities. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0006, "PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files, HHS/OASH/OM"; and, 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

20. "These records or information from these records may be used to disclose information to any Federal agency in the executive, legislative, or judicial branch; or the Government of the District of Columbia, that employs a retired PHS officer in a civil service capacity, to the extent necessary for the agency to reduce the retired officer's civil service salary by the amount by which his/her retired pay was increased by a cost-of-living adjustment."

This routine use implements a new provision of law enacted by Pub. L. 97–253, as amended (5 U.S.C. 5532 (note)). It will remain in effect until the end of 1985. This routine use is being added to system notice 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM."

21. "These records or information from these records may be used to disclose to a private employer who considers hiring a former officer information such as the officer's dates of employment, salary, job title and description, duty station, and character and nature of separation."

When requesting information about a former officer, employers often request a judgmental statement about the officer's tenure. This is expressed by the character or nature of the separation. In the past, this information has not been disclosed. However, information of this type significantly contributes to a decision about an individual's potential employment. This routine use is being added to system notice 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM."

22. "These records or information from these records may be used to disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment programs, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978."

This routine use would permit disclosure of employment information about an officer even if he/she is not a direct participant in a EEO investigation. This disclosure would allow the Commission to study employment practices and patterns within various agencies, professional categories, age groups, or other common element groups. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; and, 09–37–0006, "PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files, HHS/OASH/OM."

23. "These records or information from these records may be used to disclose to Federal and non-Federal agencies information allowing the consideration and selection of officers for honor awards made as a result of the individual's work as a commissioned officer, and to publicize those awards granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize officer awards or honors."

Because of the pioneering nature of the work performed by PHS officers, they are often awarded honors from the private and non-profit sectors. In making these awards, the granting organization often seeks biographical information about the recipient. To the extent that disclosure of this type of information would not be a clearly unwarranted invasion of privacy, PHS will provide information under these circumstances. This routine use is being added to system notices 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM" (with the exception of the Board for Correction of PHS Commissioned Corps Records); and 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM."

24. "These records or information from these records may be used to

disclose information to officials of the Selective Service Administration to allow crediting of active service performed by an individual with PHS so that the individual may be properly classified if draft laws once again become operative."

Active service as a PHS officer satisfies a service obligation under the Selective Service Act when a draft is in effect. Since draft registration has been reinstated recently, PHS may be asked to provide information to the Selective Service Administration about current and former officers. If such a request is made, PHS will comply with it. This routine use is being added to system notice 09-37-0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM."

PHS last published these system notices in the **Federal Register** on October 13, 1982 (47 FR 45676-45685). We are republishing the complete notices below, incorporating the changes described above.

Dated: October 24, 1983.

Peter J. Bersano,

Acting Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-37-0002

SYSTEM NAME:

PHS Commissioned Corps Personnel Records, HHS/OASH/OM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Director, Commissioned Personnel Operations Division, Office of Personnel Management/OM/PHS, Room 4-35, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; and

General Services Administration, Federal Records Center, 111 Winnebago Street, St. Louis, MO 63118.

Critical data that can be used to construct key actions concerning an individual's employment, retirement, or benefits may be micro-fiched and stored at a location apart from the system locations shown above in the event the original records are destroyed. Only copies of data available in one of the two locations shown above will be stored at this separate location. Therefore, all requests for access should be directed to the System Manager at the first address shown above.

Names and addresses of contractors given information under routine use 9 can be obtained from the system manager at the location identified above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioned officers, former commissioned officers, inactive reserve officers, dependents and survivors of the above, former spouses of retired officers, and applicants to the PHS Commissioned Corps. Hereafter, officers of the PHS Commissioned Corps will be referred to as officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain:

1. Applications for appointment, references and other documents relating to qualifications or suitability for appointment and assignment, including medical intern and residency evaluations;

2. Official Personnel Folders (OPFs), for all officers who or were called to active duty, which include: All documents related to the appointment process; efficiency and progress reports; career development and training records; documents relating to promotion, retention, separation, and other personnel actions applications and records of Service action relating to pay, travel, and allowances (including overseas educational allowances for dependents); identification and privilege card records; applications and records of Service action relating to Commission Officer Residency Deferment Program and Commissioned Officer Student Training and Extern Programs; survivor benefits; selection system applications; non-board terminations and reprimands issued after final administrative action; pay records and medical data after separation or death of the subject individual; leave records; and awards and authorizations;

3. Worksheets, internal forms, internal memoranda, and other documents which result in, or contribute to an action resulting in a record identified in 2 above;

4. Service Record Cards (summarizing personnel actions); and

5. Correspondence relating to the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Public Health Service Act (42 U.S.C. 202 et seq.); The Social Security Act (42 U.S.C. 410(m) et seq.); The Former Spouses' Protection Act (10 U.S.C. 1408); and Executive Orders 9397, "Numbering System for Federal Accounts Relating to Individual Persons," and 10450, "Security Requirements for Government Employment."

PURPOSES:

The information is used by the Commissioned Personnel Operations Division (CPOD) to:

1. Determine qualifications and suitability for appointment, selection, career development and training, transfers, promotions, pay and allowances and other financial benefits and obligations, retention and other personnel actions, and in the preparation of the Commissioned Officer Roster and Promotion Seniority of the Public Health Service;

2. Determine eligibility or entitlement of dependents and beneficiaries for benefits based on the service of a PHS commissioned officer;

3. Give legal force and effect to personnel transactions and establish officer rights and benefits under the pertinent laws and regulations governing the commissioned corps personnel system;

4. Provide material for research by the Office of the Secretary, HHS, and the Office of the Assistant Secretary for Health, PHS, concerning the activities of health personnel because the commissioned corps consists solely of health professionals unlike other personnel systems;

5. Provide information to DHHS components seeking to collect an overdue debt to the Federal government, but only to the extent necessary to collect that overdue debt.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records or information from these records may be used:

1. To locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

2. To disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is:

a. The Department, any component of the Department, or any employee of the Department in his or her official capacity;

b. The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

c. Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. To disclose information, such as, but not limited to, name, home address, social security number, earned income, withholding status, and amount of taxes withheld, to the Department of Treasury for the following purposes: preparation and issuance of salary, retired pay, and annuity checks; issuance of U.S. Savings Bonds; recording income information; and collecting income taxes.

5. To disclose to State and local government agencies having taxing authority pertinent records relating to employees, retirees, and annuitants, including name, home address, social security number, earned income, and amount of taxes withheld, when these agencies have entered into tax withholding agreements with the Secretary of Treasury, but only to those State and local taxing authorities for which a member, retiree, or annuitant is or was subject to tax, regardless of whether tax is or was withheld.

6. To disclose pertinent information to appropriate Federal, State, or local agencies; international agencies; or foreign governments responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, regulations, or orders, when PHS becomes aware of evidence of a potential violation of civil or criminal law.

7. To disclose information to an individual who has been asked to provide a reference, to the extent necessary to clearly identify the individual to whom the reference will pertain, inform the source of the purpose(s) of the reference, and to identify the type of information requested from the source, where necessary to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

8. To disclose to any agency in the executive, legislative, or judicial branch; the District of Columbia Government; a State or local government agency; or a nonprofit institution; in response to its request, or at the initiation of the agency maintaining the records, information in connection with the hiring of an employee; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract; the issuance of a license, grant or other benefit by the requesting agency; or the lawful statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

9. When the Department contemplates contracting with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. These safeguards are explained in the section entitled "Safeguards."

10. To disclose information to the Department of State and officials of foreign governments for the issuance of passports, visas, and other clearance before an active, retired, or inactive reserve officer is assigned to that country.

11. To disclose information to the Department of Labor, Veterans Administration, Social Security Administration, or other Federal agencies having special employee benefit programs: To a national, State, county, or municipal agency; or to a publicly recognized charitable organization when necessary to adjudicate a claim under a benefit program, or to conduct analytical studies of benefits being paid under such programs, provided such disclosure is consistent with the purposes for which the information was originally collected.

12. To disclose information to the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19, or for budgetary or management oversight purposes.

13. When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is legally responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

14. In response to interrogatories in the prosecution of a divorce action or settlement for purposes stated in 10 U.S.C. 1408 ("The Former Spouses' Protection Act").

15. To disclose information about the entitlements and benefits of a beneficiary of a deceased active duty officer, retiree, or annuitant for purposes of making disposition of the estate.

16. To disclose information to the Department of Defense, United States Coast Guard, or Federal Emergency Management Agency, to the extent necessary to facilitate participation of PHS members in planning, training, and emergency operations in support of civil defense activities, and to provide support in the event of a national emergency.

17. To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (e.g., private vendors of training courses or programs, private schools) for training purposes, such as crediting of work experience in the Commissioned Officer Student Training and Extern Program, or verification of status or income.

18. To disclose to uniformed services health and medical facilities and to the Department of Defense Office of the Civilian Health and Medical Program of the Uniformed Services information necessary to verify the eligibility of an officer, his/her dependents, or a former spouse for medical benefits in compliance with the Defense Enrollment/Eligibility Reporting System (DEERS).

19. To disclose information to agencies or organizations established in medically underserved areas who apply to the National Health Service Corps for the assignment of commissioned officers to such agencies or organizations.

20. To disclose information on officers assigned to Federal health care facilities to private sector (i.e., other than Federal, State, or local government) agencies, boards, or commissions (e.g. the Joint Commission on Accreditation of Hospitals), to obtain accreditation or other approval rating and only to the extent that the information disclosed is relevant and necessary for that purpose.

21. When Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department may make such records available.

22. To disclose information to any Federal agency in the executive, legislative, or judicial branch; or the Government of the District of Columbia, that employs a retired PHS officer in a civil service capacity, to the extent necessary for the agency to reduce the retired officer's civil service salary by the amount by which his/her retired pay was increased by a cost-of-living adjustment.

23. To disclose to a private employer who considers hiring a former officer information such as the officer's dates of employment, salary, job title and description, duty station, and character and nature of separation.

24. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

25. To disclose to Federal and non-Federal agencies information allowing the consideration and selection of officers for honor awards made as a result of the individual's work as a commissioned officer, and to publicize those awards granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize officer awards and honors.

26. To disclose information to officials of the Selective Service Administration to allow crediting of active service performed by an individual with PHS so that the individual may be properly classified if draft laws once again become operative.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated files are stored on disks, micro-fiche, and magnetic tapes. Nonautomated (hard-copy) files are kept in offices, any may be stored in Lektrievers, Conserv-a-files, safes, cabinets, bookcases, or desks.

RETRIEVABILITY:

Alphabetically by name by PHS serial number, and by Social Security Number in accordance with Section 7(a)(2)(B) of the Privacy Act and Executive Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons."

SAFEGUARDS:

Access to and use of automated records is limited to personnel employed in the Office of Personnel Management/OM/PHS and the Commissioned Officers Systems Branch/Data/Systems Division/Employee Systems Center/Principal Deputy Assistant Secretary for Personnel Administration/Office of the Assistant Secretary for Personnel Administration/Office of the Secretary, whose official duties require such access. Automated records are secured by assigning individual access codes to authorized personnel. These safeguards are provided for automated records in accordance with Part 6 of the Department's ADP Systems Manual.

Access to and use of automated records is limited to departmental employees whose official duties require such access; to individuals needing access to the information for purposes stated under routine uses; and to individuals who have written permission to review the file when that permission has been obtained from the individual whom the file concerns. These individuals are permitted access to files only after they have satisfactorily identified themselves as having an official need to review information. They must complete Privacy Act nondisclosure oaths and must submit a written request for access to Official Personnel Files showing the name and employing office of the requester, the date on which the file is requested, and the purpose for reviewing the material in the file. This written request is then placed into the file. All files are secured when employees are absent from the premises and are further protected by combination locks on entryways and by the building security force. When copying records for authorized purposes, care is taken to ensure that any imperfect or extra copies are not left in the reproduction room where they can be read, but are destroyed or obliterated. These safeguards are provided for nonautomated records in accordance with chapters 45–13 and PHS.hf:45–13 of the Department's General Administration Manual.

A contractor who is given records under routine use 9 must maintain the records in a secured area, allow only those individuals immediately involved in the processing of the records to have access to them, prevent any unauthorized persons from gaining access to the records, caution employees about the confidentiality of the records, and return the records to the System Manager immediately upon completion of the work specified in the contract. Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records are instructed to make no disclosure of the records except as authorized by the System Manager.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time. Applicant files of individuals selected for appointment as commissioned officers become the Official Personnel Folder. Applicant files of individuals not selected for appointment are maintained for one year after the application process has been completed and are then destroyed, unless the applicant requests that the file be hald open for an additional year. The OPF is maintained for two years after the officer separates from active duty, at which time such officer's OPF is transferred to a Federal Records Center for permanent storage. The records of a retired or deceased officer are maintained until two years after the individual's death and are then transferred to a Federal Records Center for permanent storage, unless a dependent of the deceased officer continues to receive benefits from PHS based upon the deceased's PHS service. When the dependent or beneficiary is deceased or becomes ineligible for further benefits based on the deceased's service, all records are maintained for one year, in the event information is needed from the records to help settle an estate, and are than transferred to the Federal Records Center for permanent storage. Service Record Cards which list critical data with regard to the dates of the officer's appointment, reassignments, and separation are maintained permanently by the System Manager.

SYSTEM MANAGER AND ADDRESS:

Director, CPOD (See System Location above).

NOTIFICATION PROCEDURE:

An individual who is the subject of a record and who appears in person seeking access shall provide his/her name and at least one piece of tangible identification (e.g., PHS Commissioned Corps Identification Card, driver's license, passport, or voter registration card). Identification cards with current photographs are preferred but not required. Written requests must be addressed to the System Manager and signed. A comparison will be made of that signature and the signature maintained on file prior to release of the material requested.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. Access to record systems which have been granted an exemption from the Privacy Act access requirement may be made at the discretion of the System Manager. Denial of access may be applied to the Director, Office of Management, PHS, Room 17–25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

CONTESTING RECORD PROCEDURES:

If access has been granted, contact the System Manager at the address specified under System Location above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

From individual officers, applicants, persons providing references, dependents, former spouses of retired officers, governmental and private training facilities, and from the records contained in the following systems: 09–37–0003, "PHS Commissioned Corps Medical Records," HHS/OASH/OM; 09–37–0005, "PHS Commissioned Corps Board Proceedings," HHS/OASH/OM; 09–37–0006, "PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files," HHS/OASH/OM; 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files," HHS/OASH/OM; and 09–90–0017, "Pay, Leave and Attendance Records," HHS/OS/ASPER.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individuals will be provided information from this record system except when, in accordance with the provisions of 5 U.S.C. 552a(k)(5): (a) Disclosure of such information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or (b) if the information was obtained prior to September 27, 1975, disclosure of such information would reveal the identity of the source who provided information under an implied promise that the identity of the source would be held in confidence.

SYSTEM NAME:

PHS Commissioned Corps Medical Records, HHS/OASH/OM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Director, Commissioned Personnel Operations Division, Office of Personnel Management/OM/PHS, Room 4–35, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; and

General Services Administration, Federal Records Center, 111 Winnebago Street, St. Louis, MO 63118.

Names and addresses of contractors given information under routine use 6 can be obtained from the system manager at the first location identified above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PHS commissioned officers (hereafter referred to as officers); applicants to the commissioned corps; retired and terminated officers; and incapacitated dependents of officers when officers request certification of dependents' incapacities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical files and records on individuals covered; medical board records from the Medical Review Boards—General and Psychiatric, and Appeals Boards, including board reports, any records of discussions held by board members, and supporting medical documents; death case files and supporting documents; and correspondence relating to the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Public Health Service Act (42 U.S.C. 202 et seq.)

PURPOSE(S):

The information is used by the Commissioned Personnel Operations Division (CPOD) to:

1. Evaluate applicants for appointment and officers for reassignment and fitness for duty;

2. Make determinations about the level of an officer's disability and entitlement to disability severance or retired pay;

3. Make determinations about the level of a dependent's disabilities or incapacities which may make the dependent eligible for benefits from PHS;

4. Make budgetary estimates about the cost of disability severance and retired pay;

5. Prepare reports or provide statistical information relating to the medical status of officers;

6. Provide information relating to the death of officers to the Social Security Administration or other Department components to determine the social security benefits or other benefits which may be available to the survivors of deceased officers;

7. Provide information to help adjudicate post-service claims for benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information from these records may be used:

1. To disclose information to the Veterans' Administration, Bureau of Prisons (Department of Justice), Coast Guard (Department of Transportation), Agency for International Development (Department of State), Department of Defense, including the Uniformed Services University of the Health Sciences, Environmental Protection Agency, and other Federal agencies where commissioned officers are assigned or are receiving medical treatment, to ensure continuity of care.

2. To disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is:

a. The Department, any component of the Department, or any employee of the Department in his or her official capacity;

b. The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

c. Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present and effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. To promote continuity of care, supply information to medical care facilities and/or practitioners who, under contract or due to an emergency, provide treatment to officers.

5. When an individual to whom a a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is legally responsible for the care of the individual, to the extent necssary to assure payment of benefits to which the individual is entitled.

6. When the Department contemplates contracting with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. These safeguards are explained in the section entitled "Safeguards."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated (disk) and nonautomated (hard-copy) files.

RETRIEVABILITY:

Alphabetically by name, by PHS Serial Number, or by CPOD-assigned Applicant Processing Number.

SAFEGUARDS:

Access to and use of both automated and nonautomated records is limited to Medical Branch staff, CPOD file room personnel, and Department officials who are responsible for medical fitness determinations. Personnel screening and Privacy Act nondisclosure oath are employed to prevent unauthorized disclosure. Nonautomated records are kept in Lektrievers, Conserv-a-Files, and safes in restricted, inner office areas protected by the building guard force. Automated records are secured by assigning individual access codes to authorized personnel, and by assigning individual passwords to each document. Only the individual who created the document and the CPOD Security Officer have access to passwords. When copying records for authorized purposes, care is taken to ensure that any imperfect or extra pages are not left in the reproduction room where they can be read, but are destroyed or obliterated.

A contractor who is given records under routine use 6 must maintain the records in a secured area, allow only those individuals immediately involved in the processing of the records to have access to them, prevent any unauthorized persons from gaining access to the records, caution employees about the confidentiality of the records, and return the records to the System Manager immediately upon completion of the work specified in the contract. Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records are instructed to make no disclosure of the records except as authorized by the System Manager.

These safeguards are in accordance with chapters 45–13 and PHS.hf:45–13 of the Department's General Administration Manual, and Part 6 of the Department's ADP Systems Manual.

RETENTION AND DISPOSAL:

When an officer terminates his/her commission, records are incorporated into the Official Personnel Folder (see system 09–37–0002, "PHS Commissioned Corps Personnel Files" for more information) and transferred to a Federal Records Center within two years after the officer is separated from the commissioned corps. Medical records on nonselected applicants are destroyed after five years. Records of retirees are incorporated into their OPF's following retirement and are retained and disposed of in accordance with procedures explained in system 09–37–0002, unless the individual is on the temporary disability retirement list, in which case the file is maintained under the same conditions as an active duty officer's file until the individual is permanently retired, returned to active duty, or terminated. Medical records of a dependent incapable of self support are maintained until the dependent is no longer eligible for benefits from PHS at which time the records are transferred to a Federal Records Center for permanent storage.

SYSTEM MANAGER(S) AND ADDRESS:

Director, CPOD (See System location above).

NOTIFICATION PROCEDURE:

An individual who is the subject of a record and who appears in person seeking access shall provide his/her name and at least one piece of tangible identification (e.g., PHS Commissioned Corps Identification Card, driver's license passport, or voter registration card). Identification cards with current photographs are preferred but not required. Written requests must be addressed to the System Manager and signed. A comparison will be made of that signature and the signature maintained on file prior to release of the material requested.

If a determination is made that the material sought contains medical information that is likely to have an adverse affect on the requestor, the requestor shall be asked to designate in writing a responsible representative who will be willing to review the record and inform the subject individual of the material's contents at the representative's discretion. Such a representative must provide proof that he/she is duly authorized to review the record by either the individual or the individual's legal guardian. A parent or guardian who requests notification of, or access to, a dependent/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify his/her relationship to the dependent/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address specified under System Location above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

From individual officers and other commissioned corps officials; applicants; private and Government physicians; hospitals and clinics rendering treatment; investigative reports; the records contained in system 09–37–0002, "PHS Commissioned Officer Personnel Records," HHS/OASH/OM; death certificates and reports of death; and from survivors and executors of estates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–37–0005

SYSTEM NAME:

PHS Commissioned Corps Board Proceedings, HHS/OASH/OM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

For boards numbers 1–10: Office of the Director, Commissioned Personnel Operations Division, Office of Personnel Management/OM/PHS, Room 4–35, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857;

For board number 11: Board for Correction of PHS Commissioned Corps Records/OM/OASH, Room 17–51, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; and

For board number 11: Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

Names and addresses of contractors given information under routine use 4 can be obtained from the appropriate system manager at one of the first two locations identified above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioned officers (hereafter referred to as officers) and applicants to the PHS Commissioned Corps.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the system consist of the following:

1. Commissioned Officers Awards Board files consisting of nominations, citations, and related documents.

2. Appointment Board files consisting of applications, references, school transcripts, transmutation charts, and other materials used in the appointment examination process.

3. Promotion Board files consisting of Commissioned Officer Efficiency and Progress Reports (COEPRs), recommendations from PHS components, citations and awards, information pertaining to disciplinary actions, and other materials used to examine candidates for promotion.

4. Involuntary Separation Board files consisting of COEPRs, PHS component recommendations with respect to separations, information pertaining to disciplinary actions, references, and statements of the officer with respect to marginal or substandard performance.

5. Board of Investigation files consisting of COEPRs, PHS component allegations of misconduct, documentation relating to misconduct, and statement of the officer relating to alleged instances of misconduct.

6. Retirement Board files consisting of COEPRs, PHS component evaluations on the continued need of the officer, and statements of the officer concerning his/her request for retirement.

7. Continuation Pay (CP) Review Board files consisting of COEPRs, CP contracts, certification of eligibility by PHS components, school transcripts, performance evaluations, and related documents.

8. Medical Officer Special Pay Review Board files consisting of performance evaluations, retention special pay contracts, certification of eligibility by PHS components, school transcripts, and related documents.

9. Assimilation Board files consisting of performance evaluations, PHS component recommendations, awards and citations, and information pertaining to disciplinary actions.

10. Three-Year File Review Board files consisting of performance evaluations, recommendations from PHS components, citations and awards, and information pertaining to disciplinary actions.

11. Board for Correction of PHS Commissioned Officer Records files consisting of applications, case briefs, findings, conclusions, recommendations, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

For board numbers 1–10: The Public Health Service Act (42 U.S.C. 202 et seq.), "Government Organization and Employees" (5 U.S.C. 4501) and Executive Order 9397, "Numbering System For Federal Accounts Relating To Individual Persons." For board number 11 the authorities are "Correction of Military Records" (10 U.S.C. 1552) and the Public Health Service Act (42 U.S.C. 213a(a)(12)).

PURPOSE(S):

Used by PHS Commissioned Corps Boards to recommend or decide on appropriate actions in the categories listed above, and by the Commissioned Personnel Operations Division (CPOD) in the preparation of the PHS Commissioned Officer Roster and Promotion Seniority of the Public Health Service which contains the names and status of officers on active duty. With regard to the Board for Correction, records are used to review and act on claims of errors or injustices in personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records or information from these records may be used:

1. To disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is:

a. The Department, any component of the Department, or any employee of the Department in his or her official capacity;

b. The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

c. Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

3. To disclose pertinent information to appropriate Federal, State, or local agencies; international agencies; or foreign governments responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, regulations, or orders, when PHS becomes aware of evidence of a potential violation of civil or criminal law.

4. When the Department contemplates contracting with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. These safeguards are explained in the section entitled "Safeguards."

5. To disclose information to the Department of Labor, Veterans Administration, Social Security Administration, or other Federal agencies having special employee benefit programs: To a national, State, county, or municipal agency; or to a publicly recognized charitable organization when necessary to adjudicate a claim under a benefit program, or to conduct analytical studies of benefits being paid under such programs, provided such disclosure is consistent with the purposes for which the information was originally collected.

6. To the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19, or for budgetary or management oversight purposes.

7. To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (e.g., private vendors of training courses or programs, private schools) for training purposes, such as crediting of work experience in the Commissioned Officer Student Training and Extern Program, or verification of status or income.

8. When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is legally responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

9. To disclose to Federal and non-Federal agencies information allowing the consideration and selection of

officers for honor awards made as a result of the individual's work as a commissioned officer, and to publicize those awards granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize officer awards or honors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information and files related to boards and their proceedings exist in hard-copy form, with supporting data stored on automated word processing tapes, micro-fiche, and disks.

RETRIEVABILITY:

Alphabetically by name of officer for records in hard-copy form, and by access code for information stored on automated disks and tapes.

SAFEGUARDS:

Hard-copy records of PHS Commissioned Corps boards are stored in metal filing cabinets located in office areas which are occupied continuously during working hours and are locked during nonworking hours. Board records and files which contain sensitive information and material are kept in locked metal file cabinets and safes. Access to these records is limited to the Board members and CPOD staff who demonstrate a need to know, and, for the Board for Corrections of PHS Commissioned Corps Records only, the Director, Office of Management, PHS, who has been delegated authority for approval or disapproval of all actions of this Board, or his/her designee. All office entryways are protected with combination locks, the combinations of which are routinely changed. In addition, the building security force oversees secured areas during nonworking hours. When copying records for authorized purposes, care is taken to ensure that any imperfect or extra pages are not left in the reproduction room where they can be read, but are destroyed or obliterated. These safeguards for nonautomated records are provided in accordance with chapters 45-13 and PHS.hf:45-13 of the Department's General Administration Manual.

Automated data related to boards and their proceedings are secured by assigning individual access codes to authorized personnel and by assigning passwords to documents which contain sensitive materials. Passwords are known only to the author of the material and the CPOD security officer. These safeguards for automated records are provided in accordance with Part 6 of the Department's ADP Systems Manual.

A contractor who is given records under routine use 4 must maintain the records in a secured area, allow only those individuals immediately involved in the processing of the records to have access to them, prevent any unauthorized persons from gaining access to the records, caution employees about the confidentiality of the records, and return the records to the System Manager immediately upon completion of the work specified in the contract. Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records are instructed to make no disclosure of the records except as authorized by the System Manager.

RETENTION AND DISPOSAL:

Material from board files which pertain to an individual or result in a personnel action affecting an individual are placed into the individual's OPF after the board has completed its deliberations and/or the action has been effected, and are then treated in the same manner as other material in system 09-37-0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM," with the following exceptions: Files pertaining to involuntary separation boards and boards of inquiry are transferred to the Federal Records Center one year after the officer separates from active duty, unless the officer is retired or the case is likely to result in litigation. Records relating to the Board for Correction of PHS Commissioned Corps Records are transferred to Washington National Records Center (WNRC) one year after a change recommended by the Board in a personnel record has been effected by CPOD, or three years after a recommendation by the Board denying an applicant's request for change in higher record, whichever is applicable to the final disposition of a case. Records are destroyed by the WNRC after 20 years by pulping.

SYSTEM MANAGER(S) AND ADDRESS:

For board numbers 1-10: Director, CPOD; and, for board number 11: Chairman, Board for Correction for PHS Commissioned Corps Records (See System Location above).

NOTIFICATION PROCEDURE:

An individual who is the subject of a record and who appears in person seeking access shall provide his/her name and at least one piece of tangible identification (e.g., PHS Commissioned Corps Identification Card, driver's license, passport, or voter registration card). Identification cards with current photographs are preferred but not required. Written requests must be addressed to the responsible System Manager and signed. A comparison will be made of that signature and the signature maintained on file prior to release of the material requested.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. Access to record systems which have been granted an exemption from the Privacy Act access requirement may be made at the discretion of the appropriate System Manager. Denial of access may be appealed to the Director, Office of Management, PHS, Room 17-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; except for denials of access to records of the Board for Correction of PHS Commissioned Officer Records, which may be appealed to the assistant Secretary for Health, Room 716G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

CONTESTING RECORD PROCEDURES:

If access has been granted, contact the responsible System Manager at the appropriate address specified under System Location above, reasonably identify the record, specify the information to be contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

From individuals themselves or their service records; efficiency and progress reports; persons providing references; reports of findings and recommendations made by Board members; supervisors; private and Government physicians; hospitals and clinics rendering treatment; investigative reports; death certificates and reports of death; survivors and executors of estates; and records contained in systems 09-37-0002, "PHS Commissioned Corps Personnel Records," HHS/OASH/OM; 09-37-0003, "PHS Commissioned Officer Medical Records," HHS/OASH/OM; 09-37-0006, "PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files," HHS/OASH/OM; and 09-37-0008, "PHS Commissioned Corps Unofficial Personnel Files and Other Station Files," HHS/OASH/OM.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individuals will be provided information from this record system except when, in accordance with the provisions of 5 U.S.C 552a(k)(5): (a) Disclosure of such information would reveal the identify of a source who furnished information to the Goverment under an express promise that the identify of the source would be held in confidence, or (b) if the information was obtained prior to September 27, 1975, disclosure of such information would reveal the indentify of the source who provided information under an implied promise that the identity of the source would be held in confidence.

Pursuant to 5 U.S.C 552a(k)(6) all material and information in this system of records about an individual that meet the criteria stated in 5 U.S.C 552a(k)(6) are exempt from the requirements of 5 U.S.C. 552a(c)(3); (e)(4) (G), (H), and (I); and (f) relating to access and contest, making an accounting of disclosures to the individual named in the record, and provisions that relate to testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the PHS Commissioned Corps. The specific material that is exempted is as follows:

a. Answer keys.

b. Ratings given for the purpose of validating examinations.

c. Rating sheets.

d. Rating schedules, including crediting plans.

e. Transmutation tables.

f. Test booklets.

g. Test item files.

09-37-006

SYSTEM NAME:

PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files, HHS/OASH/OM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Director, Commissioned Personnel Operations Division, Office of Personnel Management/OM/PHS, Room 4-35, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; and

General Services Administration, Federal Records Center, 111 Winnebago Street, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PHS Commissioned Corps officers (hereafter referred to as officers).

CATEGORIES OF RECORDS IN THE SYSTEM:

Files concerning grievances filed by or against commissioned officers; disciplinary actions, involuntary retirements and involuntary separations (non-board or pre-board actions) taken against commissioned officers; and correspondence related thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Public Health Service Act (42 U.S.C. 202 et seq.)

PURPOSE(S):

Used by the Commissioned Personnel Operations Division (CPOD) to decide or process grievances, involuntary retirements, involuntary separations, or disciplinary actions, and by officials elsewhere in the Department who have the authority to review or make decisions about these actions in any given case.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information from these records may be used:

1. To disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation, where one of the parties is:

a. The Department, any component of the Department, or any employee of the Department in his or her official capacity;

b. The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

c. Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

3. To disclose pertinent information to appropriate Federal, State, or local agencies; international agencies; or foreign governments responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, regulations, or orders, when PHS becomes aware of evidence of a potential violation of civil or criminal law.

4. When Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department may make such records available.

5. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated (disk) and nonautomated (hard-copy) files.

RETRIEVABILITY:

Alphabetically by officer's name.

SAFEGUARDS:

Access to and use of both nonautomated and automated records is limited to personnel whose official duties require such access. For example, automated records are secured by assigning individual access codes to authorized personnel. Individuals are permitted access to the nonautomated files only after they have satisfactorily identified themselves as having an official need to review information. Other individuals must have written permission to review the files from the individual to whom the file pertains. In addition, a Privacy Act nondisclosure oath is employed to prevent unauthorized disclosure. Authorized personnel include CPOD administrative staff and other Department officials responsible for making determinations regarding the disposition of grievances, involuntary terminations, or disciplinary actions. Nonautomated records are kept in Lektrievers, Conserv-a-Files, and safes in restricted area protected by building guard force. When copying records for authorized purposes, care is taken to ensure that any imperfect or extra pages are not left in the reproduction room where they can be read, but are destroyed or obliterated. These safeguards are provided for both automated and nonautomated records in accordance with chapters 45-13 and PHS.hf:45-13 of the Department's General Administration Manual, and

Part 6 of the Department's ADP Systems Manual.

RETENTION AND DISPOSAL:

Grievance files are destroyed after two years, or earlier if no longer needed for administrative purposes. Other records may be combined with the personnel records described in system 09–37–0002 and treated in the manner described in that system notice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, CPOD (See System location above).

NOTIFICATION PROCEDURE:

An individual who is the subject of a record and who appears in person seeking access shall provide his/her name and at least one piece of tangible identification (e.g., PHS Commissioned Corps Identification Card, driver's license, passport, or voter registration card) Identification cards with current photographs are preferred but not required. Written requests addressed to the System Manager must be signed. A comparison will be made of the signature and the signature maintained on file prior to release of the material requested.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address specified under System Location above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

From individuals themselves; from reports of CPOD investigations; and from reports of review boards.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–37–008

SYSTEM NAME:

PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Operating offices (duty stations) of the Department or of other agencies to which PHS Commissioned Corps officers (hereafter referred to as officers) are assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active-duty and retired officers, former officers, and their dependents residing in the vicinity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Training records, financial management records, travel and transportation documents, approval of outside activity records, and other documents used solely by personnel employed at a field station. Duplication of personnel records contained in system 09–37–0002, "PHS Commissioned Corps Personnel Records," HHS/OASH/OM, such as long-term training records, billet descriptions, performance evaluations, specialty board examination requests, medical intern and residency evaluations, leave records, identification and privilege card records, and correspondence relating to the individuals covered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Public Health Service Act (42 U.S.C. 202 et seq.), and "Armed Forces—Personnel" (10 U.S.C. 1071 et seq).

PURPOSE(S):

Records and information in this system are used by the Department's operating offices for the purposes of making determinations about an individual's training, pay, leave, job assignments, and related employment matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information from these records may be used:

1. To disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is:

a. The Department, any component of the Department, or any employee of the Department in his or her official capacity;

b. The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

c. Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

3. To disclose pertinent information to appropriate Federal, State, or local agencies; international agencies; or foreign gorverments responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, regulations, or orders, when PHS becomes aware of evidence of a potential violation of civil or criminal law.

4. To disclose information to an individual who has been asked to provide a reference, to the extent necessary to clearly identify the individual to whom the reference will pertain, inform the source of the purpose(s) of the reference, and to identify the type of information requested from the source, where necessary to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

5. To disclose to any agency in the executive, legislative, or judicial branch; the District of Columbia Government; a State or local government agency; or a nonprofit institution; in response to its request, or at the initiation of the agency maintaining the records, information in connection with the hiring of an employee; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract; the issuance of a license, grant or other benefit by the requesting agency; or the lawful statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. When Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department may make such records available.

7. To disclose information to the Department of Labor, Veterans Administration, Social Security Administration, or other Federal agencies having special employee benefit programs; a national, State, county, or municipal agency; or a

publicly recognized charitable organization; when necessary to adjudicate a claim under a benefit program or to conduct analytical studies of benefits being paid under such programs provided such disclosure is consistent with the purposes for which the information was originally collected.

8. When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is legally responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

9. In response to interrogatories in the prosecution of a divorce action or settlement for purposes stated in 10 U.S.C. 1408.

10. To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (e.g., private vendors of training courses or programs, private schools) for training purposes, such as crediting of work experience in the Commissioned Officer Student Training and Extern Program, or verification of status or income.

11. To disclose to uniformed services health and medical facilities and to the Department of Defense Office of the Civilian Health and Medical Program of the Uniformed Services information necessary to verify the eligibility of an officer, his/her dependents, or a former spouse for medical benefits in compliance with the Defense Enrollment/Eligibility Reporting System (DEERS).

12. To disclose information to agencies or organizations established in medically underserved areas who apply to the National Health Service Corps for the assignment of commissioned officers to such agencies or organizations.

13. To disclose information on officers assigned to Federal health care facilities to private sector (i.e., other than Federal, State, or local government) agencies, boards, or commissions (e.g., the Joint Commission on Accreditation of Hospitals), to obtain accreditation or other approval rating and only to the extent that the information disclosed is relevant and necessary for that purpose.

14. To disclose to Federal and non-Federal agencies information allowing the consideration and selection of officers for honor awards made as a result of the individual's work as a commissioned officer, and to publicize those awards granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize officer awards or honors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Nonautomated (hard-copy) files.

RETRIEVABILITY:

Alphabetically by name of officer.

SAFEGUARDS:

Records are stored in locked files in secured areas. Access to and use of records is limited to supervisory officials and other officials assigned to PHS component personnel offices whose official duties require such access, such as the Officer-in-Charge of the facility, the Regional Health Administrator, or by those assisting these officials.

Individuals are permitted access to files only after they have satisfactorily identified themselves as having an official need to review information. When copying records for authorized purposes, care is taken to ensure that any imperfect or extra pages are not left in the reproduction room where they can be read, but are destroyed or obliterated. These safeguards are provided in accordance with chapters 45–13 and PHS.hf:45–13 of the Department's General Administration Manual.

RETENTION AND DISPOSAL:

Station personnel files are destroyed after two years if not used. Leave records are destroyed five years after the officer's separation. Other records are retained until there is no further administrative need to retain them, or until the individual leaves the Department, and are then either destroyed, or, if appropriate, are combined with the records described in system 09–37–0002, "PHS Commissioned Corps Personnel Records," HHS/OASH/OM, which is then forwarded to a Federal Records Center for permanent storage. Identification and privilege cards and records are disposed of when the officer and his/her dependents are no longer entitled to use them.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative officers at the facilities to which an officer is assigned.

NOTIFICATION PROCEDURE:

An individual who is the subject of a record, who appears in person seeking access shall provide his/her name and at least one piece of tangible identification (e.g., PHS Commissioned Corps Identification Card, driver's license, passport, or voter registration card). Identification cards with current photographs are preferred but not required. Written requests must be addressed to the appropriate System Manager and signed. A comparison will be made of that signature and the signature maintained on file prior to release of the material requested.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the appropriate official indicated under System Manager above; reasonably identify the record; specify the information being contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

Information is furnished by the subject individual, persons who provide references, reports of supervisors and other officials, from personnel actions taken by CPOD, and from the records contained in the following systems: 09–37–0002,"PHS Commissioned Corps Personnel Records," HHS/OASH/OM; 09–37–0005, "PHS Commissioned Corps Board Proceedings," HHS/OASH/OM; and 09–37–0006, "PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files," HHS/OASH/OM.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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Thursday
November 10, 1983

Part V

Department of Health and Human Services

Office of Community Services

Rural Development Loan Fund; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

45 CFR Part 1076

Rural Development Loan Fund

AGENCY: Office of Community Services, HHS.

ACTION: Proposed rule.

SUMMARY: The Secretary of Health and Human Services proposes new regulations governing the Rural Development Loan Fund (RDLF). These regulations embody changes in existing regulations (45 CFR Subpart 1076.50) including a new definition of "rural" and certain amendments and refinements to clarify and make more specific the requirements of the regulations with a view toward strengthening the administration of the program.

DATES: The public is invited to review and comment upon these proposed regulations. All comments received on or before December 12, 1983, will be reviewed and considered prior to publication of the final rule.

ADDRESS: Comments may be mailed to: Office of Community Services, Rural Development Loan Fund, 1200 19th Street, NW., Room 500, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Mr. Harold L. Gore at (202) 254–5444.

SUPPLEMENTARY INFORMATION: The Rural Development Loan Fund was formerly administered by the Community Services Administration (CSA) under authority of the Economic Opportunity Act. The Omnibus Budget Reconciliation Act of 1981 ("OBRA"), Pub. L. 97–35, terminated this authority and abolished CSA. At the same time, however, the Act conferred similar authority on the Secretary of Health and Human Services. Section 623 of OBRA (42 U.S.C. 9812) authorizes the Secretary to make or guarantee loans to eligible community development corporations, to families and local cooperatives, and supportive organizations of cooperatives for business facilities and community development projects.

The changes introduced in these regulations are intended primarily to sharpen the focus and strengthen the overall administration of the program. Since they include a new definition of rural, since they involve current as well as new recipients, and since, when taken together, they involve substantive changes in the program, the Department wishes to invite public review and comment. However, because of the statutory requirement that funds be obligated before December 31, 1983, the comment period is limited to 30 days.

Among the changes being introduced is a new definition of rural which restricts the size of a town or urban area which may receive assistance under the program to a population of 25,000 or less. The purpose of this change is to assure that the program serves the most rural areas where limited resources makes difficult the successful undertaking of coordinated economic and community development projects. In the section on "definitions" slight changes have been made in the definitions of some terms and certain new ones have been introduced, including: Community facility, economic development, intermediary, low-income, ownership and public agency. In the section under "eligible organizations" these regulations, unlike the old, permit the Department to make loans or guarantees directly to for-profit entities. "Priorities" have been amended by dropping "model-type non-profit community economic development finance corporation" and "organizational priorities." The section on "terms of loans/guarantees" has been expanded and redefined: (1) To require documentation by an applicant of having been rejected by two other lending institutions and (2) to limit the amount which the Department will guarantee to 80% of the loan amount.

The section on "interest on loans—allowable costs" has been revised to indicate: (1) That the minimum interest rate which the Secretary may set (when using his/her authority to deviate from those established by Treasury) will be 4 percentage points below the Treasury rate, but not less than 5%; (2) that interest income may be used by intermediaries only for relending and to cover admininstrative, technical assistance and bad debt expenses; and (3) that administrative costs must be approved annually by the Department. The 5% floor on interest rates, rather than the 1% allowed by the statute, is proposed in order to reflect more realistically current interest rates (as opposed to those prevailing at the time the statute was enacted). The section on application procedures has been modified to reflect the fact that procedures and requirements for making an application will be delineated in a notice of availability of funds to be published in the **Federal Register**. The section on "loans and guarantees made by recipients to other eligible organizations" has been deleted since the section dealt primarily with application requirements, which will be covered by the notice of availability of funds.

The section on "post award requirements" has been amended: (1) To require intermediaries to maintain segregated accounts for RDLF funds, (2) to reference reporting requirements and (3) to require the return of excess interest earned by those operating lending programs at the end of the loan period. In the section on "liquidation/defaults," new language has been introduced which makes failure by a borrower to comply with these regulations grounds for default. Also, a provision has been included which releases the Department from obligation to guarantee a loan where the lender violates these regulations or other authorized agreements connected with the loan.

The statute authorizes the Secretary to make both direct loans and loan guarantees and these regulations have been written so that this flexibility can be exercised. The Secretary is cognizant, however, that the Congress through the Supplemental Appropriations Act of 1983, has directed the Department to obligate $10,000,000 in RDLF funds by December 31, 1983, in the form of *direct* loans, and that priority be given to non-profit organizations with previous experience in administering activities under the RDLF and which comply with standards prescribed by the Secretary. These standards will be more precisely defind in the Program Announcement which follows these regulations and which specifically addresses application procedures and requirements.

This rule, when it become final, will supersede existing RDLF regulations, 45 CFR 1076.50–1 through 1076.50–14, and affects all, existing as well as future, RDLF recipients. It does not, of course, negate legal contractual arrangements that CSA or intermediaries operating relending programs have already entered into with borrowers under the previous regulations.

Regulatory Impact and Regulatory Flexibility Act

This proposed rule governs a program with a probable budget of no more than $10 million in FY 1983. Since the annual economic impact of the rule will not exceed $100 million and the rule does not meet any of the other criteria of a major rule as established in Executive Order 12291, a regulatory impact analysis is not required.

This rule applies to a relatively small number of applicants. The Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility

analysis under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)) is not required.

List of Subjects in 45 CFR Part 1076

Community action programs, Loan programs, Rural areas, Small business, Economic development, Community development.

For the reasons set forth in the preamble, 45 CFR Part 1076 is amended by revising Subpart 1076.50 to read as follows:

PART 1076—ECONOMIC DEVELOPMENT PROGRAMS

* * * * *

Subpart 1076.50—Rural Development Loan Fund

Sec.

Authority: The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, Sections 623–624, 42 U.S.C. 9812, and Section 681, 42 U.S.C. 9910.

Subpart 1076.50—Rural Development Loan Program

§ 1076.50–1 Applicability.

This regulation implements Pub. L. 97–35, Sec. 623–624, 42 U.S.C. 9812, and Sec. 681 42 U.S.C. 9910. It governs the use of RDLF funds obligated by CSA in FY '80 and '81 and by HHS in FY '84 and subsequent years unless amended or superseded by new regulations. It does not, however, negate legal contractual arrangements that CSA or intermediaries operating relending programs have already entered into with borrowers under the previous regulations. For example, it does not change the interest rate of loans already made to existing intermediaries, nor does it change the conditions or terms of sub-loans made by intermediaries under the previous regulations. Existing intermediaries however, must abide by the requirements of this rule in the making of all future RDLF sub-loans, such as: Determining an applicant's eligibility, whether the proposed activities and priorities are appropriate, and the terms or conditions under which loans may be made. They must also abide by the relevant sub-sections of § 1076.50–8 through § 1076.50–13 in the administration of all sub-loans, past and future, and in accounting to OCS for such administration. Generally, where loan agreements between a recipient and CSA/OCS or other funding documents refer to RDLF regulations, that reference will mean this rule, when it becomes final, rather than the previous regulations.

§ 1076.50–2 Definitions.

(a) Business facility—A commercial or industrial enterprise operated primarily for the profit of its owners and which is located in a rural area as defined in paragraph (n) of this section.

(b) Community-based organization—a private non-profit organization that serves a local community and that has a governing body of which at least 50 percent of the members are residents of that community.

(c) Community development—Activity aimed at: (1) Stimulating the creation of commercial and industrial enterprises which result in increased income, ownership and employment opportunities for low-income rural residents; or (2) improving the physical infrastructure of a rural community, such as land development, constructing or improving community facilities, such as water and waste water facilities, etc.

(d) Community development corporation—Any non-profit organization responsible to residents of the area it serves which is receiving financial assistance under Part 1 of the Community Economic Development Act of 1981 (42 U.S.C. 9801) and any organization more than 50 percent of which is owned by such an organization, or otherwise controlled by such an organization, or designated by such an organization for the purpose of this subchapter (see 42 U.S.C. 9802).

(e) Community facility—A facility designed to aid in the development of private business and industry in rural areas such as land acquisition and site preparation of land for industrial parks, installation of water and waste water facilities necessary for the establishment or expansion of business facilities, access roads to industrial sites, etc.

(f) Cooperative—An incorporated or unincorporated association, the majority of whose members are low-income rural residents, whose members have one vote each, and which conducts for the mutual benefit of its members such operations as producing, purchasing, marketing, processing or other activities aimed at improving the income of its members as producers or their purchasing power as consumers.

(g) Economic development—Activity aimed at increasing income, ownership or employment opportunities for low-income rural residents.

(h) Indian Groups—Public and private agencies including, but not limited to: governing bodies of any Indian tribe, band, nation, or other organized group or community, including Alaska Native villages, a consortium of villages, or regional corporations recognized by the Secretary of the Interior as having special rights and responsibilities, and as eligible for the unique services provided by the United States to Indians because of their status as Indians; any organized group or consortium of such Indian tribes; organized groups of Indians that the State in which they reside has determined are Indian tribes; and Indian organizations in rural non-reservation areas.

(i) Intermediary—an organization provided a loan by the Department for the purpose of relending the funds to other eligible subrecipients.

(j) Low-income—Any person or family which is at or below the Poverty Guidelines as published periodically in the **Federal Register** by the Secretary.

(k) Ownership—Possession of income-producing property. Such possession may be in the form of: (1) Ownership, by an entrepreneur, of the business he/she operates (e.g., a sole proprietorship) or ownership by a group of entrepreneurs, (e.g., a partnership); (2) ownership, by an investor, of shares of stock issued by a corporation (with the investor's voting power determined by the number of shares he owns); (3) ownership, by an investor, of shares in a cooperative (with control based, not on the number of shares owned, but on the one-member-one-vote principle).

(l) Private non-profit—an organization which is eligible for or has received exemption from Federal income taxes under Internal Revenue Code 501 (c)(3).

(m) Public agency—Any State or local government, or any branch or agency of such government having the authority to act on behalf of that government, borrow funds, and engage in activities eligible for funding under this subpart.

(n) Rural—That land area of a State or Territory that is not within the boundary of any city or town with a population greater than 25,000 nor within its immediately adjacent urbanized area with a population density of more than 100 persons per square mile, as reflected by the latest Decennial Census.

(o) Secretary—The Secretary of Health and Human Services (HHS).

(p) Supportive organization of cooperatives—Any organization whose purpose is to provide economic,

technical, or financial assistance to cooperatives.

§ 1076.50–3 Purpose of the RDLF.

(a) The purpose of the Rural Development Loan Fund is to alleviate rural poverty by promoting economic and community development activities which result in expanded opportunities for low-income rural residents to increase their *ownership of, employment in,* or *income from local economic enterprise.*

(b) In accomplishing this purpose, the program seeks to provide loans and loan guarantees at the lowest reasonable cost; to leverage other governmental and private resources in a coordinated attempt to arrest tendencies toward dependency, chronic unemployment, and community deterioration; and to provide technical assistance to assure the success of projects funded under the program.

§ 1076.50–4 Organizations eligible for financial assistance under this program.

The Department will provide financial assistance in the form of loans and/or loan guarantees. Such assistance may be made available directly to eligible applicants or indirectly through intermediary organizations which operate lending programs. Those eligible to receive assistance under this program are:

(a) Low—income rural families or individuals;

(b) Businesses organized for profit which are controlled by low-income residents or which provide for significantly increased income, ownership and/or employment opportunities for low-income rural residents;

(c) Community development corporations;

(d) Private non-profit organizations;

(e) Local cooperatives;

(f) Designated supportive organizations of cooperatives eligible for financial assistance under Subchapter A of Subtitle A of Title VI, Pub. L. 97–35;

(g) Public agencies; and

(h) Indian groups.

§ 1076.50–5 Eligible activities.

(a) Loans or guarantees made under this program may be used *only to finance the establishment, expansion or preservation of business facilities or the undertaking of community development projects in rural areas.* Examples of such activities are:

(1) The establishment or expansion of individual or family-owned businesses in rural areas engaged in various commercial or industrial activities, such as farming, manufacturing, construction, sales, service, etc.;

(2) The establishment or expansion of cooperatives in rural areas engaged in the production and marketing of farm products, equipment or supplies; the manufacture and sale of industrial, commercial or consumer products; or the provision of various services; etc.

(3) The undertaking of community development projects aimed at improving the economic conditions of a community such as:

(i) The creation of industrial parks;

(ii) The improvement of community facilities, such as water and waste water facilities essential to the establishment or expansion of businesses;

(iii) The establishment of businesses in "enterprise zones," or the improvement of the infrastructure in such zones, etc.

(b) Applicants seeking loans to carry out community development activities, such as those described in (a)(3) above, should consult with appropriate local governments during the planning and application process.

(c) Loans or guarantees may be made for the purchase of land and buildings, machinery and equipment, and for working capital.

(d) Loans or guarantees will not be available for the financing of social services, such as job training, day care, health services, etc.

(e) Loans or guarantees under this program generally will not be made for the refinancing of existing debt. Relenders must obtain prior written approval from the Department for any exceptions to this policy.

§ 1076.50–6 Priorities.

In making financial assistance available to eligible organizations for business facilities and community development projects, the Department and intermediaries operating relending programs will give priority to projects which:

(a) Provide the greatest number of jobs to and/or significantly increased income and ownership opportunities for low-income rural residents;

(b) Are part of a coordinated community, regional or statewide effort; and

(c) Employ a strategy of significantly leveraging or mobilizing other resources;

(d) Demonstrate a positive cost/benefit ratio; and

(e) Are managed by persons who have been successful in operating profit or non-profit enterprises.

§ 1076.50–7 Terms of loans/guarantees.

(a) No loans or guarantees shall be extended for a period exceeding 30 years.

(b) No loans or guarantees will be extended to an applicant unless:

(1) There is reasonable assurance of repayment of the loan, based on the fiscal and managerial capabilities of the applicant;

(2) The loan is not otherwise available on reasonable (i.e., usual and customary) terms from private sources or other Federal, State or local programs; and

(3) The amount of the loan, together with other funds available, is adequate to assure completion of the project or achieve the purposes for which the loan is made.

(c) In order to satisfy condition number (b)(2) of this section, an applicant must provide documentary evidence that loan funds for the project in question have been denied by at least two other lending sources.

Note.—Intermediaries need not comply with this requirement when applying for funds for the purpose of relending to sub-recipients. Recipients applying to intermediaries must, however, provide such documentation.

(d) Where guarantees, rather than direct loans are made, the Department will guarantee up to 80% of the total amount of a loan to a qualified applicant.

(e) Loans or guarantees made by the Department and/or intermediaries for the purpose of purchasing land and buildings may not be for a period in excess of twenty-five years; those made for the purpose of purchasing machinery and equipment may not be for a period which exceeds the useful life of such items; those made for working capital may not be for a period in excess of five years.

(f) The terms of loan repayment will be those stipulated in the loan agreement and/or promissory note, as agreed to and executed by the Department and borrowers.

(g) Applicants proposing projects that will result in new employment opportunities must assure the Department that a majority of the new employees will be low-income rural residents.

§ 1076.50–8 Interest on loans; allowable costs.

(a) Loans made by the Secretary pursuant to this subpart shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of

comparable maturity, plus such additional charges, if any, toward covering other costs of the program as the Secretary of Health and Human Services may determine to be consistent with its purposes, except that for the five years following the date on which the funds are initially available to the borrower, the rate of interest shall be 4 percentage points below the rate established by the Secretary of the Treasury, but not less than 5 percent, whichever is higher.

(b) Interest rates charged by intermediaries to the ultimately intended borrowers shall be those negotiated between the intermediary and the borrower. Intermediaries are encouraged to make loans to such borrowers at the lowest possible rate, taking into account the cost of the loan funds to the intermediary and the cost of administering the loan portfolio.

(c) Interest on loans, premiums earned on guarantees, investment or interest income, service fees and other authorized financing charges received by intermediaries operating relending programs may be used to pay for: (1) The costs of administering the RDLF relending program, (2) the provision of technical assistance to borrowers and (3) the absorption of bad debts associated with RDLF loans. No administrative costs may be claimed without the express written approval of the Department. Proposed budgets to cover the administrative costs of intermediaries must be submitted annually for review and approval by the Department. All proceeds in excess of those needed to cover authorized expenses, as described above, must revolve back into the RDLF and be available for relending to eligible applicants. Any such excess proceeds shall be returned to the Secretary at the end of the loan period or upon repayment of the loan, whichever occurs first.

§ 1076.50-9 Security.

(a) *As a Credit Factor.* The availability of collateral security normally shall be considered as an important factor in making loans or guarantees. The types and amount of collateral security required should be governed by the relative strengths and weaknesses of other credit factors. However, the taking of collateral as security should be considered in each loan making or guarantee transaction. Collateral security should be sufficient to provide the lender reasonable protection from loss in the case of adversity, but such security or lack thereof should not be used as the primary basis for deciding whether to extend credit

(b) *Security interest* Security interests which may be taken by the lender or guarantor include but are not limited to liens on real or personal property, including leasehold interests, assignments of income and accounts receivable, and liens on inventory of proceeds of inventory sales as well as marketable securities and cash collateral accounts.

(c) *Motor vehicles.* Liens ordinarily should be taken on licensed motor vehicles or boats purchase hereunder in order to be able to transfer title easily should the lender need to declare a default or repossess the property.

(d) *Additional security.* The lender or guarantor may require collateral security or additional security at any time during the term of a loan or gaurantee if after review and monitoring an assessment indicates the need for such security.

(e) *Insurance on property secured.* Ordinarily, hazard insurance up to the amount of the loan or the depreciated replacement value of the property secured (whichever is less) will be taken naming the lendor as beneficiary. Such insurance includes fire and extended coverage, public liability, property damage, and other appropriate types of hazard insurance.

(f) *Appraisals.* Property serving as collateral security will be appraisied by a qualified appraiser.

§ 1076.50-10 Post award requirements.

(a) Borrowers receiving loans under this program shall be governed by these regulations, the loan agreement, the approved work program and any special conditions which the Department may impose in awarding a loan.

(b) Unless otherwise specifically agreed to in writing by the Department loan proceeds and any interest thereon not immediately needed or disbursed by the borrower should be deposited in an interest bearing account or time deposit in a bank or other financial institution which can be fully covered by a form of federal deposit insurance.

(c) Any interest or income earned as a result of such deposits shall be used by the borrower only for purposes authorized by the statute, these regulations and officially approved loan agreement.

(d) Intermediaries operating relending programs must maintain separate ledgers and segregated accounts for RDLF funds at all times.

(e) Reporting requirements shall be those delineated in the loan agreement between the Department and a borrower and such subsequent communications as the Department deems appropriate. Intermediaries must document periodically the extent to which increased employment, income and ownership opportunities are provided to low-income rural residents for each loan made by such intermediary

(f) No intermediary may make a loan to a borrower who has applied for or received a loan from another intermediary unless the Department provides written approval for such loan

§ 1076.50-11 Liquidation; default.

(a) Should the Secretary determine that it is necessary or desirable to take action to protect or further the interests of the Department in connection with any default or breach of conditions under any loan or guarantee made hereunder, the Secretary may:

(1) Declare that the loan is immediately due and payable.

(2) Assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his/her discretion and upon such terms and conditions as he/she shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property or security assigned to or held by the Secretary in connection with financial assistance extended hereunder.

(3) Adjust interest rates, us fixed or variable rates, grant moratoriums on repayment of principal and interest, collect or compromise and obligations held by him/her and take such other actions in respect to such loans and guarantees as are necessary or appropriate, consistent with the purpose of the Program and this subpart.

(b) Intermediaries shall report to the Department whenever a loan recipient is more than 90 days in arrears in the repayment of principal or interest.

(c) Failure by a borrower to comply with the provisions of these regulations and/or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of the loan.

(d) Failure by an intermediary to comply with the provisions of these regulations or to relend funds in accordance with an approved work plan or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of the loan.

(e) Failure of a lender making a guaranteed loan under this program to comply with the provisions of these regulations or guarantee agreement or to disburse and service a loan in accordance with the authorization approving the loan shall release the Department from obligation to purchase its share of the guaranteed loan.

§ 1076.50–12 Conflict of interest.

No intermediary shall relend or guarantee funds to or for the benefit of:

(a) Any person who is a board member or employee of such intermediary organization without specific prior written approval from the Department, given with full knowledge of the relationship involved, or

(b) Any organization which has on its governing board or as agent, consultant or employee, a person who is also a board member or employee of the intermediary without specific prior written approval from the Department, given with full knowledge of the relationship involved.

§ 1076.50–13 Application procedures.

(a) Application for participation in this program will be accepted only pursuant to the terms of these regulations and under the conditions set out in a notice of the availability of funds published in the **Federal Register.**

(b) Following publication of a notice of the availability of funds applicants may obtain forms and instructions regading application procedures and requirements by writing to: Office of Community Services, Rural Development Loan Fund, 1200 19 Street, NW., Washington, D.C. 20506.

Dated: October 21, 1983.

Harvey R. Vieth,

Director, Office of Community Services.

Dated: October 27, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-30092 Filed 11-9-83; 8:45 am]

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S. 552/Pub. L. 98-148

To designate the Federal Building in Fort Myers, Florida, as the "George W. Whitehurst Federal Building and United States Courthouse". (Nov. 7, 1983; 97 Stat. 957) Price: $1.50

S. 1944/Pub. L. 98-149

To allow the obsolete submarine United States ship Albacore to be transferred to the Portsmouth Submarine Memorial Association, Incorporated, before the expiration of the otherwise applicable sixty-day congressional review period. (Nov. 7, 1983, 97 Stat. 958) Price: $1.50

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