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federal register

Thursday
May 10, 1984

Selected Subjects

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Selected Subjects

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Reader Aids
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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 5191 of May 9, 1984

National Tuberous Sclerosis Week, 1984

By the President of the United States of America

A Proclamation

Few Americans have heard of tuberous sclerosis, but for an estimated 10,000 of us, this disease and its devastating effects are all too real. For these people, life is a perpetual struggle with convulsive seizures, mental retardation, tumors throughout the body, and other physical handicaps. Because tuberous sclerosis is hereditary, its threat extends to future generations; children of those afflicted with it stand a 50 percent chance of developing the disease themselves.

Tuberous sclerosis has no known cause or cure. Early detection, accurate diagnosis, careful use of anticonvulsant drugs, and support of family and friends can go far in helping a victim cope with the disease. Research to help us learn how to treat, cure, and prevent this dread disease is being supported by the National Institute of Neurological and Communicative Disorders and Stroke and by two voluntary health agencies—the National Tuberous Sclerosis Association and the Tuberous Sclerosis Association of America. Through this sponsorship, scientists across America are working diligently to find a way to track down the gene responsible for the disease, to develop more effective drug therapies for patients, and to discover ways to improve diagnosis.

I urge all Americans to become aware of the pressing national need to overcome the scourge of tuberous sclerosis. In doing so, we can all help our courageous fellow citizens to lead more comfortable and productive lives at home, at school, or in the workplace.

To enhance the public's understanding of the seriousness of this disease, the Congress, by Senate Joint Resolution 148, has authorized and requested the President to designate the week of May 6 through 13, 1984, as "National Tuberous Sclerosis Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of May 6 through 13, 1984, as National Tuberous Sclerosis Week. I call upon all government agencies, health organizations, communications media, and the people of the United States to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 84-12830
Filed 5-9-84; 11:48 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction

CFR Correction

In the January 1, 1984, revision of Title 7 (Parts 210 to 299) of the Code of Federal Regulations, on page 272 the definition of "School" in § 250.3 was incomplete. The complete definition is set forth below.

§ 250.3 Definitions.

* * * * *

"School" means (1) an educational unit of high school grade or under, except for a private school with an average yearly tuition exceeding $1,500 per child, operating under public or nonprofit private ownership in a single building or complex or buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade; (2) with the exception of residential summer camps which are eligible to participate in the Summer Food Service Program for Children under Part 225 of this chapter and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit private child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; half-way houses; orphanages; temporary shelters for abused children and for runaway children; long-term care hospitals for chronically ill children; and juvenile detention centers; and (3) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Parts 907 and 908

Expenses and Rates of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the Navel Orange Administrative Committee functioning under Marketing Order 907 and the Valencia Orange Administrative Committee functioning under Marketing Order 908. Funds to administer these programs are derived from assessments on handlers or navel oranges and Valencia oranges regulated under the respective orders.

EFFECTIVE DATES: November 1, 1983–October 31, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Room 2532 South Building, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA Procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on the recommendation submitted by the Navel and Valencia Orange Administrative Committees established under the navel and Valencia orange marketing orders respectively, and upon other available information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking (5 U.S.C. 553) in that: The expenses and rates of assessment contained herein were discussed and recommended at public meetings of the respective administrative committees; the respective marketing orders require that the rates of assessment for the final period shall apply to all assessable navel and Valencia oranges handled from the beginning of such period; and handlers are aware of these provisions and the effective time.

List of Subjects in 7 CFR Parts 907 and 908

Marketing Agreements and Orders, California, Arizona, Oranges (Navel), (Valencia).

Therefore, §§ 907.221 and 908.223 are added to read as follows (the following sections prescribe the annual expenses and the rates of assessment and will not be published in the Code of Federal Regulations):

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 907.221 Expenses and assessment rate.

Expenses of $1,019,435 by the Navel Orange Administrative Committee are authorized, and an assessment rate of $0.021 per carton of navel oranges is established for the fiscal year ending October 31, 1984. Unexpended funds from the fiscal year ended October 31, 1983, may be carried over as a reserve in accordance with § 907.42.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 908.223 Expenses and assessment rate.

Expenses of $532,515 by the Valencia Orange Administrative Committee are authorized, and an assessment rate of

$0.024 per carton of orange is established for the fiscal year ending October 31, 1984. Unexpended funds from the fiscal year ended October 31, 1983, may be carried over as a reserve in accordance with § 908.42.

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

Dated: May 7, 1984

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–12652 Filed 5–9–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations Governing Crediting For Marketing Promotion

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the creditable marketing promotion provisions of the administrative rules and regulations established under the Federal marketing order for California almonds. The change increases the credit handlers of California almonds may receive for advertising almond butter against their pro rata expense assessment obligations. The change is designed to encourage the expansion of almond butter markets.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetables Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

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.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The change relaxes restrictions on handlers, and handlers should have the opportunity to utilize that increased flexibility as soon as possible.

Notice of this action was published in the April 10, 1984, issue of the **Federal Register** (49 FR 14112), and interested persons were afforded an opportunity to submit written comments. No comments were received.

This final rule revises § 981.441(c)(3)(iv) of Subpart—Administrative Rules and Regulations (7 CFR Part 981.401—981.474; 48 FR 11249). This subpart is issued under the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Section 981.441(c)(3)(iv) currently provides that handlers may receive credit for advertising almond products against their pro rata expense assessment obligations. The amount of such credit shall be the lesser of 50 percent of the total allowable payment to the advertising medium or 50 percent of the handler's actual payment. Section 981.441(c)(3)(iv) also stipulates that creditable almond products must not contain nuts other than almonds, must contain at least 50 percent raw shelled almonds by weight, and must display the handler's brand.

This rule changes § 981.441(c)(3)(iv) by increasing the amount of credit handlers may receive for advertising one specific almond product—almond butter. The change allows handlers to receive credit for almond butter advertising equal to the lesser of 100 percent of the total allowable payment to the advertising medium or 100 percent of the handler's actual payment. For the handler to receive credit, the almond butter must meet the specifications contained in § 981.466 of the regulation, and the handler must display his brand on the product.

The Board is currently involved in an ongoing project to use reserve almonds to develop a permanent market for almond butter. The Board hopes that, in time, the almond butter market will absorb a large quantity of almonds in the face of anticipated larger crops. This change is designed to help develop that market by encouraging handlers to advertise almond butter.

After consideration of all relevant matter presented, including that in the notice, the Board's recommendation, and other available information, it is further found that to revise § 981.441(c)(3)(iv) will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

PART 981—[AMENDED]

Therefore, § 981.441(c)(3)(iv) of Subpart—Administrative Rules and Regulations (7 CFR Part 981.401—981.474; 48 FR 11249) is revised as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(c) * * *

(3) * * *

(iv) When almond products, other than almond butter, are advertised, the credit shall be 50 percent of the total allowable payment to the advertising medium or 50 percent of the handler's payment thereof, whichever is less: *Provided*, That (A) the almond product does not contain nuts other than almonds, (B) the almond product contains at least 50 percent raw shelled almonds by weight, and (C) the almond product displays the handler's brand. With respect to almond butter advertising, the credit shall be 100 percent of the total allowable payment to the advertising medium or 100 percent of the handler's payment thereof, whichever is less. For the handler to receive credit, the almond butter must meet the specifications contained in § 981.466, and the handler's brand must be displayed.

* * * * *

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

Dated: May 4, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–12590 Filed 5–9–84; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 72

[Docket No. 83–072]

Texas (Splenetic) Fever in Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Texas (splenetic) fever in cattle regulations by deleting all proprietary brands of toxaphene emulsion from the list of dips allowed by the Department for dipping cattle to rid them of ticks prior to their interstate movement. This

action is necessary because such brands of toxaphene emulsion are no longer approved by the Environmental Protection Agency for such use.

DATES: The effective date of this document is May 10, 1984. Comments must be received on or before July 9, 1984.

ADDRESS: Written comments concerning this document should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. G. O. Schubert, VS, APHIS, USDA, Special Diseases Staff, Federal Building, Room 820, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8438.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 72 regulate the interstate movement of certain cattle because of ticks which are vectors of splenetic or tick fever. § 72.13(b) of the regulations sets forth certain permitted dips and procedures for the dipping of certain cattle before they are moved interstate in order to ensure that they are not infested with ticks. The "permitted dips" are proprietary brands of specific pesticides at prescribed concentrations. § 72.13(c) provides:

(c) *Approval of dips.* Proprietary brands of dips are permitted to be used for purposes of this part only when approved by the Deputy Administrator, Veterinary Services. Before a dip will be specifically approved as a permitted dip for the eradication of ticks, the Veterinary Services will require that the product be registered under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*); that its efficacy and stability have been demonstrated; that trials have been conducted to determine that its concentration can be maintained and that under actual field conditions the dipping of cattle in a bath of definite strength will effectually eradicate ticks without injury to the animals dipped.

Prior to the effective date of this document, the "permitted dips" listed in § 72.13(b) included certain toxaphene emulsions. However, because of action taken by the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), pesticide products containing toxaphene are no longer allowed for the treatment of cattle for fever ticks (47 FR 53784-53793). Therefore, this document amends § 72.13(b) of the regulations by removing toxaphene emulsions from the list of "permitted dips."

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. It is necessary to make this interim rule effective immediately. Because of action taken by the EPA under FIFRA, toxaphene may no longer be used as a permitted dip for the treatment of cattle for fever ticks.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interm rule are unnecessary and contrary to the public interest and good cause is found for making this interim rule effective upon publication. Comments are solicited for 60 days and a final document discussing comments received and any amendments required will be published in the **Federal Register.**

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant effect on the economy; will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This document merely reflects that toxaphene may no longer be used as a permitted dip for the treatment of cattle for fever ticks because of action taken by the EPA under FIFRA. No analysis of this action has been made under the Regulatory Flexibility Act because this action is required by law.

List of Subjects in 9 CFR Part 72

Animal diseases, Animal pests, Cattle, Quarantine, Transportation, Texas Fever, Splenetic Fever, Ticks.

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

§ 72.13 [Amended]

Accordingly, 9 CFR 72.13(b) is amended as follows: Paragraph (3) is removed and paragraph (4) is redesignated paragraph (3).

Authority: Secs. 1, 2, 32 Stat. 791-792, as amended; secs. 4-7, 23 Stat. 32; secs. 1-4, 33 Stat. 1264, 1265; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 4th day of May 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services

[FR Doc. 84-12588 Filed 5-9-84; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Parts 145 and 147

[Docket No. 84-013]

National Poultry Improvement Plan and Auxiliary Provisions on National Poultry Improvement Plan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends portions of the provisions governing the National Poultry Improvement Plan and Auxiliary Provisions to incorporate changes pertaining to the control of certain poultry diseases.

Changes are made in an effort to reduce the cost of certain blood testing programs, to provide for effective sanitizing procedures for hatching eggs and hatchery equipment, and to use more standardized laboratory techniques in screening infected or suspicious specimens. New programs are added to provide qualified started poultry with certain Mycoplasma classifications. The intended effect of this document is to continue providing valid tests for the different diseases at lower cost to the owner, to provide more definitive techniques, and to offer new testing and classification programs which permit prospective buyers to know the health status of products before making a purchase.

EFFECTIVE DATE: June 11, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. I. L. Peterson, Special Diseases Staff, VS, APHIS, USDA, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5428.

SUPPLEMENTARY INFORMATION:

Background

In a document published in the **Federal Register** on May 27, 1983 (48 FR 23828–23836), the Department proposed to amend portions of the provisions governing the National Poultry Improvement Plan and Auxiliary Provisions (contained in 9 CFR 145 and 147 and referred to below as the regulations) to incorporate changes pertaining to the control of certain poultry diseases. Changes were proposed in an effort to reduce the cost of certain blood testing programs, to provide for effective sanitizing procedures for hatching eggs and hatchery equipment, and to use more standardized laboratory techniques in screening infected or suspicious specimens. New programs were proposed to provide qualified started poultry with certain Mycoplasma classifications. Additionally, it was proposed that poultry exhibited in U.S. Pullorum-Typhoid Clean States be required to be banded. The intended effect of these proposals was to continue providing valid tests for the different diseases at lower cost to the owner, to provide more definitive techniques, and to offer new testing and classification programs which permit prospective buyers to know the health status of products before making a purchase.

The document of May 27, 1983, invited the submission of written comments on or before July 26, 1983. A document published in the **Federal Register** on July 26, 1983 (48 FR 33907), extended the comment period until August 25, 1983.

Comments were received in response to the proposal. These comments were from individuals, poultry clubs or associations, State officials, and Federal government employees. All of the comments submitted concerning the proposal have been carefully considered and are discussed below. The provisions of the proposal are adopted in the final rule, except for the proposed banding provisions and certain other provisions as explained below.

General Provisions

Prior to the effective date of this document, § 145.6(e) provided that:

> All hatcheries within a State which are operated under the ownership or management of the same person or persons or related corporations shall participate in the Plan if any of them are to participate.

It was proposed to amend § 145.6(e) by removing the phrase "within a State."

One commenter asserted that this phrase should not be removed. In support of this assertion it was contended that such a change would result in duplication of Federal or State regulations. No changes are made based on this assertion. The provisions of the Plan, developed jointly by industry members and State and Federal officials, establish standards for the evaluation of poultry breeding stock and hatchery products with respect to freedom from hatchery-disseminated diseases. Products conforming to specific standards are identified by authorized terms that are uniformly applicable in all parts of the United States. The Plan is implemented under authority for the Department to cooperate with the States, the District of Columbia, and Puerto Rico in the administration of regulations for the improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429). The Plan provisions in § 145.6(e) are not duplicated by other Federal programs and the Department is not aware of any duplication of these provisions by State programs.

The same commenter indicated that it was unclear how to determine when hatcheries are operated under the ownership or management of the same person or persons or related corporations. As an example, the commenter questioned what share of the total business a person must own to be considered an "owner." Under the proposal, it was intended that if the same person is responsible for significant decisionmaking at more than one hatchery, then each of those hatcheries would be required to participate in the Plan if any of the hatcheries is participating. It appears that this purpose can be best accomplished by revising § 145.6(e) to read as follows:

> If a person is responsibly connected with more than one hatchery, all of such hatcheries must participate in the Plan if any of them participate. A person is deemed to be responsibly connected with a hatchery if he or she is a partner, officer, director, holder, owner of 10 per cent or more of the voting stock, or an employee in a managerial or executive capacity.

The underlying rationale for these provisions was stated in the proposal at 48 FR 23830 as follows:

> The breeding and hatching industry is being controlled by fewer and fewer persons or corporations. This invariably results in the larger organization having hatcheries in more than one State. The nature of the business dictates that hatching eggs and baby poultry move between hatcheries of the same organization, as the need arises. Consequently, it is imperative that such products have the same pullorum-typhoid classification.

Proposed Banding Provisions

Section 145.53(b) sets forth the criteria under which a flock is determined to be free from *Salmonella pullorum* and *Salmonella gallinarum* (fowl typhoid). It was proposed to amend this section by adding the requirement that all poultry which are publicly exhibited in a U.S. Pullorum-Typhoid Clean State be identified with a sealed and numbered band in order to allow the State inspector at exhibitions to quickly determine the status of the poultry.

Four commenters supported the proposed banding provisions. One of these commenters also suggested that the banding provisions should apply not only for poultry going to public exhibition but also for poultry sold at "Trade Days" and "Swap Sales."

Approximately two hundred commenters opposed the banding provisions. The banding was intended to represent that the poultry were free of pullorum-typhoid based on testing within the preceding 90 days. Most of the commenters opposed the banding provisions by asserting that compliance with them would be burdensome to members of 4–H clubs, members of Future Farmers of America, and to others exhibiting young poultry stock. It was asserted that this would result in frequent trips to test and band the young birds and, since most States do not subsidize the testing of exhibition birds, the extra cost of frequent trips would force many of the exhibitors out of business.

The rationale for the proposed banding provisions was set forth at 48 FR 23829 as follows:

> Section 145.53(b) is proposed to be amended by adding the requirement that all poultry which are publicly exhibited in a U.S. Pullorum Typhoid Clean State be identified with a sealed and numbered band. At present this practice is optional and each State determines whether or not exhibited birds should be banded. Under this proposal, birds would be banded to identify them as having been tested for *Salmonella pullorum* and *S. gallinarium* (fowl typhoid). States which are deemed to be U.S. Pullorum Typhoid Clean States by the Department (presently there are 28 such States) are required to have all exhibited birds blood tested for *S. pullorum* and *S. gallinarum* within 90 days of being exhibited or to have come from a U.S. Pullorum-Typhoid Clean flock. There are many poultry exhibitors who show their birds at numerous shows which are often located in different States. The task of identifying these birds to determine if they have been blood tested is quite great. By requiring them to be identified with a sealed band at testing time, the State inspector will be able to determine their status very quickly.

The Department has determined that the proposed banding provisions should not be adopted. Some states currently impose banding requirements similar to those proposed. The adoption of the proposed banding provisions in some cases would require additional testing as a condition of being publicly exhibited in a U.S. Pullorum-Typhoid Clean State. However, it appears that the benefits to be derived are more than offset by the burden of more frequent inspections that would be imposed. As noted above, the proposed banding requirements were for the purpose of helping the State inspector to quickly determine the status of exhibition birds. Without the adoption of the proposed banding provisions such inspectors will still have adequate means for determining the status of exhibition poultry by such methods as checking accompanying certificates or by blood testing.

Serum Plate Test

In the proposed standard procedure for the serum plate test, proposed § 147.7(a)(1)(ii) specified that test serums be dispensed with a pipette. One commenter suggested that a standardized loop be allowed to be used as an alternative to a pipette. The suggestion is adopted and the final rule specifies that test serums be dispensed with a pipette or a standardized loop. Both pipettes and standardized loops are routinely used interchangeably in laboratory procedures. The standardized loop measures the same amount and serves the same purpose as a pipette in dispensing test serums.

In the proposed standard procedure for the serum plate test, § 147.7(a)(1)(iii) states "Dispense 0.03 ml of antigen beside the test serum on each square." One commenter suggested that another sentence be added to state "Hold antigen dispensing bottle vertically." This instruction is added to the final rule. This is necessary to help ensure that a full, uniform drop of antigen is dispensed, and thereby help ensure uniformity of test results.

Hemagglutination Inhibition Test

In the proposed instructions for the preparation of Alsever's solution for the Hemagglutination Inhibition test, the last sentence of paragraph (ii) of § 147.7(d)(1) of the proposal specifies sterilization by Seitz filtration. One commenter suggested that any other form of filtration that would accomplish sterilization should also be allowed. The Department agrees with this suggestion and has changed the sentence accordingly.

One commenter indicated that the dilutions in the test procedures illustrated in Table 2 (Hemmagglutination—Inhibition Test) of the proposed rule did not coincide with the dilutions in the Sample Results of HI Tests in Table 4. The Department agrees. Therefore, in order to correct this, the final rule changes the dilution of serum in tube 1 of Table 2 from 1:10 to 1:5. It is also necessary to make certain corresponding changes. In this connection, Table 2 is changed to require 0.2 ml of serum rather than 0.1 ml, and changed to require 0.8 ml of Phosphate-buffered saline (PBS) rather than 0.9 ml. Also, the serial twofold dilutions in tubes 2–10 in the final rule reflect this change in the initial dilution. With these changes Table 2 is now identical to the table as published in Methods for Examining Poultry Biologics and for Identifying and Quantifying Avian Pathogens, National Academy of Sciences (1971). Also, the test outline in § 147.7(d)(4)(iv) of the final rule is amended to reflect these changes. Further, a footnote is added to Table 2 to ensure that 0.5 ml of the solution is discarded from the tenth tube. This footnote was inadvertently omitted from the proposal.

In the proposed test outline for the mycoplasma HI test, § 147.7(d)(4)(ii) of the proposal stated, in part, "put 0.4 ml of 8-unit antigen in tube 2 of each test row." Two commenters stated that the amount of "0.4 ml" should be "0.5 ml." The stated amount of "0.4" was a typographical error. The Department agrees that the correct amount of 8-unit antigen is 0.5 ml. Accordingly, this is corrected in the final rule.

The first sentence of § 147.7(d)(4)(viii) of the proposed test outline for the mycoplasma HI test stated, in part: "add 0.25 percent washed RBC's to each tube." Two commenters indicated that this should state "add 0.5 ml of 0.25 percent washed RBC's to each tube." "0.5 ml of" was inadvertently omitted from the proposal. The final rule is amended to correct this omission.

Section 147.7(e) Procedure for Mycoplasma HI Test Using Microtiter Technique

The first sentence of § 147.7(e)(2)(vii) of the proposed procedure for mycoplasma hemagglutination inhibition test using microtiter technique stated: "Seal plate, shake and allow to stand at room temperature until cells in cell control gather in compact button." Also, § 147.7(e)(3)(x)(*h*) of the proposed antigen control instructions for the microtiter HI test stated "Seal all wells and shake thoroughly." One commenter questioned the need for sealing the plate and the wells. The purpose of sealing the plate and the wells is to keep water from evaporating from the solution. There should be no significant evaporation unless the plates or wells are held unsealed for over 2 hours. Therefore, unless the plates or wells are to be held for more than 2 hours, it is not necessary to seal them. The final rule amends these provisions to require that the plates and wells be sealed if held over 2 hours.

This document also makes certain nonsubstantive changes for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only alternative to these amendments was not to amend the NPIP regulations. However, this alternative was not adopted because the NPIP is a cooperative State-Federal program through which new technology can be effectively applied to the improvement of poultry breeding stock and hatchery products through the control of certain hatchery-disseminated diseases. The provisions of this program are changed (based on recommendations of the National Plan Conference Committee) to conform with the development of the industry and to utilize new information as it becomes available.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. Presently there is a total of 1,053 hatcheries in the NPIP, of which 42 commercial egg- and meat-type chicken hatcheries and 8 turkey hatcheries are considered to be small entities which could be affected. However, only 7 of these small entities have ever blood tested for the particular diseases with which these amendments are concerned. Furthermore, it is

considered unlikely that the balance of these small entities which participate in the NPIP will blood test for *Mycoplasma gallisepticum* (MG) or *Mycoplasma synoviae* (MS) in the foreseeable future.

List of Subjects in 9 CFR Parts 145 and 147

Animal diseases, Poultry and poultry products, National Poultry Improvement Plan.

Accordingly, 9 CFR Parts 145 and 147 are amended as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

1. In § 145.1, paragraph (gg) is added to read as follows:

§ 145.1 Definitions.

* * * * *

(gg) *Sanitize.* To treat with a product which is registered by the Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, or tuberculocidal, in accordance with the specifications for use as shown on the label of each product. The Official State Agency, with the concurrence of the Service, shall approve each product or procedure according to its specified usage.

2. In § 145.6, paragraph (a)(5), the last sentence is revised to read as follows:

§ 145.6 Specific provisions for participating hatcheries.

(a) * * *

(5) * * * While not mandatory for participation, all eggs set should be fumigated as described in § 147.25 or otherwise sanitized.

* * * * *

3. In § 145.6, paragraph (e) is revised to read as follows:

* * * * *

(e) If a person is responsibly connected with more than one hatchery, all of such hatcheries must participate in the Plan if any of them participate. A person is deemed to be responsibly connected with a hatchery if he or she is a partner, officer, director, holder, owner of 10 percent or more of the voting stock, or an employee in a managerial or executive capacity.

4. In § 145.22, paragraph (d) is revised to read as follows:

§ 145.22 Participation.

* * * * *

(d) Hatching eggs produced by primary breeding flocks shall be fumigated as described in § 147.25 or otherwise sanitized.

5. In § 145.23, paragraph (d)(1)(v) is revised and new paragraph (g) is added to read as follows:

§ 145.23 Terminology and classification; flocks and products.

* * * * *

(d) * * *

(1) * * *

(v) Hatching eggs are collected at least four times a day and are handled as described in § 147.22 and are fumigated on the farm as described in § 147.25(a) or otherwise sanitized.

* * * * *

(g) *U.S. M. Synoviae Clean Started Poultry.* (1) A flock which originated from U.S. M. Synoviae Clean breeding flocks and was hatched in a hatchery approved by the Official State Agency for production of U.S. M. Synoviae Clean chicks.

(2) All other poultry on the premises of the candidate flock must originate from U.S. M. Synoviae Clean sources.

(3) The flock is maintained in compliance with the provisions of § 147.26.

(4) The flocks's freedom from *M. synoviae* is demonstrated by a negative blood test, as provided in § 145.14(b), of a sample of 75 birds, with a minimum of 50 birds per poultry house, between 15–20 days prior to the flock being moved to laying quarters.

(5) Started poultry shall be delivered to and from the farm premises in crates and vehicles which have been cleaned and disinfected as described in § 147.24(a) of this chapter.

6. In § 145.32, paragraph (c) is revised to read as follows:

§ 145.32 Participation.

* * * * *

(c) Hatching eggs produced by primary breeding flocks shall be fumigated as described in § 147.25 or otherwise sanitized.

7. In § 145.33, paragraph (d)(1)(v) is revised and new paragraphs (f) and (g) are added to read as follows:

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(d) * * *

(1) * * *

(v) Hatching eggs are collected at least four times a day and are handled as described in § 147.22 and are fumigated on the farm as described in § 147.25(a) or otherwise sanitized; and

* * * * *

(f) *U.S. M. Gallisepticum Clean Started Poultry.* (1) A flock which originated from U.S. M. Gallisepticum Clean breeding flocks and was hatched in a hatchery approved by the Official State Agency for the production of U.S. M. Gallisepticum Clean chicks.

(2) All other poultry on the premises of the candidate flock must originate from U.S. M. Gallisepticum Clean sources.

(3) The flock is maintained in compliance with the provisions of § 147.26.

(4) The flock's freedom from *M. gallisepticum* is demonstrated by a negative blood test, as provided in § 145.14(b), of a sample of 75 birds, with a minimum of 50 birds per poultry house, between 15–20 days prior to the flock being moved to laying quarters.

(5) Started poultry shall be delivered to and from the farm premises in crates and vehicles which have been cleaned and disinfected as described in § 147.24(a) of this chapter.

(g) *U.S. M. Synoviae Clean Started Poultry.* (1) A flock which originated from U.S. M. Synoviae Clean breeding flocks and was hatched in a hatchery approved by the Official State Agency for the production of U.S. M. Synoviae Clean chicks.

(2) All other poultry on the premises of the candidate flock must originate from U.S. M. Synoviae Clean sources.

(3) The flock is maintained in compliance with the provisions of § 147.26.

(4) The flock's freedom from *M. synoviae* is demonstrated by a negative blood test, as provided in § 145.14(b), of a sample of 75 birds, with a minimum of 50 birds per poultry house, between 15–20 days prior to the flock being moved to laying quarters.

(5) Started poultry shall be delivered to and from the farm premises in crates and vehicles which have been cleaned and disinfected as described in § 147.24(a) of this chapter.

8. In § 145.42, paragraph (c) is revised to read as follows:

§ 145.42 Participation.

* * * * *

(c) Hatching eggs shall be fumigated as described in § 147.25 or otherwise sanitized.

9. In § 145.43, paragraph (c)(2) is revised to read as follows:

§ 145.43 Terminology and classification; flocks and products.

* * * * *

(c) * * *

(2) A flock qualified as U.S. M. Gallisepticum Clean may retain the classification through its first egg-laying cycle, provided in is maintained in isolation and no evidence of *M.*

gallisepticum infection is revealed. A flock which is molted following completion of an egg-laying cycle and subsequently brought back into production, shall be retested within 2 weeks prior to production, as described in paragraph (c)(1) of this section. A State inspector shall visit with the owner or manager of each flock at least once during each laying cycle to discuss and ascertain whether the applicable conditions outlined in § 147.26 of this chapter are being met. If a flock proves to be infected with *M. gallisepticum*, it shall lose this classification.

* * * * *

10. In § 145.44, new paragraph (c)(3) is added to read as follows:

§ 145.44 Terminology and classification; States.

* * * * *

(c) * * *

(3) If a State retains this status for 2 or more years, individual breeding flocks in the State may qualify for an *M. gallisepticum* classification based on a negative test of a sample of 100 birds.

11. In § 145.52 paragraph (b) is revised to read as follows:

§ 145.52 Participation.

* * * * *

(b) Hatching eggs produced by primary breeding flocks shall be fumigated as described in § 147.25 or otherwise sanitized.

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

12. Part 147 is amended by adding a new § 147.7 to read as follows:

§ 147.7 Standard test procedures for mycoplasma.[1]

The serum plate of the tube agglutination test should be considered basic screening tests for mycoplasma antibodies. The test selected will depend on preference, laboratory facilities, and availability of antigen. Both tests, though quite accurate, determine flock status rather than individual bird status, since occasional reactions are nonspecific. Under normal circumstances, the rate of such nonspecific reactions is low. Nonspecific reactions may occasionally be high, particularly after the use of erysipelas bacterin in turkeys and where mycoplasma antibodies are present for closely related mycoplasma other than for the species being tested. The hemagglutination inhibition (HI) test is too cumbersome for routine screening use. Positive reactions are extremely accurate however, and are useful in evaluating serum samples that react with the plate any/or tube antigens. The test should be conducted with 4 HA units. Titers of 1:80 or greater for both chicken and turkey sera are considered positive, while a 1:40 or 1:20 titer would be strongly suspicious and additional tests should be required.

(a) *Serum plate test.* (1) The serum plate test for mycoplasma is conducted by contacting and mixing 0.02 ml of test serum with 0.03 ml of serum plate antigen on a glass at room temperature. The standard procedure is:

(i) Allow antigen and test serums to warm up to room temperature before use.

(ii) Dispense test serums in 0.02 ml amounts with a pipette or standardized loop (rinsed between samples) to 1½ inch squares on a ruled glass plate. Limit the number of samples (no more than 25) to be set up at one time according to the speed of the operator. Serum should not dry out before being mixed with antigen.

(iii) Dispense 0.03 ml of antigen beside the test serum on each square. Hold antigen dispensing bottle vertically.

(iv) Mix the serum and antigen, using a multimixing device if large numbers are to be run at one time.

(v) Rotate the plate for 5 seconds. At the end of the first minute, rotate the plate again for 5 seconds and read 55 seconds later.

(2) A positive reaction is characterized by the formation of definite clumps, usually starting at the periphery of the mixture. Most samples that are highly positive will react well within the 2-minute test period. Reactions thereafter should be considered negative, although partial agglutination at 3 and 5 minutes may warrant further retesting. High-quality antigen contacted with negative serum will usually dry up on the plate without visible clumping. Whenever samples are run, the antigen should be tested against known positive and negative control serums. Standard reference antigens and negative and positive titered sera are available from the National Veterinary Services Laboratories (NVSL), P.O. Box 884, Ames, Iowa 50010.

(3) Since it is difficult to measure uniform amounts of serum with a calibrated loop, this technique should not be used in conducting an official test.

(b) *Serum plate dilution test.* (1) The serum plate dilution (SPD) test may be used to evaluate possible nonspecific reactions, gain additional information to evaluate positive plate tests occurring in an unexpected manner, and/or to evaluate the level of mycoplasma antibodies present in the serum sample. If sufficient serum is available, the following method would provide the dilutions required to conduct the test.

(i) Rack three tubes and put 0.8 ml of phosphate-buffered saline (PBS) in tube 1 and 0.5 ml of PBS in tubes 2 and 3.

(ii) Pipette 0.2 ml of the test serum into tube 1 and discard the pipette.

(iii) With a pipette, mix the serum and PBS in tube 1 and withdraw 0.5 ml and add to tube 2.

(iv) Repeat the process in step (iii), mixing the contents of tube 2 and transferring 0.5 ml to tube 3.

(v) Conduct the test, as described for the serum plate test in paragraph (a), on the undiluted sample and on samples in tubes 1, 2, and 3 after proper mixing of each dilution.

(vi) To assist in the evaluation of the test, conduct concurrent SPD tests using both positive 1:80 and positive 1:160 HI sera for the mycoplasma being tested. The antigen should be pretested for reactivity with standard serum at the 1:5 and 1:10 dilution.

(vii) Interpretation of the SPD test results should be based on the criteria in § 147.6(b) of this part.

(c) *Tube agglutination test.* (1) The mycoplasma tube agglutination test is conducted by mixing 0.08 ml of test serum with 1.0 ml of diluted (1:20) antigen in a tube and allowing the mixture to react for 18–24 hours at 37°C. The diluent will be the standard phosphate-buffered saline with phenol. This solution is made up as follows:

	Grams
Sodium hydroxide (C.P.)	0.15
Sodium chloride (C.P.)	8.5
Potassium dihydrogen phosphate (KH_2PO_4) (C.P.)	0.68
Phenol (Crystal) (C.P.)	2.5
Distilled water to make 1,000 ml	

The pH of the buffered phenolized saline will be 7.1–7.2 if all reagents are accurately measured. The stock tube antigen is diluted 1:20 with buffered phenolized saline. The procedures for the tube test are as follows:

(i) Rack 12 x 75 mm clean tubes and identify the tubes according to the sample to be tested.

(ii) Add 0.08 ml of the individual test serum to each tube. This will create approximately a 1:12.5 screening dilution of test serum when 1.0 ml of diluted antigen is added. The use of a pipetting device will insure proper mixing of serum and antigen.

[1] For additional information on mycoplasma test procedures, refer to the following references: Proc. 77th Annual Meeting, U.S. Animal Health Association, 1973; Isolation and Identification of Avian Pathogens, 2nd Edition; Methods for Examining Poultry Biologics and for Identifying and Quantifying Avian Pathogens, 1971.

(iii) To interpret positive reactions to the 1:12.5 dilution, two additional dilutions may be made by adding 0.04 ml of serum for 1:25 dilution and 0.02 ml of serum for 1:50 dilution, with the addition of 1.0 ml of diluted antigen as indicated in paragraph (c)(1)(ii) above.

(iv) Shake racks and incubate test systems for 18–24 hours at 37°C.

(2) Tests are read against a dark background under indirect fluorescent light. Regarded as a positive reaction is a clearing of the supernatant fluid, with visible sediment in the bottom of the tube. Incomplete reactions are suspect. Positive and negative control serums should be incorporated into each day's run of tests. Reactions at 1:25 or greater are considered positive. They should be confirmed by the HI test. Incubation for periods greater than 24 hours may be helpful in evaluating suspicious reactions and need for possible retesting or other diagnostic tests.

(d) *Hemagglutination Inhibition (HI) test.* The mycoplasma HI test is conducted by the constant-antigen, decreasing-serum method. This method requires using a 4-hemagglutination (HA) unit of diluted antigen. Differences in the number of HA units used will change the titers of positive sera markedly. Standard HA antigens for *Mycoplasma gallisepticum, M. synoviae,* and *M. meleagridis* are available from NVSL. The antigen has been titrated and diluted to approximately 1:640. The HA titration of each sample should be checked as described in paragraph (d)(2) on initial use or after long storage. To maintain HA activity, the undiluted HA antigen should be stored at −60° to −70°C. The test procedures are illustrated in Tables 2 and 3 of this paragraph.

(1) *Preparation of materials.*

(i) Prepare phosphate-buffered saline (PBS) as follows:

	Grams
Sodium hydroxide (C.P.)	0.15
Sodium chloride (C.P.)	8.5
Potassium dihydrogen phosphate (KH_2PO_4) (C.P.)	0.68
Distilled water to make 1,000 ml	

The pH of the PBS will be 7.1–7.2 if all reagents are accurately measured.

(ii) Collect the turkey or chicken red blood cells (RBC's) in Alsever's solution which has been prepared as follows:

	Grams
Sodium citrate	12.0
Sodium chloride	4.2
Dextrose	20.5

The sodium citrate and sodium chloride are dissolved in 800 ml distilled water and sterilized at 15 lbs. pressure for 15 minutes. Dissolve the dextrose in 200 ml distilled water, sterilize by Seitz or other type of filtration and then add aseptically to the sterile sodium citrate and sodium chloride solution.

(iii) From a turkey(s) or chicken(s) known to be free of the mycoplasma being tested, withdraw sufficient blood with a syringe containing Alsever's solution to give a ratio of 1 part blood to 5 parts Alsever's solution (e.g., 8 ml blood in 40 ml of Alsever's solution). Centrifuge the blood suspension at 1,000 rpm for 10 minutes and remove the Alsever's solution or supernatant with a pipette.

(iv) Wash the RBC's two times in 10 or more parts of Alsever's solution, centrifuging after each washing. Centrifugation is at 1,000 rpm for 10 minutes. The supernatant fluid is removed and the RBC deposit resuspended to give a 25 percent suspension of packed RBC's in Alsever's solution. (In testing either chicken or turkey sera, the homologous RBC system must be used; i.e., use chicken cells when testing chicken serum and turkey cells when testing turkey serum.) If this suspension is kept refrigerated, it should keep for 7 or 8 days after the blood has been collected.

(v) For the test, 1 ml of the 25 percent RBC's is added to 99 ml of buffered saline to make a 0.25 percent RBC suspension.

(2) *Hemagglutination (HA) antigen titration.* The HA stock antigen is stored at −70 °C in PBC buffer containing 25 percent glycerin (vol/vol) in a concentrated suspension (i.e., 320–640 HA units/ml) in screwtype vials. Under such conditions, potency will be retained for years. There will be a rapid loss of titer if improperly stored. The titer of HA antigen is determined as illustrated in Table 1 and described in subparagraphs (d)(2) (i) thru (x) of this paragraph.

TABLE 1 Titration of Hemagglutination (HA) Antigen

	Tube No.						
Reagents (ml)	1	2	3 8		9	10	11[a]
PBS	0.8	0.5	0.5.....	0.5	0.5	0.5	0.5
Antigen	0.2						
Transfer	0.5→	0.5→	0.5—...→	0.5→	0.5→	0.5→[c]	
0.25% RBC	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Ant. dilution	1:5	1:10	1:20	1:640	1:1280	1:2560	
Results[b]	+	+	+	+	−	−	

[a] Tube 11, PBS/RBC control.

[b] + = HA; − = no HA (sample titer 1:640).

[c] Discard 0.5 ml.

(i) Rack a series of 11 chemically clean 12 x 75 mm test tubes. Label the tubes 1–11 left to right.

(ii) Put 0.8 ml of PBS in tube 1 and 0.5 ml of PBS in each of tubes 2–11.

(iii) Add 0.2 ml of antigen to tube 1. This will make a 1:5 dilution of antigen. Discard pipette.

(iv) Mix contents of tube 1 thoroughly with a clean pipette, and transfer 0.5 ml to tube 2. This will make a 1:10 dilution of antigen in tube 2. Discard pipette.

(v) Continue making serial twofold dilutions of antigen, changing pipettes after each transfer, through tube 10. This will result in a series of twofold dilutions ranging from 1:5 to 1:2560. Discard 0.5 ml of antigen dilution from tube 10.

(vi) Add 0.5 ,ml of 0.25 percent RBC's to tubes 1–11. Tube 11 will serve as PBS/RBC control.

(vii) Shake the rack and incubate at room temperature until the cells in the PBS/RBC control tube have settled into a compact button at the bottom of the tube.

(viii) If turkey sera is also to be tested for HI titer, repeat steps outlined in

(d)(2) (i) thru (vii) of this paragraph, using 0.25 percent turkey RBC's.

(ix) The end point of the titration is the highest dilution of antigen that produces complete agglutination of the RBC's, as evidenced by the formation of a thin sheet of cells covering the concave bottom of the tube. For example, if complete agglutination is produced through tube 8 (a dilution of 1:640 of antigen), the antigen would be said to titer 640, the reciprocal of the dilution.

(x) Specificity of HA antigen should be determined by conducting HI tests with specific chicken sera of variable HI titers. Specific turkey sera of varying HI titers should be used if turkey sera is also to be tested.

TABLE 2 Hemagglutination Inhibition (HI) Test:

	Tube No.						
Reagents (ml)	1[a]	2	3 8		9	10	11[b]
PBS	0.8	0	0		0	0	0.5
8-unit antigen	0	0.5	0		0	0	0
4-unit antigen	0	0	0.5	0.5	0.5	0.5	0
Test serum	0.2	0	0	0	0	0	0
Transfer	0.5→	0.5→	0.5—...→	0.5→	0.5→	0.5→[c]	
0.25% RBC	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Serum dilution	1:5	1:10	1:20 ...	1:640	1:1280	1:2560	

[a] Tube 1. Serum control.

[b] Tube 11. PBS/RBC control.

[c] Discard 0.5 ml.

TABLE 3 Antigen Control:

	Tube No.				
Reagents (ml)	1	2	3	4	5
4-unit antigen	1.0	0	0	0	0
PBS	0	0.5	0.5	0.5	0.5
Transfer	0.5→	0.5→	0.5→	0.5→	0.5[b]
0.25% RBC	0.5	0.5	0.5	0.5	0.5
Unit Antigen/tube	4	2	1	1/2	1/4
Results[a]	+	+	+	-	-

[a] + = HA; - = no HA.

[b] Discard 0.5 ml.

(3) *Reagents for mycoplasma HI test.*

(i) Eight-unit antigen (Dilution factor for stock antigen is established by dividing titer by 8; i.e., 640 antigen is diluted 1:80 in PBS to make 8-unit antigen.)

(ii) Four-unit antigen (made by diluting surplus 8-unit antigen 1:2 with PBS).

(iii) PBS at pH 7.0.

(iv) Unknown test serums.

(v) Positive control serum of known titer (should be from the same species as the unknown).

(vi) Negative control serum (should be from the same species as the unknown).

(vii) Solution of 0.25 percent washed RBC's.

(4) *Test outline.*

(i) Rack 10 chemically clean 12 x 75 mm tubes for each serum, including controls, to be tested. Identify each row of tubes, and label tubes in each row 1–10, left to right. In row 1, add tube 11 for a PBS/RBC control.

(ii) Put 0.8 ml of PBS in tube 1 of each test row; put 0.5 ml of 8-unit antigen in tube 2 of each test row; put 0.5 ml of 4-unit antigen in each of tubes 3–10 in each test row; and put 0.5 ml of PBS in tube 11.

(iii) Add 0.2 ml of test serum to tube 1. This tube will be the serum control in the test system.

(iv) Mix and make 0.5 ml transfers from tube 1 through tube 10. This will result in serial twofold dilutions of serum starting with 1:5 and ending with 1:2560. Discard 0.5 ml from tube 10.

(v) Rack five tubes in which to set up an antigen control.

(vi) In tube 1, put 1.0 ml of 4-unit antigen; put 0.5 ml of PBS in tubes 2–5.

(vii) Make 0.5 ml serial transfers from tube 1 through tube 5, changing pipettes after each transfer. Discard 0.5 ml from tube 5. This will result in a series of tubes respectively containing 4, 2, 1, ½, and ¼ units of antigen.

(viii) After 20–30 minutes at room temperature to permit antibody-antigen reaction, add 0.5 ml of 0.25 percent washed RBC's to each tube. Shake racks and incubate as for HA titration.

(ix) In this test system, positive serum should inhibit the HA activity of the antigen, while negative serum should have no effect. Inhibition will be evidenced by the formation of a free-flowing button of cells in the botton of the tube. The titer of the serum can be calculated as the reciprocal of the highest dilution of serum that produces complete HI. Controls should read as follows:

(*a*) Serum control (tube 1). Cells should settle out.

(*b*) PBS/RBC control (tube 11). Cells should settle out.

(*c*) Antigen control. HA in tubes 1–3. Cells should settle out in tubes 4–5.

(*d*) Positive and negative serum control. Positive control should inhibit to its known titer; negative control should have no inhibitory effect.

(x) With this test system and 4 units of antigen, HI titers of 80 or above are considered positive and titers of 40 are strongly suspicious. However, titers of 10 or 20 are usually negative. Sample test results are illustrated in Table 4 in this paragraph.

TABLE 4.—SAMPLE RESULTS OF HI TESTS

[Tube and Serum Dilution]

	1	2	3	4	5	6	7	8	9	10
	1.5	1:10	1:20	1:40	1:80	1:160	1:320	1:640	1:1280	1:2560
Serum A (HI neg.)	–	+	+	+	+	+	+	+	+	+
Serum B (HI 1:40)	–	–	–	–	+	+	+	+	+	+
Serum C (HI 1:160)	–	–	–	–	–	–	+	+	+	+
Serum D (HI 1:20)	–	–	–	+	+	+	+	+	+	+

+, HA.
–, no HA or HI.

(xi) If serological results from agglutination tests complemented by the HI test are inconclusive, cultural examination, bio-assay, or retesting of samples after an interval of at least 21 days may be indicated.

(e) *Procedure for mycoplasma hemagglutination inhibition test using microtiter technique.* The microtiter mycoplasma HI test was developed from the tube HI test described in § 147.7(c). Refer to these procedures for preparation of materials not listed below.

(1) *Materials needed.* (i) Microtiter equipment (minimal); i.e., microplates, microdiluters, micropipettes, go-no-go diluter delivery tester, (0.05 ml).

(ii) Phosphate-buffered saline (PBS).

(iii) Reagents from NVSL; i.e., HA antigen and negative and positive titered sera for the mycoplasma to be tested.

(iv) Homologous red blood cells (RBC's) suspension 0.5 percent (2 ml of 25 percent RBC's to 98 ml of PBS) obtained from birds free of the mycoplasma to be tested. (See paragraph (d)(1)(iv) of this section for preparation of RBC's.)

(2) *Microtiter hemagglutination (HA) antigen titration.* (i) Mark off two rows of 10 wells each for antigen titer (HA is done in duplicate).

(ii) Mark last well in each row for cell controls.

(iii) Prepare in small test tube (12 x 75 mm) a starting dilution of antigen by combining 0.1 ml antigen with 0.9 ml PBS. This is a 1:10 dilution.

(iv) Add 0.05 ml PBS to all wells, including cell controls.

(v) Add 0.05 ml antigen (1:10 dilution) with diluters to the first well in both rows, mix thoroughly, transfer diluter to second well of each row and mix, continuing through the 10th well of each row. With mixture in diluter from last well, check diluter on go-no-go card, then place diluter in distilled water. If diluter checks out, antigen dilution will be 1:20, 1:40, 1:80, 1:160, 1:320, 1:640, 1:1280, 1:2560, 1:5120.

(vi) Add 0.05 ml of 0.5 percent RBC suspension to all wells using a 0.05 dropper.

(vii) Seal plate (if plate is to be held over 2 hours); shake and allow to stand at room temperature until cells in cell control gather in compact button. The titer is the highest dilution in which agglutination is complete. The dilution contains 1 HA unit in 0.05 ml.

(viii) Prepare a dilution of antigen which contains 8 HA units in 0.05 ml. Example: if the antigen titer is 1:640, then that dilution contains 1 HA unit per 0.05 ml. Then 640 ÷ 8 = 80, or a dilution of 1:80 containing 8 HA units. Or 640÷4=160, a dilution of 1:160 containing 4 HA units per 0.05 ml.

(3) *Microtiter HI test.* (i) Prepare two dilutions of antigen, one containing 8 HA units per 0.05 ml and one containing 4 HA units per 0.05 ml. The 4-unit antigen can be prepared from the 8-unit antigen by mixing with equal parts of PBS.

(ii) Mark off one row of 8 wells for each test.

(iii) Prepare a 1:5 dilution of each sera to be tested in a small test tube (12×75 mm): 0.1 ml serum plus 0.4 ml PBS or 0.05 ml serum plus 0.20 ml PBS.

(iv) Add 0.05 ml PBS with the 0.05 ml dropper to the first well in each row.

(v) Add 0.05 ml of 8-unit antigen to well 2 in each row.

(vi) Add 0.05 ml of 4-unit antigen to well 3 through 8 for each row.

(vii) For each serum to be tested, load 0.05 ml diluter with 1:5 dilution as prepared in paragraph (iii) above and place in first well of row.

(viii) Mix well and transfer loaded diluter to well 2. Continue serial twofold dilutions through well number 8.

(ix) Well 1 (serum dilution of 1:10) is serum control. Well 2=1:20 dilution; well 3=1:40 dilution; well 4=1:80 dilution; well 5=1:160 dilution; well 6=1:320 dilution; well 7=1:640 dilution; and well 8=1:1280 dilution.

(x) *Antigen control.* (*a*) Mark off 6 wells for antigen controls.

(*b*) Add 0.05 ml PBS to wells 2, 3, 4, 5, and 6.

(*c*) Add 0.05 ml 8-unit antigen to wells 1 and 2.

(*d*) With empty diluter, mix contents of well 2. Continue serial twofold dilutions through well 6.

(*e*) Well 1 contains 8 units; well 2 contains 4 units; well 3 contains 2 units; well 4 contains 1 unit; well 5 contains ½ unit; and well 6 contains ¼ unit.

(*f*) Mark off two wells for cell controls and add 0.05 ml PBS to each.

(*g*) After 20–30 minutes at average room temperature (20°–23°C) to permit antibody-antigen reaction, add 0.05 ml of a 0.05 percent suspension of RBC's to all wells.

(*h*) Seal all wells (if wells are to be held over 2 hours). Shake the plate thoroughly.

(*i*) Incubate at room temperature for 30–45 minutes.

(xi) *Interpretation:* The HI titer is the highest serum dilution exhibiting complete inhibition of hemmagglutination as indicated by flowing of cells when the plate is tilted. Serum having a titer of 1:80 or greater is considered positive. A titer of 1:40 or 1:20 is suspicious.

§ 147.22 [Amended]

13. In § 147.22, paragraph (c) is amended by removing the period from the end of the first sentence and adding the phrase "or otherwise sanitized", and, in the second sentence, by replacing the word "fumigated" with the word "sanitized".

14. In § 147.22, paragraph (e) is amended by adding the phrase "or otherwise sanitized" between the words "clean, fumigated," and "used cases".

§ 147.23 [Amended]

15. In § 147.23, paragraph (c) is amended by adding the phrase "or otherwise sanitized" between the words "and fumigated" and "after each".

16. In § 147.23, paragraph (d) is amended by adding, in the second sentence, the phrase "or otherwise sanitized" between the words "be fumigated" and "prior to" and by adding, in the third sentence, the phrase "or otherwise sanitized" between the words "be fumigated" and "after transfer".

17. In § 147.23, paragraph (e) is amended by adding the phrase "or otherwise sanitized" between the words "clean, fumigated," and "egg cases".

§ 147.24 [Amended]

18. In § 147.24, paragraph (a)(2) is amended by adding a final sentence to read as follows:

(a) * * *

(2) * * * Housing where poultry infected with a mycoplasmal disease were kept should remain closed for 7 days before removal of the litter.

* * * * *

19. In § 147.24, paragraph (b)(3) is amended by adding the phrase "or otherwise sanitized" between the words "in § 147.25(e)" and "prior to".

20. In § 147.24, paragraph (c) is amended by deleting the period at the end of the paragraph and adding the phrase "or otherwise sanitized".

§ 147.25 [Amended]

21. In § 147.25, the introductory paragraph is amended by replacing the phrase "is recommended" with the phrase "may be used".

§ 147.44 [Amended]

22. In § 147.44, paragraph (b) is amended by changing the reference contained in this paragraph from "§ 147.43(d)(1)" to "§ 147.43(d)(2)".

Authority: Sec. 101(b), Pub. L. 425, 78th Cong. 58 Stat. 734, as amended, 7 U.S.C. 429, 7 CFR 2.17, 2.51, 371.2(d).

Done at Washington, D.C. this 4th day of May, 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-12589 Filed 5-9-84; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL ELECTION COMMISSION

11 CFR Part 9034

[Notice 1983-3]

Presidential Primary Matching Fund

Correction

In FR Doc. 83-2268 beginning on page 5224 in the issue of Friday, February 4, 1983, make the following correction:

On page 5241, in the middle column, in § 9034.5(e)(2), in the seventh line, after "its" insert "initial determination within 10".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-ASW-18; Amdt. 39-4861]

Airworthiness Directives; Herbie Hog Parachutes Approved Under TSO C-23b

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of plastic ripcord handles on Herbie Hog Parachutes manufactured under TSO C-23b. The AD is needed to replace the plastic handle which is subject to breakage which could result in possible nondeployment of the parachute canopy.

DATES: Effective May 10, 1984. Compliance is required before next parachute deployment after the effective date of the AD, unless already accomplished.

FOR FURTHER INFORMATION CONTACT: Joseph L. Condo, Special Programs Branch, ASW-190, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone No. (817) 877-2567.

SUPPLEMENTARY INFORMATION: The FAA has determined that nondeployment of the parachute canopy has occurred with a Herbie Hog parachute. Investigation following the incident revealed that the plastic handle had separated when deployment force was exerted on the handle. Replacement of the plastic handle with a metal handle is necessary to prevent an unsafe condition.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Parachutes.

Adoption of the Amendment

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

Herb M. Graves, Jr.: Applies to all Herbie Hog parachutes equipped with plastic deployment handles.

To prevent possible nondeployment of the parachute canopy due to separation of the plastic handle when subjected to the deployment force, replace the plastic handle with a metal handle. Rework the parachute by removing the plastic handle and cable assembly and replacing it with a "Martin Baker" type metal handle and cable assembly. Care must be taken to assure that the pin spacing and cable length are compatible with the parachute rigging installation.

Compliance is required prior to making the parachute available for any parachute jump and before the next deployment after the effective date of this AD (unless already accomplished).

This amendment becomes effective on May 10, 1984.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-499, January 12, 1983); 14 CFR 11.89)

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

Issued in Fort Worth, Texas, on April 27, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-12597 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AWA-10]

Alteration of VOR Federal Airways V-139 and V-451

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment realigns VOR Federal Airways V-139 and V-451 in the vicinity of Whitman, MA, due to the loss of lease and aviation safety interests.

DATES: Effective date July 5, 1984. Comments must be received on or before June 22, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 84-AWA-10, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves realignment of VOR Federal Airways V-139 and V-451 because of the decommissioning of the Whitman VOR/DME due to loss of lease and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to realign V-139 and to revise V-451 by deleting that portion of V-451 that starts from the INT Whitman, MA, 177° and Providence, RI, 118° radials (COSSY) and goes to Whitman. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to realign V-139 and V-451 because of the decommissioning of the Whitman VOR/DME due to loss of lease and aviation safety interests. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective on the next charting date.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., July 5, 1984, as follows:

V-139 [Amended]

By deleting the words "6 miles wide, Whitman, MA; INT Whitman 041° and Manchester, NH, 130° radials; Kennebunk, ME." and by substituting the words "INT Providence 043° and Kennebunk, ME, 180° radials; Kennebunk."

V-451 [Revised]

From INT Providence, RI, 043° and Boston, MA, 178° radials; INT Providence 043° and Kennebunk, ME, 180° radials; INT Kennebunk 180° and Brunswick, ME, 211° radials; Brunswick.

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

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

Issued in Washington, D.C., on May 2, 1984.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-12602 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 84-AWA-11]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Special Use Airspace; Location Name Change, Camp McCoy, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The name Camp McCoy has been changed to Fort McCoy. These amendments substitute the word "Fort" for the word "Camp" in the title and descriptions of the Camp McCoy Transition Area and Restricted Area R-6901; except that the word "Camp" is deleted in references to the McCoy RBN contained in the transition area description.

EFFECTIVE DATE: July 5, 1984.

FOR FURTHER INFORMATION CONTACT: Neil Saunders, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION: The purpose of these amendments to § 71.181 and § 73.69 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) is to reflect the name change of Camp McCoy to Fort McCoy in the title and descriptions of the transition area and R-6901. Since these amendments are editorial in nature they are minor matters on which the public would have no particular desire to comment, notice and public procedure thereon is unnecessary. Sections § 71.181 and § 73.69 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Transition areas and restricted areas.

Adoption of the Amendments

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 and § 73.69 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, effective 0901 G.m.t., July 5, 1984, as follows:

§ 71.181 Camp McCoy, WI [Amended]

By changing the title to "Fort McCoy, WI" and be deleting in the description the words "Camp McCoy Army Airfield" and substituting "Fort McCoy Army Airfield" and also by deleting "Camp McCoy RBN" and substituting "McCoy RBN" throughout the description.

PART 73—[AMENDED]

§ 73.69 R-6901 Camp McCoy, WI [Amended]

By changing the title to "R-6901 Fort McCoy, WI" and after the words "Commanding Officer," delete "Camp McCoy" and substitute "Fort McCoy".

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

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It.

therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 2, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-12601 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 83-ASO-42]

Establishment of Jet Routes and Area High Routes; Alteration of Jet Route J-186—Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Jet Route J-186 between Toccoa, GA, and Appleton, OH. The alteration is a direct route between Toccoa and Appleton. This action shortens the distance between these points and arrival flow into the Atlanta, GA, terminal area.

EFFECTIVE DATE: July 5, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On February 28, 1984, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of Jet Route J-186 between Toccoa, GA, and Appleton, OH (49 FR 7244). J-186 is realigned as a direct route thereby eliminating the current dogleg in that area. The realignment shortens the distance between these two points and improves the arrival flow from the jet route structure to the low altitude airways into Atlanta. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the description of J-186 between Toccoa, GA, and Appleton, OH. This action shortens the distance between these points and improves arrival traffic flow into the Atlanta terminal area.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t., July 5, 1984, as follows:

J-186 [Revised]

From Toccoa, GA, to Appleton, OH.

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

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

Issued in Washington, D.C., on May 2, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-12600 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 24061; Amdt. No. 1268]

Air Traffic and General Operating Rules; 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

Aviation safety, Approaches, Standard instrument.

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 July 5, 1984*

Columbia, MO—Columbia Regional, VOR RWY 13, Amdt. 2
Tucumcari, NM—Tucumcari Municipal, VOR RWY 21, Amdt. 5
Tucumcari, NM—Tucumcari Municipal, VOR RWY 26, Amdt. 5

** * * Effective June 21, 1984*

Ocala, FL—Ocala Muni/Jim Taylor Field, VOR RWY 36, Amdt. 12
Michigan City, IN—Michigan City, VOR-A, Amdt. 1
Coffeyville, KS—Coffeyville Muni, VOR/DME-A, Amdt. 4
Norridgewock, ME—Central Maine Arpt of Norridgewock, VOR/DME RWY 3, Amdt. 1
Ironwood, MI—Gogebic County, VOR RWY 9, Amdt. 11
Ironwood, MI—Gogebic County, VOR/DME RWY 27, Amdt. 7
Lapeer, MI—Dupont-Lapeer, VOR-A, Amdt. 11
Manistique, MI—Schoolcraft County, VOR RWY 28, Amdt. 7
Cape Girardeau, MO—Cape Girardeau Muni, VOR RWY 10, Original
Cleveland, OH—Cuyahoga County, VOR-A, Amdt. 1
Rockingham, NC—Rockingham-Hamlet, VOR/DME-A, Amdt. 6

** * * Effective April 27, 1984*

Santa Monica, CA—Santa Monica Muni, VOR-A, Amdt. 6

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

** * * Effective July 5, 1984*

Alice, TX—Alice Intl, LOC RWY 31, Amdt. 3

** * * Effective June 21, 1984*

Ocala, FL—Ocala Muni/Jim Taylor Field, LOC RWY 36, Amdt. 3
Altanta, GA—The William B Hartsfield Atlanta Intl, LOC BC RWY 9R, Amdt. 7, Cancelled
Cleveland, OH—Cuyahoga County, LOC BC RWY 5, Amdt. 6

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

** * * Effective June 21, 1984*

Coffeyville, KS—Coffeyville, Muni, NDB RWY 34, Amdt. 7
Wellington, KS—Wellington Muni, NDB RWY 17, Amdt. 2
Cleveland, OH—Cuyahoga County, NDB RWY 23, Amdt. 4
Columbia, SC—Columbia Metropolitan, NDB RWY 11, Amdt. 21
Walterboro, SC—Walterboro Muni, NDB RWY 23, Amdt. 5

The FAA published an Amendment in Docket No. 24042, Amdt. No. 1267 to Part 97 of the Federal Aviation Regulations (VOL 49 FR No. 83 Page 18086; dated Friday, April 27, 1984) under § 97.27 effective June 7, 1984, which is hereby amended as follows:

Heneryetta, OK—Heneryetta Muni, NDB RWY 35, Amdt. 2 correct to read
Henryetta, OK—Henryetta Muni, NDB RWY 35, Amdt. 2

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

** * * Effective June 21, 1984*

Ironwood, MI—Gogebic County, ILS RWY 27, Amdt. 2
Springfield, MO—Springfield Regional, ILS RWY 1, Amdt. 15
Cleveland, OH—Cuyahoga County, ILS RWY 23, Amdt. 8
Columbia, SC—Columbia Metropolitan, ILS RWY 11, Amdt. 12
San Antonio, TX—San Antonio Intl, ILS RWY 3, Amdt. 13

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

** * * Effective June 21, 1984*

Gulf Shores, AL—Jack Edwards, RADAR -1, Orig.
Flint, MI—Bishop, RADAR-1, Amdt. 6

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

** * * Effective June 21, 1984*

Coffeyville, KS—Coffeyville Muni, RNAV RWY 35, 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.

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

Issued in Washington, D.C. on May 4, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-12604 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371 and 376

[Docket No. 40319-31]

Clarification of Special Provisions Relating to Electronic Computers and Related Equipment, and Editorial Corrections to Sections 371.10 and 376.9 of the Export Administration Regulations

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Export Administration Regulations are revised to clarify that the provisions set forth in § 376.10, Electronic Computers and Related Equipment, pertain to electronic computers and equipment that are destined for proscribed countries, and the specific information the Office of Export Administration (OEA) asks for in that section only applies to transactions where the destination is a proscribed country. Also, the word "Cuba" is reinserted after it was inadvertently dropped from § 376.9, and a cross-reference and footnote in § 371.10 are corrected.

DATES: Effective date May 10, 1984. This rule may be further revised in light of any comments received. Comments must be received by July 9, 1984.

ADDRESSES: Written comments (six copies when possible) should be sent to: Betty Ferrell, Exporter Services Division, P.O. Box 273, Office of Export Administration, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Exporter Services Division, Office of Export Administration. (Telephone: (202) 377-3856.)

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Invitation To Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act") this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule contains a collection of information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The collection of this information has been approved by the Office of Management and Budget (OMB control number 0625-0038).

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close July 9, 1984. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the 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.

List of Subjects in 15 CFR Parts 371 and 376

Exports.

PART 371—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

§ 371.10 [Amended]

1. The footnote to the first paragraph in § 371.10(a) is revised to read:

[1] Where a validated license is required, see §§ 372.4 and 376.9.

PART 376—[AMENDED]

2. Section 376.9 (c)(4)(ii)(*c*) is revised to read as follows:

§ 376.9 Ship stores, plane stores, supplies, and equipment.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(*c*) is under charter to, or under control of, a national of North Korea, Vietnam, Kampuchea, or Cuba, state whether any commodities identified by the code letter "A," "B," or "M" following the Export Control Commodity Number on the Commodity Control List (Supplement No. 1 to § 399.1), included on the U.S. Munitions List (see Supplement No. 2 to Part 370), or subject to the Atomic Energy Act § 370.10(e)) are carried on board the vessel or aircraft and destined directly or indirectly to any point under the control of North Korea, Vietnam, Kampuchea or Cuba. If such is the case, indicate where such commodities will be discharged.

* * * * *

3. The introductory sentence to § 376.10 and the first sentence in § 376.10(a)(5) are revised to read as follows:

§ 376.10 Electronic computers and related equipment.

Special provisions relating to the licensing for export of electronic computers and/or related commodities (ECCN 1565A) to destinations in Country Groups Q, W, or Y or the People's Republic of China are set forth below.

(a) * * *

* * * * *

(5) Qualifications of certain computers for general license treatment. Certain digital computers and/or devices and related peripherals covered by ECCN 1565A may be exported or reexported under General License *G-DEST* to all destinations except those in Country Groups S and Z provided that (1) a written request is submitted to the Office of Export Administration with information demonstrating that the conditions set forth in paragraphs (a)(5)(i) and (ii) of this section are fully met, and (2) authorization is received from the Office of Export Administration that those specific digital computers and/or devices may be regarded as qualifying for export or reexport under General License *G-DEST*.

* * * * *

Authority: Sections 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Executive Order No. 12451 of December 20, 1983 (48 FR 56563, December 22, 1983).

Dated: March 19, 1984.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84-12591 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9168]

PharmTech Research, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts or practices and unfair methods of competition, this consent order requires a San Francisco, Calif. manufacturer of nutritional supplements, among other things, to cease representing that findings of a 1982 National Academy of Sciences report entitled *Diet, Nutrition and Cancer* support the claim that Daily Greens, a dehydrated vegetable tablet, reduces the incidence of any type of cancer. The order requires the company to substantiate representations concerning benefits to health with reliable and competent scientific evidence, and to maintain accurate records which either support or contradict such claims. Further, the company is prohibited from misrepresenting the purpose, content or conclusion of any scientific test, research article or scientific opinion.

DATES: Complaint issued July 27, 1983. Decision and Order issued May 1, 1984.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Andrew B. Sacks, Washington, D.C. 20580. (202) 724-1524.

SUPPLEMENTARY INFORMATION: On Tuesday, Feb. 14, 1984, there was published in the **Federal Register**, 49 FR 5626, a proposed consent agreement In the Matter of PharmTech Research, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.42 Connection of others with goods; § 13.110 Endorsements, approval and testimonials; § 13.170 Qualities or properties of product or service; § 13.170-52 Medicinal, therapeutic, healthful, etc.; § 13.170-70 Preventive or protective, § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests. Subpart—Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1665 Endorsements; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1895 Scientific or other relevant facts.

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

List of Subjects in 16 CFR Part 13

Nutritional supplements, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-12656 Filed 5-9-84; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 453

Trade Regulation Rule; Funeral Industry Practices

AGENCY: Federal Trade Commission.

ACTION: Denial of Petition Requesting Further Extension of Effective Date of Final Trade Regulation Rule.

SUMMARY: The Commission is publishing notice of its decision to deny a petition requesting a further extension of the effective date of the Federal Trade Commission's Trade Regulation Rule Concerning Funeral Industry Practices. The effective date for the entire Rule remains April 30, 1984, as previously scheduled.

FOR FURTHER INFORMATION CONTACT: Lewis Rose, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 376-2863.

SUPPLEMENTARY INFORMATION:

I. Introduction

On September 24, 1982, the Commission issued its trade regulation rule concerning funeral industry practices (hereinafter referred to as the "Funeral Rule" or "Rule").[1] At that time, the Commission announced that the Rule would become effective three months after the conclusion of Congressional review.[2] Thereafter, the Rule was subject to Congressional review which terminated on May 15, 1983, with neither House of Congress having passed a resolution of disapproval. On June 6, 1983, the Commission announced that the effective date of the Rule would be January 1, 1984.[3] This date was chosen to allow the Commission to file its briefs after the Congressional review period and to allow sufficient time for the United States Court of Appeals for the Fourth Circuit to review the rulemaking record and reach a decision in the matter of *Harry & Bryant Co., et al.* v. FTC, a proceeding to review the Rule.[4]

[1] 47 FR 42260 (September 24, 1982).

[2] Id.

[3] 48 FR 25174 (June 6, 1983).

[4] Nos. 82-1850(L) et seq.

Subsequently, the Commission, in response to petitions filed by two industry trade associations, announced its decisions to postpone the effective date of portions of the Rule until April 30, 1984.[5] However, those portions of the Rule requiring that funeral providers refrain from specified oral or written misrepresentations became effective on January 1, 1984, as previously scheduled.[6]

On January 12, 1984, a three judge panel of the Fourth Circuit affirmed the Rule in its entirety.[7] Writing for the panel, Circuit Judge Hall held that: (1) Petitioners were provided all the procedural rights to which they were entitled during the rulemaking proceeding; (2) the Rule falls within the Commission's rulemaking authority; (3) the Rule is supported by substantial evidence; and (4) the Rule does not violate petitioner's First Amendment rights.[8]

Thereafter, on January 26, 1984, National Selected Morticians ("NSM") and National Funeral directors Association ("NFDA") filed petitions for rehearing and requests for rehearing *en banc*. The petitions raised eight issues for the Court's consideration. On March 1, 1984, the Fourth Circuit summarily denied the petition.[9] The denial left standing the panel's decision of January 12, 1984, affirming the Funeral Rule in its entirety.

II. The Petition

On Tuesday, April 24, 1984, the eight individual funeral homes which were named plaintiffs in *Harry & Bryant Co., et al.* v. *FTC* filed a petition with the Commission requesting that the Commission further delay the effective date of those provisions of the Rule which impose affirmative obligations upon members of the funeral industry until such time as judicial review of the Rule has been completed.[10] Petitioners state they intend to file a petition for writ of certiorari with the Supreme Court of the United States. The petition indicates that the relief sought would be a summary reversal of the Fourth Circuit's decision.

In support of their request, petitioners argue that the Funeral Rule is lengthy and complex, constituting a comprehensive code of procedures and requirements which all funeral firms must follow in their dealings with consumers. According to the petitioners, many such firms will be required to adopt new and different procedures to comply with the Rule, and the monetary penalties for failure to comply can be substantial. Petitioners argue that the Rule should not become effective in its entirety before judicial review is completed because compliance with the Rule provisions will entail substantial time and expense. Thus, petitioners assert that if any of the Rule provisions are invalidated by the Supreme Court, this expense and effort will have been wasted and unnecessary.

Petitioners note that the basis of their request for Supreme Court review is that the Fourth Circuit did not and could not determine whether the Rule is supported by substantial evidence in the record, because to the best of petitioners' knowledge, the record was not transmitted to the Court from the Commission.

Finally, the petitioners note that Chairman Miller's dissent from the promulgation of the Rule stated that the basic reason for the Chairman's opposition to the Rule was the lack of evidence in the record.

III. Decision of the Commission

After careful consideration of the issues raised by the petitioners, the Commission has determined to deny the petition for the following reason. The primary argument raised by the petitioners is that they intend to file a petition for writ of certiorari with the Supreme Court of the United States seeking summary reversal of the Fourth Circuit's decision. The sole basis for the review consists of petitioner's assertion that the Rule was not supported by substantial evidence and that the Fourth Circuit could not make the requisite review of the record because the record was not before the panel. It is the Commission's opinion that the facts and issues raised by the petitioners are not likely to result in the Supreme Court's granting the petition. Additionally, it is the policy of the Commission to not delay the effective date of Rules that have been upheld in their entirety by Circuit Courts particularly where, as here, no showing has been made that the petitioner is likely to prevail on the merits of their appeal. In this regard, the Commission notes that the issues that petitioners state will be the basis of its request for review by the Supreme Court are the identical issues raised in petitioners request for rehearing which was summarily denied by the Fourth Circuit on March 1, 1984. Thus, the decision of the Commission is that petitioners request for a delay does not have substantial merit and therefore the granting of the request is not in the public interest.

The Commission also believes that a further delay of the effective date would have a negative effect on staff's efforts to assist funeral directors in voluntarily complying with the Rule. Over the past year, the Commission's staff has been engaging in an extensive nationwide industry education campaign. During this time, staff has appeared before over 15,000 funeral directors nationwide in over 50 compliance seminars, video teleconferences, and other speeches. Due to this outreach program, it is the Commission's opinion that the overwhelming majority of funeral directors are ready to make good faith efforts to comply with the Rule on April 30, 1984. A further delay in the effective date of the Rule would have an extremely negative impact on the outreach program, thereby reducing the level of voluntary compliance.

Finally, the Commission notes that none of the reasons supporting its decision of October 6, 1983, to delay the Rule until April 30, 1984, are currently operative. In announcing its decision to delay the Rule at that time, the Commission noted that:

> [a] limited further extension of the effective date of portions of the Rule is appropriate in light of the good faith efforts of the requestor trade associations to make plans for compliance with the Rule by their membership in the event that the Rule is sustained, while at the same time exercising their right to challenge the Rule in court. A limited extension * * * will enable petitioners to begin printing the forms necessary for compliance after the Fourth Circuit has had substantial time to consider the petition for review.[11]

Since that time all of the national trade associations have held compliance seminars for their members, the Rule has been sustained by the Fourth Circuit, and there has been ample time for members of the industry to prepare the forms necessary for compliance. Therefore, the Commission believes that

[5] 48 FR 4537 (October 6, 1983). The Rule provisions which are scheduled to become effective on April 30, 1984 are: §§ 453.2, 453.3(a)(1)(ii), 453.3(a)(2)(ii), 453.3(b)(1)(ii), 453.3(b)(2), 453.3(c)(1)(ii), 453.3(c)(2), 453.3(d)(2), 453.3(f)(1)(ii), 453.3(f)(2), 453.4, 453.5, 453.6, 453.7, and 453.10.

[6] The Rule provisions which became effective on January 1, 1984 are: §§ 453.1, 453.3(a)(1)(i), 453.3(a)(2)(i), 453.3(B)(1)(i), 453.3(c)(1)(i), 453.3 (d)(1)(i), 453.3(e), 453.3(f)(d)(i), 453.8, and 453.9.

[7] *Harry & Bryant Co., et al.* v. FTC, Nos. 82-1850(L) et seq. 4th Cir. January 12, 1984. A copy of the Court's opinion is appended to this memorandum as Attachment A.

[8] Id. (slip op. at 5).

[9] *Harry & Bryant Co., et al.* v. FTC, Nos. 82-1850(L) et seq. 4th Cir. January 12, 1984, reh'g denied, March 1, 1984.

[10] National Selected Morticians, a party to the litigation, is not one of the petitioners in this matter. The petition has been placed on the public record and is identified as Document XXI-3 in FTC File No. 215-46. A copy is appended to this memorandum as Attachment B.

[11] 48 FR 45537, at 45538 (October 6, 1983).

there is no compelling reason to delay the effective date of the Rule at this late date.

List of Subjects in 16 CFR Part 453

Funerals, Trade regulation rule.

Accordingly, the Commission denies petitioners' request for an extension of the effective date of the Rule.

By Direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-12653 Filed 5-9-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-210 (Kentucky-2); Order No. 371]

High-Cost Gas Produced from Tight Formations; Kentucky

Issued: May 9, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Juridictional agencies may submit recommendatiuons of areas for designations as tight formations. Here the Commission adopts the recommendation of the Commonwealth of Kentucky Public Service Commission that the Berea Sandstone located in Pike County, Kentucky be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Tom Rattray, (202) 357-5447, or C. W. Gray, Jr., (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Issued May 8, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, J. David Hughes, A. G. Sousa and Oliver G. Richard III.

Based on a recommendation made by the Commonwealth of Kentucky Public Service Commission (Kentucky), the Commission amends its regulations [1] to include the Berea Sandstone in Pike County, Kentucky, as a designated tight formation eligible for incentive pricing. The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on September 26, 1983.[2]

Evidence submitted by Kentucky supports the assertion that the Berea Sandstone, located in Pike County, Kentucky, meets the guidelines contained in § 271.703(c)(2). The Commission adopts this recommendation.

This amendment shall become effective June 8, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703(d) is amended by adding paragraph (161) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(161) *Berea Sandstone in Kentucky.* RM79-76-210 (Kentucky-2).

(i) *Delineation of formation.* The Berea Sandstone (called Berea grit by drillers) encompasses all of Pike County, Kentucky, with the exception of 14 irregularly-shaped areas as shown on maps on file with the Commission.

(ii) *Depth.* The Berea Sandstone occurs near the base of Mississippian-age deposits between the Sunbury Shale (called Coffee shale by drillers) and the Ohio Shale (called Devonian shale by drillers). The average depth of the top of the Berea Sandstone is 2,400 feet in western Pike County and increases to 3,500 feet in the eastern part of the county; however, the range of the depth to the top of the Berea is from the surface to 4,617 feet.

[FR Doc. 84-12678 Filed 5-9-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 271.703(d) (1983).

[2] 48 FR 44586, September 29, 1983. Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

18 CFR Part 271

[Docket No. RM79-76-134 (West Virginia-2); Order No. 372]

High-Cost Gas Produced From Tight Formations; West Virginia

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Commission adopts the recommendation of the State of West Virginia, Department of Mines, Division of Oil and Gas, that the "Big Lime" Zone of the Greenbrier Group, located in certain areas of Fayette, McDowell, Raleigh, and Wyoming Counties, and all of Mercer County, West Virginia be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Elisabeth Pendley, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: May 9, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, J. David Hughes, A. G. Sousa and Oliver G. Richard III.

Based on a recommendation made by the State of West Virginia, Department of Mines, Division of Oil and Gas (West Virginia), the Commission amends its regulations [1] to include the "Big Lime" Zone of the Greenbrier Group located in portions of McDowell, Fayette, Raleigh, and Wyoming Counties, and all of Mercer County, West Virginia, as a designated tight formation eligible for

[1] 18 CFR 271.703(d) (1983).

incentive pricing.[2] The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on November 22, 1982.[3]

Comments on the proposed rule were invited and after an extension of time, nine comments were received. Champlin Petroleum Company, West Virginia Oil and Natural Gas Association, Swift Energy Company and Amax Petroleum Company filed comments in support of the application. Sewell Coal Company, Ranger Fuel Corporation, West Virginia Public Service Commission, Badger Coal Company, and Jewell Ridge Coal Corporation opposed the application on such grounds as no economic need for the incentive price, invalid permeability and open flow production data, inadequate well spacing, and the presence of infill drilling.

We have analyzed these comments and determined that the opposing comments do not present any persuasive arguments for rejecting West Virginia's recommendation, as they fail to establish that the formation does not meet the guidelines necessary for tight formation designation in § 271.703(c)(2).

Specifically, Commentors opposed the application because they believe an incentive price for gas produced from this area is unnecessary for development of the area. Furthermore, they argue that the gas will be unmarketable at current price ceilings and, if the formations are developed, an increase in gas prices will adversely affect the consumers. Under our tight formation regulations, specifically § 271.703(c)(2)(ii), the question of whether the incentive price is necessary for formation development is relevant only if the applicant fails to meet the permeability guideline.

We believe that West Virginia has met the permeability and flow rate guidelines of § 271.703(c)(2)(i)(A) and (B) by substituting porosity-permeability relationships and short duration flow tests in place of in-situ permeability and stabilized production rate calculations. West Virginia provided no stabilized production rate data against atmospheric pressure prior to stimulation for wells penetrating the "Big Lime" zone. Determination of stabilized production rate requires that a well be shut in during normal drilling operations—a practice considered economically infeasible by West Virginia. Therefore, West Virginia submitted short duration flow tests. (Production rates derived from short duration tests are normally higher than stabilized natural flows to the atmosphere.) After carefully studying the flow tests readings, West Virginia stated that they excluded those wells with high flow test readings and that the remaining wells meet the stabilized production rate guidelines in § 271.703(c)(2)(i)(B). We believe that the comments have failed to show why the data and methodology submitted by West Virginia are invalid or why they do not support the "Big Lime" Zone designation as a tight formation.

Additionally, Commentors oppose the recommendation on the basis of inadequate well spacing requirements and the presence of infill drilling in the proposed tight formation area. We find that the well spacing requirements for the subject formation comply with West Virginia's spacing rules. Furthermore, there is no evidence that the area is not being developed in accordance with West Virginia's spacing requirements. Finally, there is no evidence that an infill drilling program has occurred in the designated area.

Based upon the above discussion and our review of the evidence submitted by West Virginia, the Commission finds that the record supports the assertion that the "Big Lime" Zone of the Greenbrier Group located in portions of McDowell, Fayette, Raleigh, and Wyoming Counties, and all of Mercer County, West Virginia meets the guidelines contained in § 271.703(c)(2). The Commission adopts this recommendation.

This amendment shall become effective June 8, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703(d) is amended by adding paragraph (162) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(162) *"Big Lime" Zone of the Greenbrier Group in West Virginia.* RM79–76–134 (West Virginia–2).

(i) *Delineation of formation.* The "Big Lime" Zone of the Greenbrier Group is defined as the stratigraphic interval overlying the "Keener" and "Big Injun" Zones of the Pocono Group and underlying the "Blue Monday" and "Little Lime" Zones of the Mauch Chunk Group. The "Big Lime" Zone is found in portions of Fayette, McDowell, Raleigh, and Wyoming Counties and all of Mercer County.

(B) *Depth.* The depth to the top of the "Big Lime" Zone ranges from 1,990 feet in the western portion to 3,100 feet along the eastern edge, and ranges in thickness from approximately 200 feet in the northern portion to a maximum thickness of approximately 1,800 feet in the southeastern portion of the designated area.

[FR Doc. 84–12677 Filed 5–9–84; 8:45 am]

BILLING CODE 6717–01–M

[2] West Virginia withdrew the "Maxton sand" Zones of the Mauch Chunk Group from the recommendation for tight formation status on January 23, 1984. Data submitted for the "Maxton sand" indicates that the production rates for wells in this zone did not meet the regulatory guidelines.

[3] 47 FR 53740, November 29, 1982.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 80N–0147]

Urea; Amendment of Affirmed GRAS Status

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 for two uses that were not included in the final rule of November 10, 1983, on the GRAS status of this ingredient. The agency inadvertently omitted these uses from that final rule. The agency is also making a minor editorial change in the GRAS affirmation regulation on urea.

DATES: Effective on and comments by June 11, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert Leo Martin, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 10, 1983 (48 FR 51615), FDA published a final rule that affirmed that urea is GRAS for use as a direct human food ingredient. However, in that final rule, FDA inadvertently failed to respond to two comments that it had received from users of urea in food.

One comment indicated that urea is used as a fermentation aid in yeast-raised bakery products and requested that this use be included in the GRAS affirmation of urea. The other comment requested GRAS affirmation for the use of urea in food-grade gelatin as a formulation aid.

The agency has concluded on the basis its evaluation of the report of the Select Committee on GRAS Substances[1] and of other available data that no harm will result from the increase in human exposure to urea that will result from these additional uses, and that, therefore, these uses can be affirmed as GRAS. Thus, FDA is issuing this amendment to 21 CFR 184.1923, the regulation that affirms the GRAS status of urea, to list formulation aid in paragraph (c)(1) as an additional technical effect of urea and to list yeast-raised bakery products and gelatin products in paragraph (c)(2) as additional food categories in which this ingredient is used.

FDA is issuing this amendment as a final rule because the agency has concluded that additional notice on this specific amendment, beyond the general notice provided in the proposed rule, is unnecessary. The agency received the comments to which it is responding as part of the notice and comment proceeding on the GRAS status of urea that resulted in the November 10, 1983 final rule. The agency intended to include the amendment responding to these comments in the final rule but inadvertently failed to do so. Thus, a new notice and comment proceeding is not needed.

Nevertheless, the agency has decided to allow 30 days for comment on this amendment in accord with § 10.40(e)(1) (21 CFR 10.40(e)(1)). Interested persons will thus have an opportunity to comment on FDA's decision to affirm as GRAS these additional food uses of this ingredient.

In addition, the agency is making a minor editorial change in § 184.1923. As published in the **Federal Register** of November 10, 1983, paragraph (c)(1) of that regulation stated that the ingredient is used as a fermentation aid in the production of alcoholic beverages, and paragraph (c)(2) stated that the ingredient is used in alcoholic beverages as defined in § 170.3(n)(2). The agency recognizes that these two paragraphs are redundant and has consequently modified them in this amended final rule to remove the dual reference to alcoholic beverages.

The agency has determined pursuant to 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. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this amended final rule would have on small entities, including small businesses, and has determined that the effect of this amendment is to maintain current known uses of the substance covered by this regulation by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this amendment. As announced in the November 10, 1983 final rule, the agency has determined that this final rule is not a major rule as determined by the Order.

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 revising § 184.1923(c) (1) and (2) to read as follows:

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

§ 184.1923 Urea.

* * * * *

(c) * * *

(1) The ingredient is used as a formulation aid as defined in § 170.3(o)(14) of this chapter and as a fermentation aid.

(2) The ingredient is used in yeast-raised bakery products; in alcoholic beverages as defined in § 170.3(n)(2) of this chapter; and in gelatin products.

* * * * *

Effective date. This regulation becomes effective June 11, 1984; however, interested persons may, on or before June 11, 1984, submit to the Dockets Management Branch (address above) written comments regarding this amendment. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

(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: April 30, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-12582 Filed 5-9-84; 8:45 am]

BILLING CODE 4160-01-M

[1] "Evaluation of the Health Aspects of Urea as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1980.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 5-T84-03]

Special Local Regulations; Norfolk Harborfest

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are adopted for the City of Norfolk Harborfest regatta. This event will be held on the Elizabeth River, between the Norfolk and Portsmouth downtown areas. These special local regulations are needed to control vessel traffic within the immediate vicinity of the regatta due to the confined nature of the waterway and the expected congestion at the time of the regatta. The effect will

be to restrict general navigation in the area for the safety of spectators and participants in the event.

EFFECTIVE DATES: These regulations become effective and terminate as follows:

a. 25 May 1984, 10:00 am until 10:00 pm
b. 26 May 1984, 10:00 am until Midnight
c. 27 May 1984, 9:00 am until 7:00 pm

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Duane I. Preston, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705 (804-398-6204).

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 25 April 1984, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this notice are LCDR Duane I. Preston, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and LT Walter J. Brudzinski, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulations

The three-day City of Norfolk Harborfest, sponsored by Norfolk Festevents, Inc. will consist of numerous water events, including; parade of vessels, water ski exhibitions, boat races, military vessel and helicopter demonstrations and fireworks. Closure of the waterway for any extended period is not anticipated; thus, commercial traffic should not be severely disrupted at any given time.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Final Regulation: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-502 to read as follows:

§ 100.35-502 Elizabeth River, Norfolk, Virginia.

(a) *Regulated Area.* The waters of the Elizabeth River and its branches from shore to shore, bounded by the Midtown tunnel on the north, the Downtown tunnel on the south, and the Berkley Bridge on the east.

(b) *Special Local Regulations.* Except for participants in the Norfolk Harborfest, or persons or vessels authorized by the Coast Guard Patrol Officer, no person or vessel may enter or remain in the above area. The operator of any vessel in the immediate vicinity of this area shall:

(1) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard ensign, and

(2) Proceed as directed by any Coast Guard officer or petty officer.

(c) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations;

(d) The Coast Guard Patrol Officer is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District. The Patrol Commander will be stationed at the reviewing platform at Town Point; and

(e) The Coast Guard Patrol Officer has been authorized to stop the event to allow the transit of backed up marine traffic through the regulated area.

(f) These regulations and other applicable laws and regulations shall be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard ensign.

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

Dated: April 27, 1984.

T. L. Wedgewood.

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

[FR Doc. 84-12848 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7 84-16]

Drawbridge Operation Regulation; Dead River, Florida

AGENCY: Coast Guard, DOT

ACTION: Final Rule; revocation.

SUMMARY: This amendment revokes the regulations for the Seaboard System Railroad Drawbridge, mile 0.3, because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: This rule becomes effective on May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky Bridge Administration Specialist, telephone (305) 350-4108.

Drafting Information: The drafters of this rule are Bridge Administration Specialist, Mr. Walt Paskowsky, project officer, and Lieutenant Commander K. E. Gray, project attorney.

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

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revoking § 117.434b

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

Dated: April 27, 1984.

J. W. Kime,

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

[FR Doc. 84-12844 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7 84-15]

Drawbridge Operation Regulations; Garrison Channel, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule revocation.

SUMMARY: This amendment revokes the regulations for the Garrison Channel drawbridge, mile 0.2, because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: This rule becomes effective on May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky Bridge

Administration Specialist, telephone (305) 350–4108.

Drafting Information: The drafters of this rule are Bridge Administration Specialist, Mr. Walt Paskowsky, project officer and Lieutenant Commander, K. E. Gray, project attorney.

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

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by revoking § 117.245(i)(4–a).

(33 U.S.C. 499: 49 CFR 1.46(c)(2); 33 CFR 1.05–1(g)(3)).

Dated: April 27, 1984.

J. W. Kime,

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

[FR Doc. 84–12643 Filed 5–9–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD7–83–21]

Drawbridge Operation Regulations; Savannah River, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Georgia Department of Transportation, the Coast Guard is changing the regulations governing the Houlihan Bridge, U.S. Highway 17 at Savannah, Georgia by requiring that advance notice of opening be given during certain periods. This change is being made because of lack of requests for opening the draw. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on June 11, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Bridge Administration Specialist, telephone (305) 350–4108.

SUPPLEMENTARY INFORMATION: On 22 December 1983, the Coast Guard published a proposed rule 48 FR 56606 concerning this amendment. The Commander, Seventh District, also published this proposal as a Public Notice dated 28 February 1984. In this notice interested persons were given until 28 March 1984 to submit comments.

Drafting Information

The drafters of this rule are Bridge Administration Specialist Mr. Walt Paskowsky, project officer and Lieutenant Commander Ken Gray, a project attorney.

Discussion of Comments

No comments were received in response to the **Federal Register** Publication or the Public Notice. Since the draw opened only 37 times in 1982 this rule should have no adverse economic impact on waterway users and an economic evaluation has not been prepared.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted. In accordance with Section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by adding a new § 117.245(h) (12–b) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(h) * * *

(12–b) *Savannah River, mile 21.6, Houlihan Bridge, U.S. Highway 17, Savannah, Georgia.* The draw shall open on signal from 6:00 a.m. to 11:00 a.m. and from 12 noon to 3:00 p.m., at all other times the draw shall open on signal if at least 3 hours advance notice is given. VHF radiotelephone communications will be maintained at the bridge tender's house, during the hours of operation and also at the Thunderbolt Bridge 24 hours daily.

* * * * *

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

Dated: April 27, 1984.

J. W. Kime,

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

[FR Doc. 84–12647 Filed 5–9–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD1–83–4R]

Boston Harbor, Boston, MA, Safety Zone Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a safety zone around all loaded Liquified Natural Gas (LNG) tank vessels during transit of Boston Harbor and while moored to the DISTRIGAS waterfront facility transferring LNG. Considering the nature and quantity of LNG cargo carried and the limited ability of LNG vessels to take evasive action when maneuvering through Boston Harbor, a safety zone is necessary to minimize the risk of collision. The parameters of the safety zone change when a loaded LNG vessel moors. Mariners will be provided advance notice of scheduled arrivals of LNG vessels via marine radio, Broadcast Notice to Mariners. This regulation requires persons to comply with the general safety zone regulations contained in 33 CFR 165.20, prohibiting persons from entering a safety zone without authorization of the Coast Guard Captain of the Port (33 CFR Part 3). The safety zone will be discontinued when the LNG vessel is offloaded.

DATES: This regulation is effective June 11, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Bradley N. Balch, Chief, Port Operations Department, Marine Safety Office, 447 Commercial Street, Boston, MA 02109 (Phone: 617-223-1470)

SUPPLEMENTARY INFORMATION: On 28 November 1983, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for this regulation (48 FR 53580). Interested persons were requested to submit comments. The proposed regulation was also reviewed with representatives of local Government and industry on 6 December 1983. No comments were received.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant B. N. Balch, Port Operations Officer, Marine Safety Office, Boston, and Lieutenant S. M. Krupanski of the Legal Office of the First Coast Guard District.

Economic Assessment and Certification

This regulation is considered to be non-significant in accordance with DOT Policies, and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the theory and practice of establishing a safety zone around a loaded LNG vessel has been in effect for many years. Small and large companies with vessels operating in Boston Harbor are aware of scheduled LNG vessel harbor transits and adjust their vessel movements accordingly causing minimum economic impact. Based on this assessment it is certified in accordance with Section (b) of the Regulatory Flexibility Act (5 U.S.C. 605) 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 17 February 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbor, Marine safety, Navigation (water).

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33 Code of Federal Regulations is amended by adding § 165.110 to read as follows:

§ 165.110 Boston Harbor, Boston, Massachusetts

(a) The following areas are established as Safety Zones during the specified conditions:

(1) The waters bounded by the limits of the Boston Main Ship Channel and extending two miles ahead and one mile astern of a loaded Liquified Natural Gas Tank vessel while the vessel transits the Boston North Channel and Boston Harbor. The safety Zone remains in effect until the LNG vessel is alongside the DISTRIGAS waterfront facility in the Mystic River. Lat. 42°23.3′ N., Long. 71°03.7′ W.

(2) The waters and land area within 150′ of a Liquified Natural Gas Tank vessel when the vessel is alongside the DISTRIGAS waterfront facility, Everett, MA. Lat. 42°23.3′ N., Long. 71°03.7′ W. This Safety Zone remains in effect while the LNG vessel remains in a loaded condition or is transferring liquified natural gas.

(b) The general regulations governing safety zones as contained in 33 CFR 165.20 apply.

(86 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46, as amended by sec. 2 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474)

Stephen J. Masse,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 84-12645 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[A-7-FRL-2585-6]

Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) Delegation of Authority to the State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: This notice announces an extension of delegations of authority that were initially issued to the State of Iowa by the Environmental Protection Agency on June 6, 1975 and January 19, 1982, regarding the requirements of the federal Standards of Performance for New Stationary Sources (NSPS), 40 CFR Part 60, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS), 40 CFR Part 61, respectively. The extension was requested by the State of Iowa. The extension action added seven (7) NSPS source categories to the NSPS delegation. The delegations of authority now include all delegable requirements of the federal NSPS and NESHAPS regulations as adopted by the State of Iowa and as amended by the agency through June 30, 1983.

EFFECTIVE DATE: May 10, 1984.

ADDRESSES: All requests, reports, applications, submittals and such other communications that are required to be submitted under 40 CFR Part 60 or 40 CFR Part 61 (including the notifications required under Subpart A of the regulations) for facilities or activities in Iowa affected by the revised delegations of authority should be sent to the Iowa Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319. A copy of all Subpart A related notifications must also be sent to the attention of the Director, Air and Waste Management Division, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles W. Whitmore, Chief, Technical Analysis Section, Air Branch, U.S. EPA, Region VII, at the above address (816-374-6525 or FTS-758-6525.

SUPPLMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act, respectively, allow the Administrator of the Environmental Protection Agency (i.e., EPA or the agency) to delegate to any state government authority to implement and enforce the requirements of the federal NSPS and NESHAPS regulations. When a delegation is issued, the agency retains concurrent authority to implement and enforce the requirements of the delegated regulation(s). The effect of a delegation is to shift the primary responsibility for implementing and enforcing the standards for the affected categories (and/or for the affected activities) from the agency to the state government.

On June 6, 1975, the agency delegated to the State of Iowa authority to implement and enforce the standards for eleven (11) NSPS source categories as promulgated by the agency through April 1, 1974 (see 41 FR 56889, December 30, 1976). The delegation was subsequently extended to include the standards of performance for 21 additional source categories on August 25, 1980 (see 45 FR 75758, November 17, 1980), March 31, 1983 and May 10, 1983 (see 48 FR 29691, June 28, 1983). Authority to implement and enforce the NESHAPS for asbestos (except for 40 CFR 61.22(d)), beryllium, beryllium rocket motor firing, mercury, and vinyl

chloride, as promulgated and/or amended by the agency through December 31, 1980, was delegated to the State of Iowa on January 19, 1982 (see 47 FR 11662, March 18, 1982). The NSPS and NESHAPS delegations gave the State of Iowa authority to implement and enforce the standards against affected facilities and activities which exist (or occur) in Iowa.

On February 9, 1984, the State of Iowa requested an extension of the delegations to reflect a recent updating of its rules. The state government has revised Rule 23.1(2) [NSPS-related] and Rule 23.1(3) [NESHAPS-related] of the Iowa Department of Water, Air and Waste Management's rules and regulations to incorporate, by reference, the standards of 40 CFR Parts 60 and 61 (as promulgated and as amended by the agency through June 30, 1983) which have been specifically adopted by the State.

In consideration of the information contained in the above-mentioned letter, the agency granted the extension request on March 16, 1984. The action extended the delegations to include the following additional provisions:

NSPS

—Subpart EE (Surface Coating of Metal Furniture);
—Subpart KK (Lead Acid Battery Manufacturing Plants);
—Subpart NN (Phosphate Rock Plants);
—Subpart QQ (Graphic Arts Industry: Publication Rotogravure Printing);
—Subpart SS (Industrial Surface Coating: Large Appliances);
—Subpart TT (Metal Coil Surface Coating);
—Subpart UU (Asphalt Processing and Asphalt Roofing Manufacturing);
—Reference Methods 5A, 6A, 6B, 12, 22, and 24A; and,
—The revisions, clarifications, etc., made to Subparts A, D, Da, T, U, V, W, QQ, TT, to Reference Method 20 of Appendix A, and to the Performance Specifications of Appendix B of the regulation.

NESHAPS

—Test Methods 101A and 107A;
—Appendix C, Procedures 1 and 2; and,
—The revisions clarifications, etc., made to Subparts A, E, and F, and to Test Methods 101, 102, 106, and 107 of Appendix B of the regulation.

Effective immediately, all reports, correspondence, and such other communications required to be submitted under the NSPS or NESHAPS regulations for facilities or activities in Iowa affected by the revised delegations of authority should be sent to the Iowa Department of Water, Air and Waste Management at the above address rather than to the EPA Region VII office, *except* as noted below.

A copy of each notification required to be submitted under 40 CFR Part 60, Subpart A, or under 40 CFR Part 61, Subpart A, must *also* be sent to the attention of the Director, Air and Waste Management Division, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

Each document and letter mentioned in this notice is available for public inspection at the EPA regional office.

This notice is issued under the authority of section 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: April 27, 1984.

Morris Kay,
Regional Administrator.

[FR Doc. 84-12616 Filed 5-9-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[00000/R662; FRL 2572-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Revocation of Tolerances for Ethylene Dibromide

Correction

In FR Doc. 84-10937, beginning on page 17147, in the issue of Monday, April 23, 1984, in the second column, in the "Summary" paragraph, in the twelfth line, "(09 ppm)" should read "(.9 ppm)".

BILLING CODE 1505-01-M

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40 CFR Part 271

[FRL-2585-7]

Hazardous Waste Management Program; Oregon; Extension of Interim Authorization Application Deadline

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of application submission deadline and interim authorization period.

SUMMARY: On July 25, 1983, the Environmental Protection Agency (EPA) extended the period of interim authorization of Oregon's hazardous waste program, and established a schedule for Oregon to submit an application for final authorization by April 1984. Oregon has experienced delays in securing adoption of revised hazardous waste regulations. Because of these delays, EPA is extending the application deadline to June 1984.

EFFECTIVE DATE: April 30, 1984.

FOR FURTHER INFORMATION CONTACT: David Hanline, RCRA Program Development Section, Waste Management Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206-442-2858, FTS 339-2858).

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(1) (48 FR 14258) allows States to apply for interim authorization any time prior to July 26, 1983. 40 CFR 271.122(c)(4) (48 FR 14258) requires States which have received any but not all phases/components of interim authorization to amend their original submissions by July 26, 1983 to include all components of Phase II. 40 CFR 271.137(a) (48 FR 14264) provides that on July 26, 1983 interim authorizations terminate except where States have submitted by that date applications for all phases/components of interim authorization. EPA is to administer and enforce the Federal program in those States where interim authorizations terminate.

However, 40 CFR 271.122(c)(1), 271.122(c)(4), and 271.137(a) also allow the Regional Administrator to extend for good cause the July 26, 1983 deadline for submission of interim authorization applications and terminations of programs with interim authorization. Furthermore, at 47 FR 32382, preamble language indicates a regulatory intent to provide for extensions of the July 26, 1983 deadline to allow States to apply for final rather than interim authorization without reversions of State programs approved for interim authorization. With Oregon, whose program has received Phase I authorization, the decision was made to allow the State to apply for final authorization by April 1984 rather than apply for Phase II interim authorization by the above deadline (August 5, 1983; 48 FR 35647).

Decision

The April 1984 deadline for Oregon's submission of a final authorization application was based upon anticipated revision and adoption of hazardous waste regulations by March 1984. However, the regulations which were proposed for adoption had to be extensively modified to ensure their equivalence with the Federal regulations. Consequently, regulations were not adopted until April 20, 1984. Additional time is needed by the State to incorporate the new regulations into and modify other components of the final authorization application before submitting it to EPA. I am, therefore, granting an additional extension to

allow Oregon until June 1, 1984 to submit an application for final authorization. If Oregon fails to submit an application for final authorization by the above date, authorization of the State program will terminate and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: May 1, 1984.

Gary L. O'Neal,

Acting Regional Administrator.

[FR Doc. 84-12615 Filed 5-9-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 83-1145; Phase I; FCC 84-188]

Investigation of Access and Divestiture Related Tariffs

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order; partial waiver of rules.

SUMMARY: In this Order, the FCC takes action on the Switched Access portion of tariffs filed by the National Exchange Carrier Association, the Bell Operating Companies and various independent telephone companies. This Order is part of the FCC's continuing investigation of regulations and rates for interstate and foreign access to local telephone exchange service facilities. The purpose of this Order is to give these carriers directions on revising their access tariffs.

EFFECTIVE DATE: April 27, 1984.

FOR FURTHER INFORMATION CONTACT: Dan Grosh, Common Carrier Bureau, Federal Communications Commission, (202) 632-6387.

Memorandum Opinion and Order

In the Matter of Investigation of Access and Divestiture Related Tariffs; CC Docket No. 83-1145 Phase I, FCC 84-188.

Adopted: April 27, 1984.

Released: April 27, 1984.

By the Commission:

1. The Commission's *ECA Tariff Order* (49 FR 9174, March 12, 1984). Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, FCC 84-51, released February 15, 1984, directed the National Exchange Carrier Association (NECA) to file revised tariffs in compliance with that order no later than March 15, 1984. That order (at para. 86) further provided that the policy decisions and specific corrections required of the NECA tariff also applied to all other access tariff provisions which are the same as or similar to the NECA's. The Common Carrier Bureau's *Non-ECA Tariff Order* (49 FR 13075, April 2, 1984), CC Docket 83-1145, Phase I, Mimeo No. 2802, released March 7, 1984, directed the seventy-four "non-NECA" local exchange carriers (Bell Operating Companies (BOCs) and independent telephone companies who are not participating in all ECA "pools") to file revised tariffs in compliance with that order no later than March 19, 1984. Except for a few of the smaller independent telephone companies, all of the revised tariffs, were timely filed. [1]

2. In anticipation that the various concerns raised could be resolved quickly, the *ECA* and *Non-ECA Tariff Orders* proposed to allow these tariffs to become effective on April 3, 1984. In light of the potentially important remaining issues in the revised tariffs, significant related issues raised by AT&T's emergency petition, [2] several petitions for reconsideration of the proposed schedule, and in order to assure adequate analysis and public comment, we extended the effective dates of all the access tariffs until June 13, 1984. We also established an extended bifurcated schedule for public comment separating Special Access issues from all "non-Special Access" issues. [3] *Extension Order*, CC Docket 83-1145, Phase I, FCC 84-104, released March 27, 1984.

3. This order focuses on regulations contained in the access and special construction tariffs filed by the NECA and all other exchange carriers. It does not address the detailed and controversial rate and regulations related to Special Access services and facilities (which generally appear in Section 7 of the access tariffs). As our orders required substantial revisions to the Special Access sections, we established a longer pleading cycle with April 16th and April 30th deadlines for comments and reply comments, respectively. We have already received extensive comments which raise significant questions regarding the revised rates and rate structure for Special Access. A separate order addressing Special Access will be released after we have reviewed the reply comments. In addition, this order does not address cost and rate development issues associated with these tariffs. Our analysis and conclusions regarding these cost-related issues will appear in a separate order.

4. Like our earlier *ECA* and *Non-ECA Tariff Orders*, this order contains an appendix which includes a section-by-section review of the NECA tariff and the non-NECA tariffs. [4] In our section-by-section analysis, which appears in Appendix B, we have reviewed all sections, but have not listed all necessary changes. Carriers are ultimately responsible for implementing the general directions we give here. In most instances the non-NECA access tariff provisions mirror the NECA provisions. In line with our instructions in the *ECA Tariff Order*, all access tariff provisions which are the same as or

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[1] Pursuant to a Bureau order in this proceeding (*Waiver Order*, Mimeo No. 2964, released March 16, 1984) Matanuska, Orchard Farm, Walnut Hill, Citizens and Fidelity and Bourbeuse Telephone Companies, and Anchorage Telephone Utility were granted waivers to file revisions to their access service tariffs on dates after the March 19th date established for non-NECA carriers. These carriers are expected to meet their respective filing dates set forth in that order with an effective date of June 13, 1984. We will review these tariffs and any relevant pleadings filed as they are received. We have also received additional applications for Special Permission which will be handled separately.

[2] AT&T has filed an emergency petition for partial reconsideration of both the *ECA Tariff Order* and the Commission's recent decision in CC Docket 78-72, Phase I (*MTS and WATS Market Structure*, FCC 84-36, released February 15, 1984 (*Second Reconsideration Order*)). AT&T contends that the combined effect of these two decisions would unlawfully impose upon AT&T the exchange carriers' revenue loss occasioned by the Commission's prescription of a 55% discount rate for OCC access. We will address the issues raised by AT&T in a separate order.

[3] Comments and replies directed to the "non-Special Access" issues have been received and reviewed. These commenters are listed in Appendix A of this order.

[4] To avoid duplicative review of the essentially identical Central Telephone Company tariffs, we reviewed only those tariffs filed by Centel of Florida, Ohio, and Texas, and Merchants and Farmers Telephone Company. In the case of United Telephone Company we reviewed only United of Arkansas. All other Centel and United Companies with provisions similar to those discussed herein, however, should also modify those provisions in accordance with this order.

similar to NECA provisions discussed herein should be modified to comply with the directions regarding the NECA provisions.

Discussion

5. As we have maintained throughout this investigation, our goal is to resolve at least the major issues necessary to assure that access tariffs are generally reasonable and workable from the outset. In the six months that have elapsed since this investigation was begun, enormous efforts have been expended by this Commission, the carriers, and the public to assure that such workable tariffs could take effect at the earliest possible date. After careful review of the revised NECA and non-NECA access tariffs, carrier responses to our information requests, and the numerous comments and replies filed to date, we have concluded that, except for the tariff sections dealing with "Special Access", the revised tariffs, with certain changes as discussed herein, are functional vehicles for implementing our access charge plan. Although we are continuing to review the complex rates and provisions regarding Special Access services and facilities, we have determined that, if the changes mandated in this order and in the forthcoming cost order are made, we can allow the tariff sections other than those dealing with Special Access to become effective.

6. Throughout this investigation we have been keenly aware that unreasonable and unjust provisions could have profound effects on the changing telecommunications industry and on the public. Therefore, we have closely scrutinized these tariffs and carefully reviewed all pleadings filed by interested parties. We also realize, however, that because of the complexity, novelty and breadth of the issues raised by these tariffs, it is not possible to resolve all issues immediately. Moreover, we expect that actual implementation of these tariffs as well as changes in technology and market forces may bring additional issues to light. These issues may be addressed in our continuing investigation of the access and divestiture related tariffs.

7. In general, filing carriers appear to have complied with our directions in the *ECA* and *Non-ECA Tariff Orders*, however, some required changes were not made, or raised new issues. We have also reviewed provisions for which we sought further justification. Based on this review, additional changes and clarifications, as discussed here and detailed in Appendix B, are required before the tariffs can be allowed to take effect. Certain matters warranting general discussion are addressed below. These findings, both in the overview and in the individual modules constitute our decisions and orders.

8. Our review revealed that the NECA and non-NECA tariffs contained certain changes not specifically authorized by our two earlier orders or the recent *Waiver Order*. In some cases we have identified the unauthorized changes specifically, but we have not listed all necessary changes. All carriers should review their tariffs carefully and eliminate all unauthorized changes.

9. Additionally, it appears that several non-NECA tariff provisions which are similar to NECA provisions have not been conformed to changes required of all carriers in the *ECA Tariff Order*. All non-NECA carriers should review their tariffs to assure that provisions which are the same as or similar to NECA provisions are in compliance with directions regarding such provisions in our *ECA Tariff Order*.

10. One specific concern we have identified in the revised NECA tariff and several other tariffs regards the introduction of certain new and potentially confusing terms. Accordingly, we are directing that the following terms be eliminated from the tariffs: second dial tone, foreign dial tone, switched access line, dedicated access line, and resold access line. Where necessary we are requiring in our section-by-section review that these terms be replaced by more commonly understood terms.

11. A second important issue deals with proposed provisions which would allow local telcos to terminate a customer's local exchange service for nonpayment of its IC's service charges. In the *ECA Tariff Order* we required the NECA to submit technical justification for such "local service cut-off" provisions. We have reviewed the justification submitted and found it materially incomplete. Therefore, we are requiring that all provisions for "local service cut-offs" be deleted from the tariffs. In certain limited circumstances, however, temporary waivers of this prohibition may be granted provided that a complete technical showing can be made justifying the need for such provisions.

12. Finally, we have found that some of the tariffs have adopted different approaches to implementing our *ECA Tariff Order* instructions to continue all existing interconnection terms and conditions. In order to minimize confusion regarding these important interconnection provisions, all non-NECA carriers should adopt the approach used by the NECA, *i.e.*, carriers should reference a single technical publication which includes all relevant interconnection provisions in the manner required by our *ECA Tariff Order* at pages 2–65 through 2–68. Carriers should consider using the NECA Technical Publication A.S. No. 1 with the changes and conditions mandated in this order.

Directions to Filing Carriers

13. We expect that the information supplied with the new NECA filings and non-NECA filings and the specific rates and provisions will comply with this order, so that we may allow the designated portions of the revised tariffs to become effective. In any event, we will continue our investigation in CC Docket No. 83–1145 to monitor these filings and consider additional issues which we have not yet fully resolved and the new issues certain to arise.

14. In light of our tight time schedule, we are establishing a specific set of requirements for all revised access filings, essentially identical to those previously used in the first round of revisions. They are as follows:

- Filing carriers may make no revisions, corrections, alterations, or other changes in the rates, terms, or conditions of the access tariffs in the prescribed filing (other than to correct typographical errors such as spelling), except at expressly required or approved in this order or in our *Waiver Order*. These revisions shall conform to the applicable rule requirements of §§ 61.55(e), 61.94 and 61.118(a) of the Commission's Rules, 47 CFR 61.55(e), 61.94 and 61.118(a). The carriers need not, however, symbolize material reissued without change as is required by Section 61.118(b). To do so would result in symbolization that would be confusing. Specific instructions concerning the administrative details of filing these revisions can be found in Appendix A. Other changes which the filing carrier wishes to propose must be made in a separate filing pursuant to Part 61 of the Commission's Rules 47 CFR Part 61;
- Filing carriers shall file in a separate volume a report specifying all revisions on a section-by-section basis, listing the language now pending, the changed language and a reference to the Commission order, page and section, or paragraph number which is being implemented.

15. Carriers are directed to file tariffs conforming with this order no later than the date to be established in our forthcoming cost order. Carriers should carefully review their tariffs before

refiling to assure complete compliances with the directives in this order. Although we have attempted to review the tariffs thoroughly, the ultimate responsibility to implement the tariff changes required in the earlier orders and in this order lies with the filing carriers. Carriers are liable for forfeitures for failure or refusal to comply with a regulation or order issued by this Commission. 47 U.S.C 203(e), 503(b).

16. We do not expect to modify or waive the requirements of this order before the effective date of conforming tariffs, absent exceptional circumstances. Reconsideration petitions or additional tariff filings should provide adequate opportunities to present any claims that revisions are needed. If a carrier wishes to request a waiver to allow a tariff provision which does not conform with this order to become effective immediately, it should present a full explanation and justification for all requests for immediate relief in the form of a single waiver request submitted no later than May 9, 1984.

Ordering Clauses

17. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 201, 202, 203, 204(a) and 205 of the Communications Act, 47 U.S.C 154(i), 154(j), 201, 202, 203, 204(a) and 205, that the tariff material submitted under the transmittals referenced above is unlawful to the extent indicated herein.

18. It is further ordered that the National Exchange Carrier Association, Bell Operating Companies and Independent Telephone Companies shall file revised tariff material in compliance with this order no later than the date to be established in our forthcoming cost order.

19. It is further ordered, that §§ 61.58, 61.59, 61.74 and 61.118(b) of the Commission's Rules, 47 CFR 61.58, 61.59, 61.74 and 61.118(b), are waived to the extent required to file tariff revisions implementing this order.

20. This order is exempt from the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* It involves a rule applicable to particular rates and to practices relating to such rates within the meaning of the exemption contained in 5 U.S.C. 601(2).

Note.—Because of the continuing effort to minimize publishing costs, Appendices A and B (Commenters, Filing Instructions, Summary List of Access Tariff Filings, and Section-by-Section Review) are filed as part of the original document and will not be printed herein. However, they may be reviewed in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M Street, NW., Washington, D.C. 20554. Those interested in obtaining copies of this document in its entirety may contact the International Transcription Service, also located at 1919 M Street NW. Tel.: (202) 296-7322.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-12561 Filed 5-9-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Amdt. No. 48; Docket PS-78]

Transportation of Natural and Other Gas by Pipeline; Design of Pipeline Components, General Requirements

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Final rule.

SUMMARY: This rule revises existing requirements for design of components to allow designs based upon a pressure rating which is established by the manufacturer as a result of pressure testing. The current rule, which requires that components be designed on the basis of unit stresses, is technically inappropriate for many components.

EFFECTIVE DATE: June 11, 1984.

FOR FURTHER INFORMATION CONTACT: Paul Cory, 202-426-2082.

SUPPLEMENTARY INFORMATION:

American Society of Mechanical Engineers' Petition

The Gas Piping Technology Committee of the American Society of Mechanical Engineers (ASME), by letter of April 6, 1983, petitioned the MTB to revise § 192.143, General requirements, Subpart D of Part 192:

> This section limiting the stress in components to "unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service" in the context of "Each component of a pipeline . . ." is both impractical and technically inappropriate for valves, flanges, and some other components. These components achieve primary pressure containment through bolting, gaskets, elastomer seals, and sealing compounds. The basis for design of the metallic parts is unit strain (i.e., elastic deformation) at critical locations under rated pressure.

The ASME stated that the objective in designing such components is to limit the strain at critical locations so that the pressure seal will remain functional. These components have an irregular contour and the stress levels at rated pressure vary from very low to very high in highly localized conditions that approach or may exceed the yield strength. Thus, the actual stress levels can only be determined by a finite element stress analysis.

The "unit stress" language in § 192.143 was based on paragraph 831 of the 1968 Edition of the B31.8 Code for Pressure Piping, Gas Transmission, and Distribution Piping Systems. In 1969, the B31.8 Committee recognized the error and revised paragraph 831 by replacing the "unit stress" language with a requirement that "components shall be selected that are designed to withstand the field test pressure to which they will be subjected without failure or leakage and without impairment of their serviceability." The revised paragraph 831 was published in the 1975 Edition.

The petitioner further pointed out that it has been common practice when an operator is designing pipelines, to limit operating pressure of valves, flanges, and similar components in accordance with a manufacturer's established pressure rating which is based upon pressure testing. For example, an American Standards Association ASA 150 fitting has a pressure rating of 275 psi. This practice is based upon sound engineering standards (see API 6D, MSS SP-70, ANSI B16.5, which are listed in Part 192, Appendix A—Incorporated by Reference) that have proven to provide a level of safety for components covered at least equal to that required for a pipeline in the same location and kind of service. This was the intent of the present wording in § 192.143. In addition, the specifications listed in various sections of Subpart D and Appendix A have been the basis for the pressure rating of some components based on pressure test rather than unit stress since Part 192 was first issued.

Notice and Comments

As a result of the ASME petition, on November 4, 1983, the MTB published a Notice of Proposed Rulemaking (NPRM) (48 FR 50908) which proposed to amend § 192.143 to read as follows:

§ 192.143 General requirements.

Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service *or must be pressure rated in accordance with the requirements of the applicable specification listed in Appendix A or meet the requirements of § 192.144.*

Note.—Proposed additional wording is printed in italic.

There were 18 comments in response to the NPRM. Eleven of these comments agreed with the proposed amendment. However, five commenters pointed out that the proposed wording would not cover many complex components that have no appropriate listed specification and no industry standard other than that of the manufacturer. These commenters also pointed out that such proprietary components that have been pressure rated on the basis of pressure tests conducted by or for the manufacturer have been used safely in gas pipelines for many years. Two commenters recommended that § 192.143 should be rewritten in performance language that would require only that each component be able to withstand operating pressures and other anticipated loadings without impairment of its serviceability.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), requires that each proposed amendment to a safety standard established under that statute be submitted to the Technical Pipeline Safety Standards Committee (TPSSC), a 15-member advisory committee, for its consideration. The committee, composed of persons knowledgeable about transportation of gas by pipeline, considered the proposed amendment to § 192.143 at a meeting in Washington, D.C., on December 13, 1983. One member of the committee recommended that a minimum test pressure be required for those components designed on a basis of pressure testing. It was pointed out by other members of the TPSSC and comments from the public that this was not appropriate because there were some components, such as compressor cylinders and seats of valves, that can only be tested up to the design pressure while such minimum test pressures would be inappropriately low for some other types of components or tests. Because of this, the recommendation was not adopted by the TPSSC. The TPSSC recommended adoption of revised wording that would provide a design standard for proprietary components that are not covered by a listed specification as well as those that are covered. That revision, which was substantially the same as set forth in the final rule, was found by the TPSSC to be technically feasible, practical, reasonable, and acceptable.

MTB Comment

MTB did not adopt the wording of paragraph 831 of the B31.8–1975 Edition, or the recommendation to use only performance language in §192.143, because components are an important integral part of each pipeline that justify greater specificity in design. MTB has used language similar to that proposed by these commenters and that contained in the B31.8 Code as general requirements for all components in the final rule with certain additional requirements.

Many components are still appropriately designed on a "unit stress" basis, which provides a high level of confidence in the safety of design. Thus the final rule requires design on a "unit stress" basis when practical. When design on a "unit stress" basis is impractical for a particular component, the design may be based upon a pressure rating established by the manufacturer by pressure testing of each component or a prototype of that component. The purpose of the petition was to have the regulations provide this alternative.

To clarify the intent of the regulation, it is appropriate to add the point made by the petitioner that a pressure rating of a component is that established by the manufacturer. MTB considers this appropriate because of the component manufacturer's own knowledge about his product and product liability concerns.

In the final rule, MTB has deleted reference to Appendix A and § 192.144 which had been proposed in the NPRM. Reference to Appendix A was deleted because the standards, which relate only to specific types of components, are now referenced in the sections of Subpart D that are applicable to those components (e.g., valves, flanges, bottle type holders, and plastic fittings). Components having listed standards in Appendix A that are also covered by other sections of Subpart D would meet the requirements of the final rule. These standards are not appropriate for many other types of components which now have no established standard. Reference to § 192.144 was deleted because that section is already applicable to components that are manufactured in accordance with an edition not yet incorporated of a specification listed in Appendix A.

In the final rule MTB has adopted the phase "without impairment of its serviceability" to clarify the intent of the term "withstand operating pressures and other anticipated loadings." Such clarifying wording is in the ASME B31.8–75 Code, paragraph 831, which was the basis for the petition for this rulemaking and was also recommended by two commenters.

MTB also adopted language in the final rule to permit certain proprietary components to be used that had their design based upon a pressure rating established by the manufacturer by pressure testing which would not have been permitted by the language proposed in the NPRM. It was pointed out by five commenters and also by members of the TPSSC that components designed in this manner have been used safely in gas systems for many years.

Classification

This rulemaking is not "major" under Executive Order 12291 because it will have a positive effect on the economy of less than $100 million a year, and no adverse effects are anticipated. A full evaluation was not done because this rulemaking is only a technical correction of the regulations which recognizes the design procedure that has been successfully used for many years, and it will have no economic impact. Also, it is not "significant" under Department of Transportation Policies and Procedures (DOT Order 2100.5).

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

List of Subjects in 49 CFR Part 192

Pipeline safety, Design of pipeline components.

PART 192—[AMENDED]

In view of the above, Part 192 of the Code of Federal Regulations is amended as follows:

By revising § 192.143 to read as follows:

§ 192.143 General requirements.

Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings without impairment of its serviceability with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service. However, if design based upon unit stresses is impractical for a particular component, design may be based upon a pressure rating established by the manufacturer by pressure testing that component or a prototype of the component.

[49 U.S.C. 1672 and 1804; 49 CFR 1.53, and Appendix A of Part 1]

Issued in Washington, D.C., on May 7, 1984.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84-12692 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 40446-4046]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restrictions and request for comments.

SUMMARY: This notice establishes restrictions to reduce further the levels of fishing for widow rockfish and the *Sebastes* complex (all rockfish except Pacific ocean perch, widow, shortbelly, and *Sebastolobus* rockfishes) taken off the coasts of Washington, Oregon, and California, and seeks public comment. This action is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and is necessary to help prevent harvest guidelines for these stocks from being reached before the end of 1984 under current measures. This action is intended to lower fishing rates, reduce the risk of biological stress, and reduce the probability of fishery closure before the end of the year.

EFFECTIVE DATE: This notice is effective from 0001 (Pacific Daylight Time) May 6, 1984, until modified, superseded, or rescinded. Comments will be accepted through May 21, 1984.

ADDRESSES: Send comments to Dr. T. E. Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; or Mr. E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region, at the address above, during business hours until the end of the comment period.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and final implementing regulations were published October 5, 1982 (47 FR 43964). This action supersedes the notices in the **Federal Register** at 49 FR 597 (January 5, 1984), which imposed trip limits and trip frequency restrictions for widow rockfish and the *Sebastes* complex, and at 49 FR 5932 (February 16, 1984), which clarified the fishing restrictions and redefined the areas for management of the *Sebastes* complex; the size and trip limits for sablefish imposed at 49 FR 597 remain in effect. The Pacific Fishery Management Council (Council) reviewed at its April meeting the progress of the groundfish fishery during the first three months of 1984. It determined that the conditions of biological stress of widow rockfish and the *Sebastes* complex documented at 48 FR 8283 (February 28, 1983) still exist. The Council examined current management measures with the intent to avoid overfishing and extend the fisheries as long as possible throughout the year. The best available data projected through the end of March, 1984, indicated that the rate of landings of widow rockfish and the *Sebastes* complex must be reduced to avoid exceeding the 1984 harvest goals for landings of these species. Therefore, this action supersedes the fishing restrictions for widow rockfish imposed on January 1, 1984, and for the *Sebastes* complex imposed on January 1, 1984, and modified on February 12, 1984.

Widow Rockfish

Council recommendation: The Council recommended that the present 50,000-pound coastwide trip limit be reduced to 40,000 pounds. The current provision allowing only one landing above 3,000 pounds of this species per vessel per week remains in effect.

Rationale: In 1984, the coastwide optimum yield (OY) quota for widow rockfish is 9,300 metric tons (mt). A coastwide trip limit of 50,000 pounds was implemented January 1, 1984, with only one landing above 3,000 pounds allowed per week. Under these restrictions, landings through the end of March were about 3,900 mt, 42 percent of the OY and eight percent above the levels experienced over the same months in 1983. At this rate, total landings for 1984 would be about 12,000 mt. The rate of landings needs to be reduced by about 40 percent to avoid reaching OY and causing a complete closure of this fishery before the end of 1984. Acknowledging that the projected landings for 1984 might be overestimated because the 1983 landing rate was applied (based on no restriction for trip frequency and perhaps different fleet composition), the Council adopted a 40,000 pound weekly trip limit with the intention of reviewing and perhaps revising this action at its July meeting. This reduction does not guarantee that further reductions will not be needed before the end of the year.

Secretarial Action: The Secretary of Commerce (Secretary) concurs with the Council's decisions and hereby announces—

(1) No more than 40,000 pounds of widow rockfish may be taken and retained, or landed, per vessel per fishing trip in a one-week period. Only one landing of more than 3,000 pounds of widow rockfish may be made in that one-week period. "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(2) These restrictions apply to all widow rockfish taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

(3) Landings of widow rockfish in the pink shrimp and spot and ridgeback prawn fisheries are governed by the regulations at 50 CFR 663.28.

Sebastes Complex

Council recommendation: The Council confronted two issues relating to the *Sebastes* complex: reconsideration of size of trip limits, and whether these limits should apply to where the fish are caught, landed, or some combination of the two. The Council agreed to give fishermen the option of reducing their landing amounts or their trip frequencies, and to apply the restrictions only to the area of catch. Accordingly, fishermen may choose between landing the *Sebastes* complex caught north of Cape Blanco in one landing a week not to exceed 15,000 pounds, or one landing in two weeks not to exceed 30,000 pounds, regardless of the place of landing. A 40,000-pound trip limit, with no restriction on trip frequency, applies to fish caught south of Cape Blanco, regardless of the place of landing. Any landing over 3,000 pounds of the *Sebastes* complex must consist of fish caught in only one area, either north or south of Cape Blanco. The number of landings less than 3,000 pounds is not restricted regardless of where the fish are taken or landed.

Fisherman must give advance notice (to the fishery management agency of the State where the fish will be landed) of their intent with regard to the choice of options described above. State notification requirements are intended

to complement the Federal regulations and are consistent with them.

Rationale: In 1984, the harvest guideline for the *Sebastes* complex is 10,100 mt, which is 110 percent of the summed allowable biological catch for the species in this complex. Initially, different trip limits were established north and south of 43° N. latitude, but this boundary was shifted south of Cape Blanco (42°50′ N. latitude) on February 12, 1984 (49 FR 5932). The previous 1984 trip limit north of Cape Blanco was 30,000 pounds, with only one landing per week above 3,000 pounds. This restriction was applied to the *Sebastes* complex caught north of Cape Blanco regardless of the place of landing, and also was applied to landing north of Cape Blanco regardless of the place of taking. South of Cape Blanco, the trip limit was 40,000 pounds with no restriction on the number of landings of the *Sebastes* complex both taken and landed south of Cape Blanco; the northern trip limit and trip frequency were applied to fish caught north and landed south of Cape Blanco.

This limitation on cross-overs was a burden on fishermen and processors who traditionally fished south and landed north of Cape Blanco. The Council initially favored these cross-over restrictions to reduce enforcement problems in determining area of catch. After hearing recommendations from the public, the Groundfish Task Group, and an *ad hoc* committee of State and Federal fishery enforcement representatives, the Council decided to apply trip limits to the area of catch as long as fishing occurs on only one side of the Cape Blanco line during a single trip from which more than 3,000 pounds of the *Sebastes* complex is landed. Thus, determining and enforcing area of catch would be simplified by eliminating split trips, and fishermen would be allowed to fish south of Cape Blanco under less restrictive trip limits and deliver to their traditional markets north of Cape Blanco. State regulations in Oregon require the vessel operator to notify the Oregon Department of Fish and Wildlife in advance if he intends to fish south and land more than 3,000 pounds of the *Sebastes* complex north of Cape Blanco. This State requirement complements the Council's recommendation because uncertainly as to the area of catch is reduced even further.

In addition to revising the cross-over strategy, the Council examined the need to change the landing amounts and trip frequency restrictions. Landings north of Cape Blanco through the end of March 1984 were 2,900 mt, about 500 mt higher than in 1983, and almost 30 percent of the 1984 harvest guideline, whereas only about 25 percent of the harvest guideline had been taken at the end of March, 1983. If not further curtailed, landings are projected to reach over 15,500 mt in 1984. In order to keep landings from exceeding the harvest guideline before the end of 1984, the landing rate must be reduced by about 50 percent.

A 50 percent reduction of either trip size or frequency in this already restricted fishery could have severe and differential impacts on components of the industry. Large boats could fare better with reduced trip frequencies, and small boats could do better with reduced trip amounts. Shore-based processors differ in their opinion as to which reduction is preferable. Consequently, the Council decided to let fishermen choose between two trip limits, both designed to reduce landings by half; the 15,000-pounds, once-per-week limit for the *Sebastes* complex caught north of Cape Blanco would apply unless the vessel operator notifies the appropriate State fishery agency in advance of his preference to land 30,000 pounds once every two weeks during a specified month.

The landing limit for the *Sebastes* complex caught south of Cape Blanco remains at 40,000 pounds, with no limit on trip frequency. The cross-over provisions discussed above allow the *Sebastes* complex to be caught south and landed north of Cape Blanco.

The harvest guideline for the *Sebastes* complex north of Cape Blanco remains at 10,100 mt, and is not a quota.

Secretarial Action: The Secretary concurs with the Council's recommendations for management of the *Sebastes* complex and establishes the following restrictions—

(1) General restrictions.

(a) These restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

(b) Landing of the *Sebastes* complex in the pink shrimp and spot or ridgeback prawn fisheries is governed by regulations at 50 CFR 663.28.

(c) There is no limit on the number of landings under 3,000 pounds (round weight) of the *Sebastes* complex allowed per week.

(d) Fishing for any groundfish species during a single fishing trip must occur either north or south, but not on both sides, of Cape Blanco (42°50′N. latitude) if more than 3,000 pounds of the *Sebastes* complex is landed from that trip.

(e) It will be presumed that all fish of the *Sebastes* complex which are landed north of Cape Blanco were taken north of Cape Blanco unless compliance with subsection (2)(c) can be demonstrated.

(2) Restrictions on *Sebastes* complex caught south of Cape Blanco.

(a) No more than 40,000 pounds (round weight) of the *Sebastes* complex caught south of Cape Blanco may be taken and retained, or landed, per vessel per fishing trip. There is no limit on the number of landings allowed per week of the *Sebastes* complex caught south of Cape Blanco.

(b) Except as provided in subsection (2)(c) below, no more than 3,000 pounds (round weight) of the *Sebastes* complex may be taken and retained south of Cape Blanco and possessed or landed north of Cape Blanco, per vessel per fishing trip.

(c) Up to 40,000 pounds of the *Sebastes* complex caught south of Cape Blanco may be possessed or landed north of Cape Blanco per vessel per fishing trip, with no limit on trip frequency, if the vessel operator notifies the State of Oregon before leaving port on that trip of his intent to fish south and possess or land north of Cape Blanco. This notification, submitted by telephone or in writing, should be made to the Oregon Department of Fish and Wildlife at the Marine Regional Office, Marine Science Drive, Bldg. No. 3, Newport, OR 97365, telephone 503–867–4741, or P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515 from 8:00 a.m. to 4:30 p.m. local time weekdays or telephone 503–269–5000 or 503–269–5999 other times.

(3) Restrictions on *Sebastes* complex caught north of Cape Blanco.

(a) Except as provided in subsection (3)(b) below, no more than 15,000 pounds (round weight) of the *Sebastes* complex caught north of Cape Blanco may be taken and retained, or landed, per vessel per fishing trip in a one-week period. Only one landing of more than 3,000 pounds of the *Sebastes* complex may be made per vessel in that one-week period. "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(b) Notwithstanding the restrictions of subsection (3)(a) above, up to 30,000 pounds of the *Sebastes* complex caught north of Cape Blanco may be taken and retained, or landed, per vessel per fishing trip in a two-week period; however, only one landing of more than 3,000 pounds of the *Sebastes* complex may be made per vessel in that two week period, and only if compliance with subsection (3)(c) below can be

demonstrated. "Two-week period" means 14 consecutive days beginning at 0001 hours Sunday and ending 2400 hours Saturday, local time.

(c) The restrictions of subsection (3)(b) rather than (3)(a) apply to the taking and retention, or landing, of the *Sebastes* complex north of Cape Blanco if the vessel operator so notifies the fishery agency in the State where the fish will be landed, prior to the month in which the landing or landings will occur. Notifications must be in writing to one of the addresses listed at the end of this subsection and are binding for the entire calendar month. (Contact: Oregon Department of Fish and Wildlife, 506 SW Mill Street, Portland, OR 97201 or Washington Department of Fisheries, 115 General Administration Building, Olympia, WA 98504)

Inseason Adjustments

Groundfish landings will be reexamined and the Council will consider the need for further action at its July 11–12, 1984, meeting in San Diego, California.

Classification

The determination to impose these fishing restrictions is based on the most recent data available. These actions are taken under the authority of 50 CFR 663.22 and 663.23, and are in compliance with Executive Order 12291. The actions are covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.32 of the groundfish regulations states that the Secretary will publish a notice of action reducing fishing levels in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. Because of the immediate need to limit the harvest of widow rockfish and the *Sebastes* complex, and thereby reduce catch levels which could otherwise result in overharvest and closure of the fisheries, the Secretary has determined, under 5 U.S.C. 553 (b) and (d) that it is impracticable and contrary to the public interest to provide advance notice and prior opportunity to comment for a full 30 days, or to delay for 30 days the effective date of this action. Anticipated fishing rates at the high levels experienced in the first three months of 1984 will unquestionably result in exceeding the optimum yield for widow rockfish and the harvest guideline for the *Sebastes* complex if additional landings restrictions are not imposed. Prompt action to reduce those fishing rates is necessary to protect the resource and alleviate the necessity for year-end closures.

The public has had opportunity to comment on these management measures. The public particpated in the Task Force, the Groundfish Advisory Subpanel, and Council meetings in April that generated most of the management actions endorsed by the Council and the Secretary. Further public comments will be accepted through May 21, 1984.

These restrictions contain no collections of information for purposes of the Paperwork Reduction Act as defined at 5 CFR 1320.7(k).

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: May 7, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84–12642 Filed 5–7–84; 4:50 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 92
Thursday, May 10, 1984

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 THE TREASURY

Comptroller of the Currency

12 CFR Part 8

[Docket No. 84-15]

Assessment of Fees; National Banks; District of Columbia Banks

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is seeking public comment on a proposed revision of the semiannual assessment schedule for national banks, District of Columbia banks and federally licensed branches and agencies. The proposal would increase by 12 percent the assessment fees to be paid by such entities on or before July 31, 1984 and January 31, 1985. Only the assessment fees due as of those dates are affected by the proposal. The increase is necessary for the Office to meet its current resource requirements.

DATE: All comments should be received by the Office no later that June 11, 1984.

ADDRESS: Comments should be directed to Docket No. 84-15, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., 3rd Floor, Washington, D.C. 20219, Attention: Lynnette Carter, Telephone (202) 447-1800. Comments will be available for inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Peter Struck, Managar, Economic and Policy Analysis Division, (202) 447-1924 or Chari Anhouse, Attorney, Legal Advisory Services Division, (202) 447-1880.

SUPPLEMENTARY INFORMATION: The Office of the Comptroller of the Currency was created by Federal legislation for the purpose of regulating the national banking system. Under the National Bank Act, 12 U.S.C. 1 et seq., it has a responsibility to take every necessary and appropriate step to ensure that all national banks are in compliance with the varied laws enacted by Congress and the States.

This Office is authorized by 12 U.S.C. 482 and 12 U.S.C. 3102 to assess national banks, District of Columbia banks, and federal branches and agencies of foreign banks in order to recover its costs. Section 482 requires that these assessments be made in proportion to the banks' assets or resources and that the rate of such assessments be the same for all such banks. The current assessment schedule fulfills this statutory requirement. *First National Bank of Milaca* v. *Heimann*, 572 F2d 1244 (8th Cir. 1978).

Despite significant success in controlling costs, Office expenses have been rising at a faster rate than Office revenues. Indeed, since the last assessment schedule revision in 1976, expenses have increased 90 percent while assessment revenues have increased 67 percent. The current assessment schedule will be inadequate to meet the Office's near-term resource requirements. This situation is attributable to several factors.

One factor leading to a slowdown in revenue growth has been inflation. The current assessment schedule provides for declining marginal assessment rates, consistent with declining marginal examination costs, as bank asset size increases. Over time, therefore, growth in bank assets generates proportionately smaller increases in Office revenue. However, when asset growth and Office costs rise due to inflation, the economies of scale in the examination process are not realized and assessments cover a decreasing portion of examination costs.

A second factor is the increased regulatory responsibilities of the Office. Since 1976 the Community Reinvestment Act (12 U.S.C. 2901-2905), Financial Institutions Regulatory and Interest Rate Control Act (Pub. L. 95-630, 92 Stat. 3641), International Banking Act of 1978 (Pub. L. 95-369, 92 Stat. 607), Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221, 94 Stat. 132), and the Garn-St Germain Depository Institutions Act (Pub. L. 97-320, 96 Stat. 1469) have mandated increased supervisory activities.

Third, as a result of the recent recession, the number of national banks requiring special supervisory attention has risen sharply. Such banks are examined more frequently and thus are more costly to supervise than healthy banks.

While difficult to predict, some of those factors may be temporal in nature, *e.g.*, the large number of special supervision banks, and represent a short-term cost that most likely will be reduced in the future. Similarly, other influences, *e.g.*, financial deregulation, require the Office to invest initial large sums to provide staff training and to build new systems to maintain a safe and sound banking system in a changing environment. The level of these investment outlays should stabilize in the near future. However, other factors leading to the Office's current revenue shortfall, *e.g.*, the interaction of the current assessment schedule with inflation, are more systemic in nature.

Moreover, to meet its increased responsibilities, Office operations have been restructured to utilize resources more effectively and to provide better service. Two key strategies developed in 1981 were aimed at achieving the Office's mission to serve more efficiently the national interest requiring a safe and sound national banking system. These were: (1) To move toward more off-site, and therefore less resource demanding, monitoring of bank performance and away from labor intensive on-site examinations; and (2) To focus on-site examinations less on small, well-managed banks and more on larger and/or special supervisory banks.

Although those efforts have been successful in controlling costs, the full extent of the anticipated cost reduction has not been realized. Indeed, the lingering effects of the recent recession, the new challenges brought about by deregulation, the debilitating effects of inflation and the greater supervisory responsibilities still outweigh the cost-cutting initiatives. As a consequence, the Office experienced a $7.4 million deficit in 1983 and faces a larger deficit in 1984. The Office therefore proposes to meet its revenue requirements on an interim basis by imposing a 12 percent increase in the assessment fees to be paid by national banks on or before July 31, 1984 and on or before January 31, 1985. Because it affects banks of similar asset size in the same manner, and it is necessary for the Office to recover its costs, the proposed rule fulfills the requirements of 12 U.S.C. 482. In this regard, the Office will continue to

review its long-term revenue needs and may propose an alternative revenue rule prior to the January 31, 1985 assessment.

Executive Order 12291

This Office has examined the impact of the proposed rule and found the following. The aggregate effect on the economy is estimated to be slightly over $8 million in 1984 and a similar amount in 1985. This amount represents the difference in expected assessment revenues between the current schedule with and without the proposed increase. Because the aggregate amount will be spread among all national banks, D.C. banks, and federal branches and agencies of foreign banks, the expected impact of the proposed rule on those banks' earnings is minimal. Institutions of similar size will incur the same increase. Thus, the effect of the proposed revision is unlikely to put competing institutions at a disadvantage with one another or with other competing suppliers of financial services. Finally, the proposed rule is not envisioned as having a significantly adverse effect on the ability of U.S.-domiciled national banks to compete with foreign competitors. This is due to the fact that, generally, only the largest of institutions in the national banking system compete directly with foreign banks. The effect of the proposed rule on their earnings is slight.

Accordingly, this Office has concluded that the proposed rule does not meet any of the conditions set forth in Executive Order 12291 for designation as a major rule. Consequently, a regulatory impact statement has not been prepared.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Comptroller of the Currency certifies that the proposed assessment fee increase will not have a significant impact on a substantial number of small entities. The proposed regulation would not impose additional reporting or recordkeeping requirements on any bank subject to the jurisdiction of this Office, nor would the proposed regulation have a disproportionate impact on smaller banks. This Office anticipates that the necessary increase in fees payable by any individual bank pursuant to this proposal will be sufficiently small as to have no appreciable effect on the individual bank's financial stability. Thus, no regulatory flexibility statement need be prepared.

List of Subjects in 12 CFR Part 8

National banks, Assessment of fees.

PART 8—[AMENDED]

For the reasons set forth above, it is proposed to amend 12 CFR Part 8 as follows:

1. The authority citation for 12 CFR Part 8 is:

Authority: R.S. 5240, as amended, 12 U.S.C. 481, 482, 12 U.S.C. 3102, and in Section 3, 47 Stat. 1566, 26 D.C. Code 102.

2. By adding paragraph (c) to § 8.2 to read:

§ 8.2 Semiannual assessment.

* * * * *

(c) The assessment fee due to be paid on or before July 31, 1984, and January 31, 1985, under the provisions of paragraph (a) and (b) of this regulation shall be 112 percent of the amount computed under those subsections.

Dated: May 2, 1984.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 84-12560 Filed 5-9-84; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ACE-07]

Cape Girardeau, Missouri; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Cape Girardeau, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Cape Girardeau Municipal Airport, Cape Girardeau, Missouri, utilizing the Cape Girardeau VOR as a navigational aid.

DATES: Comments must be received on or before June 15, 1984.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of the NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Cape Girardeau, Missouri. To enhance airport usage, an additional instrument procedure to the Cape Girardeau Municipal Airport is being established utilizing the Cape Girardeau

VOR as a navigational aid. The establishment of this new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Cape Girardeau, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating Visual Flight Rules (VFR).

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by altering the following transition area:

Cape Girardeau, Missouri

Within a 5-mile radius of Cape Girardeau, Missouri, Municipal Airport (latitude 37°13'30" N., longitude 89°34'10" W.), within 2½ miles each side of the Cape Girardeau VOR 194° radial extending from the 5-mile radius to 6½ miles south of the VOR; within 3 miles each side of the Cape Girardeau VOR 044° radial extending from the 5-mile radius to 8½ miles northeast of the VOR; and within 3 miles each side of the Cape Girardeau VOR 279° radial extending from the 5-mile radius to 8.5 miles west of the VOR.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

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

Issued in Kansas City, Missouri, on April 30, 1984.

T. R. Beckloff, Jr.,

Acting Director, Central Region.

[FR Doc. 84-12603 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-13-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Proposed Revisions of Commission Rules Pertaining To Investigations of Unfair Practices in Import Trade

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rules would amend Part 210 of the Commission's Rules of Practice and Procedure governing investigations under section 337 of the Traffic Act of 1930 (19 U.S.C. 1337). Part 210 covers investigations of unfair practices in import trade. The Commission has proposed changes in numerous sections of Part 210. The changes consolidate the rules pertaining to unfair trade practices investigations and clarify details or practice before the Commission.

DATES: The Commission will consider comments on these proposed rules received on or before June 25, 1984.

ADDRESS: Comments should conform with Commission rule 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Wahington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., or Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0311 or 202-523-0189, respectively.

Copies of Part 210 with proposed additions underlined and proposed deletions bracketed are available from the Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176

SUPPLEMENTARY INFORMATION: Authority for this proposed rulemaking is contained in 19 U.S.C. 1335, which authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337. The Commission also derives authority for this rulemaking from the Administrtive Procedure Act, 5 U.S.C. 551 *et seq.*, which authorize the adoption of certain procedures in an adjudicative proceeding when an agency does not preside over the evidentiary hearing.

Explanation of Proposed Rules

Subpart A—General Provisions

Section 210.4 Definitions.

The Commission has redesignated paragraph (e) of this section as paragraph (d) and applied the definition of presiding officer to administrative law judge. This definition reflects the Commission's practice of having an administrative law judge preside over the evidentiary hearing held in a section 337 investigation. The Commission has changed all references to presiding officer in Part 210 to administrative law judge.

Paragraph (f) has been redesignated paragraph (e) to conform to the redesignation of the preceding subsection.

Section 210.5 Written submissions.

Paragraph (a) has been amended to require citation of the investigation number, once assigned, in a submission's caption. This allows more precise identification of the submission and reflects current practice. This paragraph is also amended to allow citation of only the primary parties in the caption of the complaint and response.

The current paragraph (b) has been deleted because all written submissions do not require concise and direct pleadings with number numbered paragraphs. The Commission has replaced this provision with the direction that submissions conform to the requirements stated in paragraph (c) of this section and specified paragraphs of 201.8.

Paragraph (d) has been amended to allow the administrative law judge (ALJ) as well as the Commission to regulate service of submissions. Currently this paragraph requires service on all parties to the proceeding.

Section 210.6 Intervention.

The Commission's rule concerning intervention has been redesignated 210.26 and moved to Subpart C of these rules.

Section 210.6 Confidential business information defined and identified.

This new rule defines confidential business information and provides for its identification in a document in conformity with the general provisions of Part 201. The Commission has added this rule and §§ 210.7 and 210.8 to incorporate applicable Part 201 provisions into this part in order to provide convenient reference to the pertinent provisions.

Section 210.7 Computation of time, additional hearings, postponements, continuances, and extensions of time.

This new rule allows the Commission and the ALJ discretion in scheduling the referenced procedural matters. It also incorporates the relevant provision of Part 201.

Section 210.8 Service of process and other documents.

This new rule incorporates the relevant provision of part 201 into this part. It also allows the Commission and the ALJ discretion in modifying these requirements.

Subpart B—Commencement of Proceedings.

Section 210.12 Institution of investigation.

The Commission has amended this section to clarify that it is the vote on whether to institute an investigation that must occur within thirty (30) days after receipt of a complaint rather than publication of the notice of investigation in the **Federal Register.** The amended rule also provides that a complainant may withdraw its complaint as a matter of right prior to the Commission's vote on institution. This provision simply codifies current practice. In the last sentence of this section, the Commission has deleted the phrase referring to a determination that a complaint is not properly filed and substituted language referring to a determination not to institute an investigation. This change more closely reflects the extent of the Commission's discretionary powers in its decisions on institution since improper filing is not the sole basis for a negative decision on institution.

Section 201.13 Service of complaint and notice of investigation.

The Commission has amended this section to provide for service of the notice of investigation as well as the complaint. The notice of investigation governs the scope of the investigation and receipt of this document is necessary for an adequate response. The rule further provides for service on later named respondents when they are named rather than when discovered. Service may thus be avoided on proposed respondents who are not subsequently named in the investigation.

Sections 210.14 and 210.15 Commission action, public interest factor, and bonding. Period for concluding Commission investigation.

These provisions have been redesignated as §§ 210.58 and 210.59, respectively. These rules now appear in Subpart F.

Subpart C—Pleadings and Motions

Section 210.20 The complaint.

Paragraph (a)(4) has been amended to provide that the complaint must state the nature of the business of alleged violators of section 337 only when such business is known. This replaces language implying that the "when known" refers to any one of the name, address, and the nature of the business of such persons.

The Commission's amendment to paragraph (a)(6) requires the complainant to include in the description of the domestic industry allegedly affected by unfair acts, the relevant operations of any licensees. This change allows the Commission to more easily identify the relevant domestic industry for the purposes of an injury determination. The Commission has also specified that the injury allegations referred to in the rule apply to a domestic industry.

Paragraph (a)(7) has been amended to require that in intellectual property-based complaints, the complaint must show that at least one complainant is the owner or exclusive licensee of the intellectual property in question. This standing requirement insures that at least one complainant has a substantial interest in filing the complaint and presenting the case.

Paragraph (a)(8) has been amended to require that the complaint state a specific theory underlying the general allegations of injury.

The Commission proposes deletion of the reference to only domestic licensees in paragraph (a)(9)(iii). This amendment, in conjunction with deletion of paragraph (a)(9)(v) requires identification of all licensees under each involved U.S. patent but no longer requires a listing of licensees under foreign patents. This change will reduce in many cases the number of licensees to be identified by limiting the requirement to those licensees directly relevant to the Commission investigation.

Paragraph (a)(9)(viii) has been amended to make mandatory the inclusion in the complaint of appropriate allegations regarding the elements specified in this paragraph. This change will facilitate Commission evaluation of the complaint.

Subsections (F) through (I) of paragraph 9 have been redesignated (v) through (viii). This reflects the deletion of subsection (E).

Paragraph (c)(1) has been deleted as unnecessary in light of paragraph (a)(5). The remaining three subsections of paragraph (c) have been renumbered.

The Commission has added paragraphs (d) through (f). These paragraphs specify additional material to accompany complaints alleging violation of section 337 by reason of copyright infringement, infringement of a registered trademark, or infringement of a non-federally-registered trademark. This change reflects the Commission's policy of requesting the specified material during its informal investigation period and brings the requirements in investigations involving the specified property rights into conformity with those of patent-based investigations.

Section 210.21 The response.

Paragraph (b) has been amended to require that the response include statements regarding respondent's capacity and the significance of the U.S. market to its operations. Furthermore, the response must include affirmative defenses. These changes will aid the ALJ in evaluating the respondent's significance in the investigation at an early stage in the proceeding. Requiring respondent to lead affirmative defenses in the response conforms with generally accepted procedural requirements and reflects current practice.

Paragraph (d) has been deleted from this rule. A new rule on default, § 210.25, has been substituted.

Section 210.22 Amendments to pleadings and notice of investigation.

Paragraph 210.20(d) has been redesignated paragraph 210.22(a) and the remaining paragraphs of this rule have been redesignated to reflect this addition. All provisions for amendments to pleadings and the notice of investigation are now consolidated in this section.

Section 210.24 Motions.

Paragraph (a) has been revised to reflect the current Commission practice of having the Chief Administrative Law Judge preside during the interval between institution and formal assignment of the investigation to an ALJ.

Paragraph (c) has been retitled "Responses to motions" to reflect the fact that not all responses to motions are answers. This paragraph now allows a proposed respondent to file a response to a motion to amend the complaint or notice of investigation to add it as an additional respondent. Proposed respondents are often the only persons with an incentive to oppose the motion to name them as additional respondents.

A sentence has been added at the end of paragraph (e)(1) to make clear that the ALJ: (1) May rule without a hearing on a motion for temporary relief on a summary determination basis and (2) may deny such a motion without a hearing when the motion is not in substantial compliance with the requirements specified in § 210.24(e).

Section 210.25 Default.

The Commission has drafted a new rule on default which reflects current requirements enunciated in prior Commission opinions.

Paragraph (a) includes an exemplary nonexclusive list of situations in which a party may be found in default. Paragraph (b) provides for a procedure by which the ALJ may find a party in default and paragraph (c) provides conditions and standards for relief against a respondent found in default.

Section 210.26 Intervention.

The Commission has moved this provision from subpart A and amended it to reflect that the ALJ is to act on intervention requests through an initial determination filed under § 210.53(c).

The Commission has deleted the designation of an intervenor as a nonparty and the statement that any interested person may be designated a party. The provision that intervention may be allowed "to such extent and upon such terms as may be deemed proper under the circumstances" make the party status provision unnecessary.

Subpart D—Discovery and Compulsory Process

Section 210.30 General provisions governing discovery.

Paragraph (a) has been amended to allow entry upon land for discovery purposes. This clarifies that discovery methods in Commission section 337 investigations are coextensive with those under the Federal Rules of Civil Procedure.

Paragraph (b) has been amended to provide a more precise definition of the scope of discovery which reflects accepted Commission practice.

Paragraph (c) has been amended to indicate that the relevant time limitations relate to the initial determination procedure now used by the Commission.

Paragraph (d) has been deleted and replaced with new § 210.37 on protective orders. The remaining paragraphs of this rule have been redesignated to reflect this deletion.

Section 210.31 Depositions.

Paragraph (b) has been amended to allow depositions before a person, rather than an officer, having power to administer oaths. This change simplifies deposition procedure.

Paragraph (c) has been amended to allow telephonic depositions.

Paragraph (d) has been amended to indicate the full scope of protected information. The proposed amendment also reflects that depositions need not be taken before an officer and states a procedure for certification of the transcript of a deposition.

Paragraph (f) now requires submission to the Commission investigative attorney of only one copy of a deposition and thus lessens the burden on the parties.

Section 210.32 Interrogatories.

Paragraph (b) has been amended to require parties answering interrogatories to repeat the interrogatory immediately preceding the answer. This change reflects a preferred practice which facilitates evaluation of answers.

Paragraph (c) now states that specifications of records shall include sufficient detail for the interrogating party to identify readily the relevant documents. This change delineates the burden on the party producing documents.

Section 210.33 Request for production of documents and things and entry upon land.

Paragraph (a) now provides that parties may request discovery through entry upon land or other property and delineates the appropriate purposes for such request. This change conforms with the proposed amendment to § 210.30.

Paragraph (b) now specifies how parties shall produce documents for inspection in terms of organization and identification of the requested documents.

Paragraph (c) has been added to provide that orders against nonparties for permission to enter upon land are not precluded. A similar provision is found in subdivision (c) of Rule 34 of the Federal Rules of Civil Procedure.

Section 210.34 Request for admission.

Paragraph (b) now provides that a party answering a request for admission shall repeat the request immediately preceding its answer. This facilitates evaluation of the answer.

Section 210.35 Subpoenas.

Paragraph (a)(2) has been amended to provide that an application for a subpoena duces tecum for production of documents or other physical exhibits in circumstances other than those enumerated in the rule shall be made to the ALJ.

Section 210.37 Protective orders.

The Commission has expanded the provisions regarding protective orders and incorporated these provisions into a separate rule. In addition, the new rule recognizes the current Commission practice that an ALJ may issue a protective order on his own initiative. This rule is not intended to restrict in any manner the ALJ's issuance of a protective order consistent with the Administrative Procedure Act appropriate to the particular circumstances of an investigation.

Paragraph (b) enumerates sanctions which the Commission and the ALJ may apply in the event of a breach of a protective order. This is a nonexclusive list which is consistent with guidelines established in prior Commission opinions.

Subpart E—Prehearing Conferences and Hearings

Section 210.41 General provisions for hearings.

The Commission has deleted paragraph (e) from this rule in order to effectuate the Commission's intention to establish deadlines solely for the filing of initial determinations pursuant to § 210.53. Elimination of deadlines for completion of a hearing will allow the ALJ greater flexibility in scheduling the hearing at a time appropriate to the individual circumstances of each investigation.

Paragraph (e), formerly paragraph (f), provides that an ALJ shall preside over each hearing unless the Commission orders otherwise. This change reflects Commission practice of having an ALJ conduct evidentiary hearings.

Section 210.42 Evidence.

The Commission has deleted the reference in paragraph (e) to exclusion from the record of argument on objections to evidence.

Paragraph (g) on excluded evidence has been clarified to indicate that although such evidence is retained with the record, it is not part of the record.

Section 210.43 Record.

A new paragraph (a) has been added to this section defining those items which are part of the record and which are the exclusive basis for the Commission's determination under the Administrative Procedure Act.

Section 210.44 In camera treatment of confidential information.

The title of this section has been amended to reflect that this rule applies to treatment of all confidential information and not only orders.

Paragraph (a) has been amended to reference § 210.37 on protective orders.

Paragraph (b) has been revised to delete the requirement that the ALJ issue an in camera order which contains a detailed description of the documents, a statement of reasons for granting confidentiality, and a statement of reasons for the designated expiration dates. It has been the experience of the ALJs that such details should receive specific treatment in protective orders tailored to individual circumstances.

The Commission has added a new paragraph (e) which provides for motions to declassify confidential information. The Commission has delegated this task to the appropriate ALJ.

Subpart F—Determinations and Actions Taken

Section 210.50 Summary determinations

Paragraph (a) has been amended to reflect the amendment to § 210.41 removing the previous deadlines for completion of evidentiary hearings. Motions for summary determination must still be filed at least thirty days before the date fixed for any hearing, but the hearing date is now controlled by the ALJ rather than by rule.

Paragraph (b) has been amended to allow the ALJ discretion in granting a party's request for oral argument on a motion for summary determination. The previous mandatory provision at times resulted in unnecessary hearings.

Portions of paragraph (f) have been deleted to reflect that an ALJ will normally be the presiding officer in section 337 investigations.

Section 210.51 Termination of investigation.

Paragraph (b) has been deleted because it is superseded by § 210.25, the new rule on default.

Paragraph (c) has been redesignated (b) and amended to make a statement rather than an affidavit acceptable for stating that there are no other agreements between the parties concerning the subject matter of the investigation. This amendment recognizes that in some instances an affidavit may be difficult to obtain from a foreign respondent during the time available and that an affidavit does not significantly increase verification or enforceability.

Paragraph (b)(2) and paragraph (d) now provide that an order of termination based on a licensing or other agreement or a consent order settlement does not constitutue a determination on violation of section 337.

Section 210.52 Proposed findings.

The Commission has deleted the requirement that the ALJ shall rule on each proposed finding and conclusion and that the record reflect these findings. The present requirement imposes too great a burden on the ALJ.

Section 210.53 Initial determination.

In paragraphs (a) and (b) the Commission has deleted the phrase referring to a hearing because it merely repeated the general requirement stated in rule 210.41.

Paragraph (c) has been amended to provide that motions for intervention and motions for suspension of the investigation be treated under the initial determination procedure. Adoption of the initial determination procedure on motions for intervention and suspension will result in the most efficient and effective use of Commission resources.

Paragraph (h) has been amended to provide that an initial determination filed pursuant to § 210.53(a) shall become the Commission's determination forty-five (45) days after service of the initial determination, unless the Commission decides to review the initial determination within forty-five days after service. An initial determination filed pursuant to § 210.53 (b) or (c) shall become the Commission's determination thirty (30) days after service, unless the Commission orders review within thirty (30) days after service of the initial determination. This amendment resolves problems that have arisen with regard to responses to petitions for review and filings on behalf of Federal agencies that often occur late in the review period. It also provides consistency between the date on which an initial determination becomes the Commission's determination and the date by which the Commission must order review of the initial determination.

Paragraph (i) has been amended to permit a reduction in the length of Commission notices advising of Commission decisions not to review initial determinations.

Section 210.54 Petition for review.

The Commission has added a provision in paragraph (a) clarifying the Commission's position on a party's or proposed respondent's failure to respond to a motion to amend the notice of investigation to name additional respondents. This change reflects the amendment to § 210.24 allowing proposed respondents to file a response to such motions.

Paragraph (b) of this section has been amended to reflect the changes in § 210.53(h). Paragraph (b)(3) has been amended to reflect the current Commission practice of issuing only a notice of review rather than an order and notice. Sections 210.55 and 210.56 have also been amended to reflect that practice.

Section 210.58 Commission action, public interest factor, and bonding.

This section is former § 210.14. In paragraph (a)(2) the Commission has deleted the word "or" from the list of possible remedies to eliminate the implication that remedies are always available only in the alternative.

Section 210.59 Period for concluding Commission investigation.

This section is former § 210.15. The Commission has deleted the reference to rule in the first sentence of the paragraph because rulemaking is not a method for resolving section 337 investigations. Furthermore, the Commission has amended the provision for declaring an investigation more complicated to recognize that factors other than those enumerated may provide a basis for declaring an investigation more complicated.

Subsequent rules have been redesignated to reflect the addition of new §§ 210.58 and 210.59.

Subpart G—Appeals

Section 210.71 Appeals of final determination to the United States Court of Appeals for the Federal Circuit.

This rule has been amended to reflect the change in the name of the Commission's court of review in section 337 investigations.

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Business and industry, Customs duties and inspection, Imports, Investigations.

Accordingly, it is proposed to revise 19 CFR Part 210 to read as follows:

SUBCHAPTER C—INVESTIGATIONS OF UNFAIR PRACTICES IN IMPORT TRADE

PART 210—ADJUDICATIVE PROCEDURES

Authority: 19 U.S.C. 1333, 1335, 1337 and 1337a.

§ 210.1 Applicability of part.

The rules in this part govern procedure relating to proceedings under section 337 of the Tariff Act of 1930 (88 Stat. 2053; 19 U.S.C. 1337), and Pub. L. 710, July 2, 1940 (54 Stat. 724, 19 U.S.C. 1337a). These rules are authorized by sections 333 and 335 of the Tariff Act of 1930 (46 Stat. 699; 19 U.S.C. 1333 and 72 Stat. 680; 19 U.S.C. 1335).

§ 210.2 General policy.

It is the policy of the Commission that, to the extent practicable and consistent with requirements of law, such proceedings shall be conducted expeditiously. In the conduct of such proceedings, the administrative law judge and counsel or other representative for each party shall make every effort at each stage of the proceedings to avoid delay.

Subpart A—General Provisions

§ 210.4 Definitions.

As used in this part—

(a) "Complainant" means a person who has filed a complaint with the Commission under this part;

(b) "Party" means each complainant and respondent in the investigation, the Commission investigative attorney, and each person permitted to intervene pursuant to § 210.26 of this part;

(c) "Commmission investigative attorney" means, for purposes of a particular proceeding under section 337 of the Tariff Act, the attorney(s) designated to engage in investigatory activities with respect to the proceeding, in his (or their) capacity as investigator in the proceeding;

(d) "Administrative law judge" means the person appointed under section 3105 of title 5 of the United States Code presiding over the taking of evidence in an investigation under this party;

(e) "Respondent" means any person named in a notice of investigation issued under this part as allegedly violating section 337 of the Tariff Act.

§ 210.5 Written submissions.

(a) *Caption; names of parties.* Every submission shall contain a caption setting forth the name of the Commission, the title of the investigation, the docket number or investigation number assigned to the proceeding, if any, and, in the case of a complaint and response, the names of all or the primary parties to the proceeding.

(b) Submissions shall be filed in accordance with paragraph (c) of this section and § 201.8 of Part 201 of this chapter, paragraphs (a), (b), (c), and (e).

(c) *Number of copies.* Except as otherwise provided for in this part or by the Commission, the original and fourteen (14) true copies of each submission shall be filed with the Commission. While an investigation is before the presiding administrative law judge, the original and six (6) true copies of each submission shall be filed with the Commission Secretary.

(d) *Service of submissions.* Except as otherwise provided for in this part, or by the Commission or the administrative law judge, each submission filed by a party with the Commission shall be served on all other parties and in a manner provided for in § 201.16 of this chapter.

§ 210.6 Confidential business information defined and identified.

Confidential business information shall be defined in accordance with § 201.6(a) of Part 201 of this chapter and shall be identified and submitted in accordance with § 201.6(c) of Part 201.

§ 210.7 Computation of time, additional hearings, postponements, continuances, and extensions of time.

Unless otherwise ordered by the Commission or the administrative law judge, the computation of time, the granting of additional hearings, postponements, continuances, and extensions of time shall be in accordance with § 201.14 of Part 201.

§ 210.8 Service of process and other documents.

Unless otherwise ordered by the Commission or the administrative law judge, the service of process and other documents shall be in accordance with § 201.16 of Part 201.

Subpart B—Commencement of Proceedings

§ 210.10 Commencement of proceedings.

(a) *Upon receipt of complaint.* A proceeding is commenced by filing with the Secretary to the Commission the original and fourteen (14) true copies of a complaint, plus one copy for each person named in the complaint as violating section 337 of the Tariff Act.

(b) *Upon the initiative of the Commission.* The Commission may upon its initiative commence proceedings based upon any alleged violation of section 337 of the Tariff Act.

§ 210.11 Action of Commission upon receipt of complaint.

Upon receipt of a complaint filed pursuant to § 201.8 of this chapter and

§§ 210.5, 210.10, and 210.20 of this part, the Commission shall take the following actions:

(a) *Examination of complaint.* The Commission shall examine the complaint for sufficiency and compliance with the applicable rules of this chapter.

(b) *Informal investigatory activity.* The Commission shall identify sources of relevant information, assure itself of the availability thereof, and, if deemed necessary, prepare subpoenas therefor, and give attention to other preliminary matters.

§ 210.12 Institution of investigation.

Within thirty (30) days after receipt of a complaint or, in exceptional circumstances, as soon after such period as possible, the Commission shall determine whether the complaint is properly filed and, if so, shall vote on whether to institute an investigation. The complaint may be withdrawn as a matter of right before the Commission votes to institute an investigation. The investigation shall be instituted by notice published in the **Federal Register.** Such notice will define the scope of the investigation. If the Commission determines not to institute an investigation, the complaint shall be dismissed and the Commission shall notify the complainant in writing of its action with the reason(s) therefor.

§ 210.13 Service of complaint and notice of investigation.

Each respondent, including later named respondents, shall be served by the Commission with a copy of the complaint and any accompanying motion for temporary relief, and notice instituting the investigation upon institution of the investigation or as soon as possible after such respondents are named. The Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission considers appropriate, shall also be served with a copy of the complaint and any accompanying motion for temporary relief, and notice instituting the investigation upon institution of the investigation. Service shall be effected upon institution of the investigation or as soon as possible after respondents are named.

Subpart C—Pleadings and Motions

§ 210.20 The complaint.

(a) *Contents of complaint.* In addition to conforming with the requirements of § 201.8 of this chapter and §§ 210.5(a), 210.5(b), and 210.5(c) of this part, the complaint shall—

(1) Be under oath and signed by the complainant or his duly authorized officer, attorney, or agent, with the name, address, and phone number of the complainant and any such officer, attorney, or agent given on the first page of the complaint;

(2) Include a statement of the facts constituting the alleged unfair methods of competition and unfair acts;

(3) Describe specific instances of alleged unlawful importations or sales;

(4) State, the name, address, and nature of the business (when such nature is known) of each person alleged to be violating section 337 of the Tariff Act;

(5) Include a statement as to whether or not the alleged unfair methods of competition and unfair acts, or the subject matter thereof, are or have been the subject of any court or agency litigation, and, if so, include a brief summary of such litigation;

(6) Include a description of the domestic industry affected, including the relevant operation of any licensees, when an element of the complainant is the effect of tendency to destroy or substantially injure, or to prevent the establishment of, such a domestic industry, and a description of the trade and commerce affected when an element of the complaint is the effect or tendency to restrain or monopolize such trade and commerce;

(7) Include a description of the complainant's business and his interests in the trade and commerce or domestic industry affected, and for an intellectual property-based complaint, include a showing that at least one complaint is the owner or exclusive licensee of the subject property;

(8) State a specific theory underlying the general allegation(s) regarding an effect or tendency to destroy or substantially injure, to prevent the establishment of a domestic industry, or to have the effect or tendency to restrain or monopolize trade and commerce in the United States. Include a statement of facts indicating the effect or tendency to substantially injure, such as: The volume and trend of production, sales, and inventories of the involved domestic article; and description of the facilities and number and type of workers employed in the production of the involved domestic article; profit-and-loss information covering overall operations and operations concerning the involved domestic article; pricing information with respect to the involved domestic article; when available, volume and sales of imports; and other data pertinent to the subject matter of the complaint which would support the allegation that—

(i) The effect or tendency of the importations or sales in question is to destroy or substantially injure an efficiently and economically operated industry in the United States; or

(ii) The effect or tendency of the importations or sales in question is to prevent the establishment of an efficiently and economically operated industry in the United States; or

(iii) The effect or tendency of the importations or sales in question is to restrain or monopolize trade and commerce in the United States;

(9) Include, when a complaint is based upon the alleged unauthorized importation or sale of an article covered by, or produced under a process covered by, the claims of a valid U.S. letters patent—

(i) The identification of each U.S. letters patent and a certified copy thereof (a legible copy of each such patent will suffice for each required copy of the complaint);

(ii) The identification of the ownership of each involved U.S. letters patent and a certified copy of each assignment of each such patent (a legible copy thereof will suffice for each required copy of the complaint);

(iii) The identification of each licensee under each involved U.S. letters patent;

(iv) When known, a list of each foreign patent and each foreign patent application (not already issued as a patent) corresponding to each involved U.S. letters patent, with an indication of the prosecution status of each such foreign patent application;

(v) A nontechnical description of the invention of each involved U.S. letters patent;

(vi) A reference to the specific claims in each involved U.S. letters patent which allegedly cover the article imported or sold by each person named as violating section 337 of the Tarriff Act, or the process under which such article was produced;

(vii) A showing of any domestic production of the involved article or of any domestic utilization of the involved process allegedly covered by the above specific claims of each involved U.S. letters patent, and a showing that each person named as violating section 337 of the Tariff Act is importing and/or selling the article covered by, or produced under the involved process covered by, the above specific claims of each involved U.S. letters patent. The complainant shall make such showing by appropriate allegations, and, when practicable, by a chart which applies an exemplary claim of each involved U.S.

letters patent to a representative involved domestic article or process and to a representative involved article of each person named as violating section 337 of the Tariff Act or to the process under which such article was produced; and

(viii) Drawings, photographs, or other visual representations of both the involved domestic article or process and the involved article of each person named as violating section 337 of the Tariff Act, or of the process utilized in producing such article, and, when a chart is furnished under paragraph (a)(9)(vii) of this section, the parts of such drawings, photographs, or other visual representations should be labeled so that they can be read in conjunction with such chart; and

(10) Contain a request for relief sought. When the complaint contains a request for temporary relief pursuant to 19 U.S.C. 1337 (e) or (f), a separate motion for temporary relief shall accompany the complaint in accordance with § 210.24(e).

(b) *Submission of articles as exhibits.* At the time the complaint is filed, when practical and possible, the involved articles shall be submitted as exhibits—both the involved domestic article and that of each person named as violating section 337 of the Tariff Act.

(c) *Additional material to accompany each patent-based complaint.* There shall accompany the submission of the orginal of each complaint based upon the alleged unauthorized importation or sale of an article covered by, or produced under a process covered by, the claims of a valid U.S. letters patent the following:

(1) Three (3) copies of each license agreement arising out of each involved U.S. letters patent, except that, to the extent that a standard license agreement is used, three (3) copies of the standard license agreement and a list of the licensees operating under such agreement will suffice;

(2) One (1) certified copy of the Patent and Trademark Office file wrapper for each involved U.S. letters patent, plus three (3) additional copies thereof; and

(3) Four (4) copies of each patent and applicable pages of each technical reference mentioned in the file wrapper of each involved U.S. letters patent.

(d) *Additional material to accompany each registered trademark-based complaint.* There shall accompany the submission of the original of each complaint based upon the alleged unauthorized importation or sale of an article covered by a federally registered trademark one (1) certified copy of the trademark registration.

(e) *Additional material to accompany each complaint based on nonfederally registered trademark.* There shall accompany the submission of the original of each complaint based upon the alleged unauthorized importation or sale of an article covered by a nonfederally registered trademark the following:

(1) Information concerning prior attempts to register the alleged trademark.

(2) Information on the status of current attempts to register the alleged trademark.

(f) Additional material to accompany each copyright-based complaint. There shall accompany the submission of the original of each complaint based upon the alleged unauthorized importation or sale of an article covered by a copyright one certified (1) copy of the copyright registration.

§ 210.21 The response.

(a) *Time for response.* Respondents shall have twenty (20) days (unless otherwise ordered in the notice of investigation or by the administrative law judge) from the date of service of the complaint and notice of investigation within which to respond, in writing, to the complaint and the notice of investigation.

(b) *Contents of the response.* In addition to conforming to the requirements of § 201.8 of this chapter and § 210.5 of this part, each response shall be under oath and signed by respondent or his duly authorized officer, attorney, or agent, with the name, address, and telephone number of the respondent and any such officer, attorney, or agency given on the first page of the response. Each respondent shall respond to each allegation in the complaint and in the notice of investigation, and shall set forth a concise statement of the facts constituting each ground of defense. There shall be a specific admission, denial, or explanation of each fact alleged in the complaint and notice, or, if the respondent is without knowledge of any such fact, a statement to that effect. Allegations of a complaint and notice not thus answered may be deemed to have been admitted. Each response shall include, when available, statistical data on the quantity and value of imports of the involved article in addition to a statement concerning the respondent's capacity to produce the subject article and the relative significance of the United States market to its operations. Affirmative defenses shall be pleaded with specificity in the response. When the alleged unfair methods of competition and unfair acts are based upon the claims of a valid U.S. letters patent, the respondent is encouraged to make the following showing, when appropriate:

(1) If it is asserted in defense that the article imported or sold by respondent is not covered by, or produced under a process covered by, the claims of each involved U.S. letters patent, a showing of such noncoverage for each involved claim in each U.S. letters patent in question shall be made, which showing may be made by appropriate allegations and, when practicable, by a chart which applies the involved claims of each U.S. letters patent in question to a representative involved imported article of respondent or to the process under which such article was produced;

(2) Drawings, photographs, or other visual representations of the involved imported article of respondent or the process utilized in producing such article, and, when a chart is furnished under paragraph (b)(1) of this section, the parts of such drawings, photographs, or other visual representations should be labeled so that they can be read in conjunction with such chart; and

(3) If the claims of any involved U.S. letters patent are asserted to be invalid or unenforceable, the basis for such assertion, including, when prior art is relied on, a showing of how the prior art renders each claim invalid or unenforceable, and a copy of such prior art.

(c) Submission of article as exhibit. At the time the response is filed, when practical and possible, the involved imported article shall be submitted as an exhibit.

§ 210.22 Amendments to pleadings and notice of investigation.

(a) *Amendment of complaint.* The complaint may be amended at any time prior to the institution of the investigation, and, after institution, may be amended for good cause shown upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to the investigation by a change in the scope of the investigation which results from such amendment.

(b) *By leave.* If and whenever disposition of the issues in an investigation on the merits will be facilitated, the administrative law judge, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to an investigation, may allow appropriate amendments to pleadings: Provided, however, that a motion for amendment of a complaint after the institution of an investigation shall be made to the

administrative law judge, who shall grant the motion by filing with the Commission an intitial determination, or shall deny the motion by issuing an order directing denial; the motion shall be decided according to the standards of paragraph (a) of this section. A motion for amendment of a notice of investigation shall be dealt with as provided for with respect to motions for amendment of a complaint.

(c) *Conformance to evidence.* When issues not raised by the pleadings or notice of investigation, but reasonably within the scope of the pleadings and notice, are considered during the taking of evidence by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings and notice. Such amendments of the pleadings and notice as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time, and shall be effective with respect to all parties who have expressly or impliedly consented.

§ 210.23 Supplemental submissions.

The administrative law judge may, upon reasonable notice and such terms as are just, permit service of a supplemental submission setting forth transactions, occurrences, or events which have taken place since the date of the submissions sought to be supplemented and which are relevant to any of the issues involved.

§ 210.24 Motions.

(a) *Presentation and disposition.* During the period between the institution of an investigation and the assignment of that investigation to a presiding administrative law judge, all motions shall be addressed to the Chief Administrative Law Judge. During the time an investigation is before an admistrative law judge, all motions therein shall be addressed to the administrative law judge. When an investigation is before the Commission, all motions shall be addressed to the Chairman of the Commission. A motion to amend the complaint and notice of investigation to name an additional respondent after institution shall be served on the proposed respondent. All written motions shall be filed with the Commission Secretary and served upon each part.

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor.

(c) *Responses to motions.* Within ten (10) days after service of any written motions, or within such longer or shorter time as may be designated by the administrative law judge or the Commission, a nonmoving party, or in the instance of a motion to amend the complaint or notice of investigation to name an additional respondent after institution the proposed respondent, shall respond or he may be deemed to have consented to the granting of the relief asked for in the motion. The moving party shall have no right to reply, except as permitted by the administrative law judge or the Commission.

(d) *Motions for extensions.* As a matter of discretion, the administrative law judge or the Commission may waive the requirements of this section as to motions for extension of time, and may rule upon such motions ex parte.

(e) *Motion for temporary relief.* Requests for temporary relief pursuant to 19 U.S.C. 1337 (e) or (f) shall be made through a motion under § 210.24(e) (1) or (2) of this part.

(1) *Motion accompanying complaint.* A complaint requesting temporary relief pursuant to § 210.20(a)(10) of this part shall be accompanied by a motion which sets forth complainant's request for temporary relief. The motion shall contain a detailed statement of specific facts bearing on:

(i) Complainant's probablity of success on the merits;

(ii) Immediate and substantial harm to the domestic industry in the absence of the requested temporary relief;

(iii) Harm, if any, to the proposed respondents if the requested temporary relief is granted; and

(iv) The effect, if any, that the issuance of the requested temporary relief would have on the public interest.

The motion shall contain in addition a memorandum of points and authorities in support of the motion and affidavits executed by persons with knowledge of the facts specified in the motion. A motion for temporary relief accompanying a complaint shall be deemed filed on the date that the Commission institutes an investigation and shall be served with the complaint and notice of investigation in accordance with § 210.13 of this part. A motion for temporary relief accompanying a complaint shall be forwarded to the administrative law judge for decision in the form of an initial determination to be issued pursuant to § 210.53(b) of this part. A motion for temporary relief may be ruled upon without a hearing by the administrative law judge in accordance with § 210.50 of this part and denied when the motion is not in substantial compliance with the requirement of this section.

(2) *Motions filed after institution of the investigation.* A motion for temporary relief may be filed after the institution of an investigation by the Commission. Such a motion shall contain a statement of specific facts, memorandum of points and authorities, and affidavits as required in § 210.24(e)(1), and a showing that extraordinary changed circumstances exist warranting temporary relief and that the moving party was not and with due diligence could not have been aware of the extraordinary changed circumstances at the time the complaint was filed.

(3) *Response to motion for temporary relief.* Any party may file a response to a motion for temporary relief. Responses shall be filed within twenty (20) days after the service of a motion accompanying the complaint and ten (10) days after service of a motion filed after the institution of an investigation, unless otherwise ordered by the administrative law judge. The response shall contain:

(i) A statement which sets forth with particularity any objection to the motion for temporary relief;

(ii) A statement which sets forth with specificity facts bearing on:

(A) Complainant's probability of success on the merits;

(B) Immediate and substantial harm, if any, to the domestic industry in the absence of the requested temporary relief;

(C) Harm, if any, to the proposed respondents if the requested temporary relief is granted; and

(D) The effect, if any, that the issuance of the requested temporary relief would have on the public interest;

(iii) A memorandum of points and authorities in opposition to the motion;

(iv) Affidavits, where possible, executed by persons with knowledge of the facts specified in the response.

§ 210.25 Default.

(a) *Definition of default.* Failure of a respondent to take actions including but not limited to the following: File a response to the complaint and notice pursuant to § 210.21 of this part within the time provided, respond to a motion for summary determination, respond to a motion which materially alters the scope of the notice of investigation, or appear at a hearing before the administrative law judge on the issue of violation of section 337, may be deemed to constitute a waiver of the respondent's right to appear, to be served with documents, and to contest the allegations at issue in the investigation.

(b) *Procedure for determining default.* If a respondent has failed to respond or appear as enumerated in paragraph (a) of this section, the administrative law judge upon motion or his own intiative shall order such respondent to show cause why it should not be found in default. If the respondent fails to show cause why it should not be found in default, the administrative law judge may make any orders appropriate to paragraph (a) of this section.

(c) *Relief against a respondent in default.* The Commission shall issue relief against a respondent found to be in default if:

(1) The record developed by the administrative law judge establishes a prima facie case of violation of section 337 or reason ro believe there is a violation of section 337;

(2) A remedy exists which is appropriate for the violation found to exist; and

(3) The public interest as defined in 19 U.S.C. 1337 (e) and (f) does not preclude such relief.

In their consideration of whether a prima facie case has been presented, the administrative law judge and the Commission may draw appropriate adverse inferences as provided in § 210.36 against a respondent in default with respect to those issues for which complainant has made a good faith but unsuccessful effort to obtain evidence.

§ 210.26 Intervention.

Any person desiring to intervene in an investigation under this part shall make written application in the form of a motion setting forth a sufficient basis therefor. Such application shall have attached to it a certificate showing service thereof upon each party to the investigation in accordance with the provisions of § 201.16 of this chapter. A similar certificate shall be attached to the answer filed by any party with respect to the application showing service of such answer upon the applicant and all other parties. The Commission, or the administrative law judge by initial determination, may permit the intervention of such person to such extent and upon such terms as may be deemed proper under the circumstances.

Subpart D—Discovery and Compulsory Process

§ 210.30 General provisions governing discovery.

(a) *Discovery methods.* The parties to an investigation may obtain discovery by one or more of the following methods: Depositions upon oral examination or written questions; interrogatories; production of documents or things for inspection and other purposes; requests for admissions; and entry upon land.

(b) *Scope of discovery.* Unless otherwise ordered by the administrative law judge, a party may obtain discovery regarding any matter, not privileged, which is relevant to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearings if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) *Limitations on discovery.* The administrative law judge shall place such limits upon the kind or amount of discovery to be had or the period of time during which discovery may be carried out as shall be consistent with the time limitations set forth in § 210.53 of this part relating to initial determinations of whether there is reason to believe there is, or whether there is, a violation of section 337 of the Tariff Act.

(d) *Supplementation of responses.* A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows:

(1) A party is under a duty to seasonably supplement his response with respect to any question directly addressed to—

(i) The identity and location of persons having knowledge of discoverable matters; and

(ii) The identity of each person expected to be called as an expert witness at a hearing, the subject matter on which he is expected to testify, and the substance of his testimony.

(2) A party is under a duty to seasonably amend a prior response if he obtains information upon the basis of which—

(i) He knows that the response was incorrect when made; or

(ii) He knows that the response, though correct when made, is no longer true, and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the administrative law judge, agreement of the parties, or at any time prior to a hearing through new requests for supplementation of prior responses.

§ 210.31 Depositions.

(a) *When depositions may be taken.* After the date of publication in the **Federal Register** of the notice instituting the investigation, any party may take the testimony of any person, including a party, by deposition upon oral examination or written questions. Leave of the administrative law judge must be obtained only if the complainant seeks to take a deposition prior to the expiration of twenty (20) days after the date of service of the complaint and notice of investigation.

(b) *Persons before whom depositions may be taken.* Depositions may be taken before a person having power to administer oaths by the laws of the United States or of the place where the examination is held.

(c) *Notice of examination.* A party desiring to take the deposition of a person shall give notice in writing to every other party to the investigation of not less than ten (10) days if the deposition is to be taken within the United States, and not less than fifteen (15) days if the deposition is to be taken elsewhere. The administrative law judge may designate a shorter or longer time. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. A notice may provide for the taking of testimony by telephone, but the administrative law judge may, on motion of any party, require that the deposition be taken in the presence of the deponent. The parties may stipulate in writing, or the administrative law judge may upon motion order, that the testimony at a deposition be recorded by other than stenographic means. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(d) *Taking of deposition.* Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objections relied upon. Evidence objected to shall be taken subject to the objections, except that privileged communications and subject matter need not be disclosed. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, after which the deposition shall be subscribed by the deponent (unless

the parties by stipulation waive signing or the deponent is ill or cannot be found or refuses to sign) and certified by the person before whom the deposition was taken. If the deposition is not subscribed by the deponent, the person administering the oath shall state on the record such fact and the reasons therefor. When a deposition is recorded by stenographic means, the stenographer shall certify on the transcript that the witness was sworn in the stenographer's presence and that the transcript is a true record of the testimony of the witness. When a deposition is recorded by other than stenographic means and is thereafter transcribed, the person transcribing it shall certify that the person heard the witness sworn on the recording and that the transcript is a correct writing of the recording. Thereafter, that person shall forward one (1) copy to each party who was present or represented at the taking of the deposition.

(e) *Depositions of nonparty officers or employees of the Commission or of other Government agencies.* A party desiring to take the deposition of an officer or employee of the Commission other than the Commission investigative attorney, or of an officer or employee of another Government agency, or to obtain documents or other physical exhibits in the custody, control, and possession of such officer or employee, shall proceed by written motion to the administrative law judge for leave to apply for a subpoena under § 210.35(c) of this part. Such a motion shall be granted only upon a showing that the information expected to be obtained thereby is within the scope of discovery permitted by § 210.30(b) of this part and cannot be obtained without undue hardship by alternative means.

(f) *Filing of deposition.* The party taking the deposition shall file one (1) copy thereof with the Commission investigative attorney, and shall give prompt notice of such filing to all other parties.

(g) *Admissibility of depositions.* The fact that a deposition is taken and filed with the Commission investigative attorney as provided in this section does not constitute a determination that it is admissible in evidence or that it may be used in the investigation. Only such part of a deposition as is received in evidence at a hearing shall constitute a part of the record in such investigation upon which a determination may be based. Objections may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(h) *Use of depositions.* A deposition may be used as evidence against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of a deponent as a witness,

(2) The deposition of a party may be used by an adverse party for any purpose,

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the administrative law judge finds—

(i) That the witness is dead; or

(ii) That the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or

(iii) That the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(iv) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(v) Upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the oral testimony of witnesses at a hearing, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidenced by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

§ 210.32 Interrogatories.

(a) *Scope; use at hearing.* Any party may serve upon any other party written interrogatories to be answered by the party served. Interrogatories may relate to any matters which can be inquired into under § 210.30(b) of this part, and the answers may be used to the extent permitted by the rules of evidence.

(b) *Procedure.* (1) Interrogatories may be served upon any party after the date of publication in the **Federal Register** of the notice of investigation.

(2) Parties answering interrogatories shall repeat the interrogatories being answered immediately preceding the answers. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections, if any, within ten (10) days after the service of the interrogatories. The administrative law judge may allow a shorter or longer time. The party submitting the interrogatories may move for an order under § 210.36(a) of this part with respect to any objection to or other failure to answer an interrogatory.

(3) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the administrative law judge may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or a later time.

(c) *Option to produce records.* When the answer to an interrogatory may be derived or ascertained from the records of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such records, or from a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries. The specifications provided shall include sufficient detail to permit the interrogating party to identify readily the documents from which the answer may be ascertained.

§ 210.33 Request for production of documents and things and entry upon land.

(a) *Scope.* Any party may serve on any other party a request: (1) To produce and permit the party making the request, or someone acting on his behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained), or to inspect and copy, test, or sample any tangible things which are in the possession, custody, or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of

inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of § 210.30(b) of this part.

(b) *Procedure.* (1) The request may be served upon any party after the date of publication in the **Federal Register** of the notice of investigation. The request shall set forth the items to be inspected, either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(2) The party upon whom the request is served shall serve a written response within ten (10) days after the service of the request. The administrative law judge may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under § 210.36(a) of this part with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested. A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond to the categories in the request.

(c) *Persons not parties.* This rule does not preclude issuance of an order against a person not a party to permit entry upon land.

§ 210.34 Request for admission.

(a) *Form, content, and service of request for admission.* Any party may serve on any other party a written request for admission of the truth of any matters relevant to the investigation and set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been otherwise furnished or are known to be, and in the request are stated as being, in the possession of the other party. Each matter as to which an admission is requested shall be separately set forth. The request may be served upon a party whose complaint is the basis for the investigation after the date of publication in the **Federal Register** of the notice of investigation. The request may be served upon any other party at any time twenty (20) days after the date of service of the complaint and notice of investigation, unless leave of the administrative law judge is obtained to serve the request at an earlier date.

(b) *Answers and objections to requests for admissions.* A party answering a request for admission shall repeat the request for admission immediately preceding his answer. The matter may be deemed admitted unless, within ten (10) days after service of the request, or within such shorter or longer time as the administrative law judge may allow, the party to whom the request is directed serves upon the party requesting the admission a sworn written answer or objection addressed to the matter. If objection is made, the reasons therefore shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter as to which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known to, or readily obtainable by him, is insufficient to enable him to admit or deny. A party who considers that a matter as to which an admission has been requested presents a genuine issue for a hearing may not object to the request on that ground alone; he may deny the matter or set forth reasons why he cannot admit or deny it.

(c) *Sufficiency of answers.* The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the objecting party sustains his burden of showing that the objection is justified, the administrative law judge shall order that an answer be served. If the administrative law judge determines that an answer does not comply with the requirements of this section, he may order either that the matter is admitted or that an amended answer be served. The administrative law judge may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to a hearing under this part.

(d) *Effect of admissions; withdrawal or amendment of admission.* Any matter admitted under this rule may be conclusively established unless the administrative law judge on motion permits withdrawal or amendment of the admission. The administrative law judge may permit withdrawal or amendment when the presentation of the issues of the investigation will be subserved thereby and the party who obtained the admission fails to satisfy the administrative law judge that withdrawal or amendment will prejudice him in maintaining his position on the issues of the investigation. Any admission made by a party under this rule is for the purpose of the pending investigation only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

§ 210.35 Subpoenas.

(a) *Application for issuance of a subpoena*—(1) *Subpoena ad testificandum.* An application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at a hearing shall be made to the administrative law judge.

(2) *Subpoena duces tecum.* An application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specified documents, papers, books, or other physical exhibits at the taking of a deposition, at a prehearing conference, at a hearing, or under any other circumstances, shall be made in writing to the administrative law judge and shall specify the material to be produced as precisely as possible, showing the general relevancy of the material and the reasonableness of the scope of the subpoena.

(b) *Use of subpoena for discovery.* Subpoenas may be used by any party for purposes of discovery or for obtaining documents, papers, books, or other physical exhibits for use in evidence, or for both purposes. When used for discovery purposes, a subpoena may require a person to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody, or control of such person.

(c) Application for subpoenas for nonparty Commission records or personnel or for records or personnel of other government agencies—

(1) *Procedure.* An application for issuance of a subpoena requiring the production of nonparty documents, papers, books, physical exhibits, or other material in the records of the Commission, or requiring the appearance of an official or employee of the Commission (other than the

Commission investigative attorney), or requiring the production of records or personnel of other Government agencies shall specify as precisely as possible the material to be produced, the nature of the information to be disclosed, or the expected testimony of the official or employee, and shall contain a statement showing the general relevancy of the material, information, or testimony and the reasonableness of the scope of the application, together with a showing that such material, information, or testimony or their substantial equivalent could not be obtained without undue hardship by alternative means.

(2) *Ruling.* Such applications shall be ruled upon by the administrative law judge. To the extent that the motion is granted, the administrative law judge shall provide such terms and conditions for the production of the material, the disclosure of the information, or the appearance of the official or employee as may appear necessary and appropriate for the protection of the public interest.

(3) *Application for subpoena grounded upon the Freedom of Information Act.* No application for a subpoena for production of documents grounded upon the Freedom of Information Act (5 U.S.C. 552) shall be entertained by the administrative law judge.

(d) *Motion to limit or quash.* Any motion to limit or quash a subpoena shall be filed within ten (10) days after service thereof, or within such other time as the administrative law judge may allow.

(e) *Ex parte rulings on applications for subpoenas.* Applications for the issuance of subpoenas pursuant to the provisions of this section may be made ex parte, and, if so made, such applications and rulings thereon shall remain ex parte unless otherwise ordered by the administrative law judge.

§ 210.36 Failure to make discovery; sanctions.

(a) *Motion for order compelling discovery.* A party may apply to the administrative law judge for an order compelling discovery, upon reasonable notice to other parties and all persons affected thereby.

(b) *Failure to comply with order compelling discovery.* If a party or an officer or agent of a party fails to comply with an order including, but not limited to, an order for the taking of a deposition or the production of documents, an order to answer interrogatories, an order issued pursuant to a request for admissions, or an order to comply with a subpoena, the administrative law judge, for the purpose of permitting resolution of relevant issues and disposition of the investigation without unnecessary delay despite failure to comply, may take such action in regard thereto as is just, including, but not limited to, the following:

(1) Infer that the admission, testimony, documents, or other evidence would have been adverse to the party;

(2) Rule that for the purposes of the investigation the matter or matters concerning the order or subpoena issued be taken as established adversely to the party;

(3) Rule that the party may not introduce into evidence or otherwise rely upon testimony by the party, officer, or agent, or documents, or other material, in support of his position in the investigation;

(4) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence would have shown; and

(5) Rule that a motion or other submission by the party concerning the order or subpoena issued be stricken or rule by initial determination that a determination in the investigation be rendered against the party, or both. Any such action may be taken by written or oral order issued in the course of the investigation or by inclusion in the initial determination of the administrative law judge. It shall be the duty of the parties to seek, and that of the administrative law judge's, to grant, such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld testimony, documents, or other evidence. If in the administrative law judge's opinion such relief would not be sufficient, the administrative law judge shall certify to the Commission a request that court enforcement of the subpoena or other discovery order be sought.

§ 210.37 Protective orders.

(a) *Issuance of protective order.* Upon motion by a party or by the person from whom discoovery is sought or by the administrative law judge on his own initiative, and for good cause shown, the administrative law judge may make any order which may appear necessary and appropriate for the protection of the public interest or which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the administrative law judge;

(6) That a deposition, after being sealed, be opened only by order of the Commission or the administrative law judge;

(7) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the Commission or the administrative law judge. If the motion for a protective order is denied, in whole or in part, the Commission or the administrative law judge may, on such terms and conditions as are just, order that any party or person provide or permit discovery.

(b) *Violation of protective order.* Any individual who has agreed to be bound by the terms of a protective order issued pursuant to paragraph (a) of this section, and who is determined by the Commission or the administrative law judge to have violated the terms of the protective order shall be subject to one or more of the following penalties:

(1) An official reprimand by the Commission;

(2) Disqualification from or limitation of further participation in a pending investigation;

(3) Temporary or permanent disqualification from practicing in any capacity before the Commission pursuant to § 201.15(a) of part 201;

(4) Referral of the facts underlying the violation to the appropriate licensing authority in the jurisdiction where the individual is licensed to practice;

(5) Sanctions as enumerated in § 210.36 of this part, or such other action as may be appropriate.

Subpart E—Prehearing Conferences and Hearings

§ 210.40 Prehearing conferences.

(a) *When appropriate.* The administrative law judge in any investigation may direct counsel or other representatives for all parties to meet with him for one or more

conferences to consider any or all of the following:

(1) Simplification and clarification of the issues;

(2) Scope of the hearing;

(3) Necessity or desirability of amendments to pleadings, subject, however, to the provisions of § 210.22 of this part;

(4) Stipulations and admissions of either fact or the content and authenticity of documents;

(5) Expedition in the discovery and presentation of evidence, including, but not limited to, restriction of the number of expert, economic, or technical witnesses; and

(6) Such other matters as may aid in the orderly and expeditious disposition of the investigation, including disclosure of the names of witnesses and the exchange of documents or other physical exhibits which will be introduced in evidence in the course of the hearing.

(b) *Subpoenas.* Prehearing conferences may be convened for the purpose of accepting returns on subpoenas duces tecum issued pursuant to the provisions of § 210.35(a)(2) of this part.

(c) *Reporting.* In the discretion of the administrative law judge, prehearing conferences may or may not be stenographically reported and may or may not be public.

(d) *Order.* The administrative law judge may enter in the record an order which recites the results of the conference. Such order shall include the administrative law judge's rulings upon matters considered at the conference, together with appropriate direction to the parties. The administrative law judge's order shall control the subsequent course of the hearing, unless modified to prevent manifest injustice.

§ 210.41 General provisions for hearings.

(a) *Purpose of hearings.* Unless otherwise ordered by the Commission: (1) an opportunity for a hearing shall be provided in each investigation under section 337 of the Tariff Act to take evidence and hear argument for the purpose of determining whether there is a violation of section 337 of the Tariff Act.

(2) Except as provided under § 210.24(e)(1), an opportunity for a hearing shall also be provided to take evidence and hear argument for the purpose of determining whether there is reason to believe there is a violation of section 337 of the Tariff Act.

(b) *Public hearings.* All hearings in investigations under this part shall be public unless otherwise ordered by the administrative law judge.

(c) *Expedition.* Hearings shall proceed with all reasonable expedition, and, insofar as practicable, shall be held at one place, continuing until completed unless otherwise ordered by the administrative law judge.

(d) *Rights of the parties.* Every party shall have the right of due notice, cross-examination, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing.

(e) *Presiding official.* An administrative law judge shall preside over each hearing unless the Commission shall otherwise order.

§ 210.42 Evidence.

(a) *Burden of proof.* The proponent of any factual proposition shall be required to sustain the burden of proof with respect thereto.

(b) *Admissibility.* Relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable, and unduly repetitious evidence shall be excluded. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable.

(c) *Information obtained in investigations.* Any documents, papers, books, physical exhibits, or other materials or information obtained by the Commission under any of its powers may be disclosed by the Commission investigative attorney when necessary in connection with investigations and may be offered in evidence by the Commission investigative attorney.

(d) *Offical notice.* When any decision of the administrative law judge rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence of record, opportunity to disprove such noticed fact shall be granted any party making timely motion therefor.

(e) *Objections.* Objections to evidence shall be made in timely fashion and shall briefly state the grounds relied upon. Rulings on all objections shall appear in the record.

(f) *Exceptions.* Formal exception to an adverse ruling is not required.

(g) *Excluded evidence.* When an objection to a question propounded to a witness is sustained, the examining party may make a specific offer of what he expects to prove by the answer of the witness, or the administrative law judge may in his discretion receive and report the evidence in full. Rejected exhibits, adequately marked for identification, shall be retained with the record so as to be available for consideration by any reviewing authority.

§ 210.43 Record.

(a) *Definition of the record.* The record shall consist of all pleadings, the notice of investigation, motions and responses, and other documents and things properly filed with the Secretary in accordance with § 210.5(b) of this part, in addition to all orders, notices, and initial determinations of the administrative law judge, orders and notices of the Commission, hearing and conference transcripts, evidence admitted into the record, and any other items certified into the record by the administrative law judge or the Commission.

(b) *Reporting and transcription.* Hearings shall be reported and transcribed by the official reporter of the Commission under the supervision of the administrative law judge, and the transcript shall be a part of the record.

(c) *Corrections.* Corrections of the transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. Corrections ordered by the administrative law judge or agreed to in a written stipulation signed by all counsel and parties not represented by counsel and approved by the administrative law judge shall be included in the record, and such stipulations, except to the extent that they are capricious or without substance, shall be approved by the administrative law judge. Corrections shall not be ordered by the administrative law judge except upon notice and opportunity for the hearing of objections. Such corrections shall be made by the official reporter by furnishing substitute typed pages, under the usual certificate of the reporter, for insertion in the transcript. The original uncorrected pages shall be retained in the files of the Commission.

(d) *Certification of record.* The record shall be certified to the Commission by the administrative law judge upon his filing of an initial determination or at such earlier time as the Commission may order.

§ 210.44 In camera treatment of confidential information.

(a) *Definition.* Except as hereinafter provided and consistent with § 210.37 of this part, documents and testimony made subject to in camera orders are not made a part of the public record, but are kept confidential in an in camera record, and only counsel before the Commission, authorized Commission personnel, other Government personnel authorized by the Commission, and court personnel concerned with judicial review shall have access thereto. The

right of the administrative law judge, the Commission, and reviewing courts to disclose in camera data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(b) *In camera treatment of documents and testimony.* The administrative law judge shall have authority to order documents or oral testimony offered in evidence, whether admitted or rejected, to be placed in camera.

(c) *Part of confidential record.* In camera documents and testimony shall constitute a part of the confidential record of the Commission.

(d) *References to in camera information.* In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make an attempt in good faith to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details of in camera data in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "Business Confidential," which shall be placed in camera and become a part of the confidential record.

(e) *Motions to declassify.* Any party may move to declassify confidential documents. All such motions, whether brought at any time during the investigation or after conclusion of the investigation shall be addressed to and ruled upon by the presiding administrative law judge, or if the investigation is not before a presiding administrative law judge, by the Chief Administrative Law Judge or such administrative law judge as he may designate.

Subpart F—Determinations and Actions Taken

§ 210.50 Summary determinations.

(a) *Motions for summary determinations.* Any party may move with any necessary supporting affidavits for a summary determination in his favor upon all or any part of the issues to be determined in the investigation. Counsel or other representatives in support of the complaint may so move at any time after twenty (20) days following the date of service of the complaint and notice instituting the investigation, and any other party, or a respondent, may so move at any time after the date of publication in the **Federal Register** of the notice of investigation. Any such motion by any party, however, must be filed at least thirty (30) days before the date fixed for any hearing provided for in § 210.41.

(b) *Opposing affidavits; oral argument; time and basis for determination.* Any nonmoving party may, within ten (10) days after service of the motion, file opposing affidavits. The administrative law juge may in his discretion or may at the request of any party set the matter for oral argument and call for the submission of briefs or memoranda. The determination sought by the moving party shall be rendered if the pleadings and any depositions, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.

(c) *Affidavits.* Affidavits shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. The administrative law judge may permit affidavits to be supplemented or opposed by depositions or further affidavits. When a motion for summary determination is made and supported as provided in this rule, a party opposing the motion may not rest upon mere allegations or denials in his pleading; his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue of fact for hearing. If no such response is filed, a summary determination, if appropriate, shall be rendered.

(d) *Refusal of application for summary determination; continuances and other orders.* Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present facts essential to justify his opposition, the administrative law judge may refuse the application for summary determination or may order a continuance to permit affidavits to be obtained or depositions or other discovery to be had or make such other order as is appropriate, and a ruling to that effect shall be made a matter of record

(e) *Order establishing facts.* If on motion under this rule a summary determination is not rendered upon all the allegations or for all the relief asked and a hearing is necessary, the administrative law judge shall make an order specifying the facts that appear without substantial controversy and directing further proceedings in the investigation. The facts so specified shall be deemed established.

(f) *Order of summary determination.* An order of summary determination shall constitute an initial determination of the administrative law judge under § 210.53 of this part.

§ 210.51 Termination of investigation.

(a) *Motions for termination.* Any party may move at any time for an order to terminate an investigation in whole or in part as to any or all respondents.

(b) *Settlement by licensing or other agreement.* (1) An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a licensing or other agreement entered into between the complainant (all of the complainants if there is more than one) and one or more of the respondents. A motion for termination by such parties shall contain copies of the licensing or other agreement and any agreements supplemental thereto and a statement that there are no other agreements, written or oral, expressed or implied, between such parties concerning the subject matter of the investigation. If the licensing or other agreement contains confidential business information within the meaning of § 201.6 of the Commission's rules, a copy of the agreement with such information deleted shall accompany the motion.

(2) The motion, licensing or other agreement and any agreements supplemental thereto, shall be certified by the administrative law judge to the Commission with an initial determination regarding the motion for termination. If the licensing or other agreement or the initial determination contains confidential business information, copies of the agreement and initial determination with confidential business information deleted shall be certified to the Commission simultaneously with the confidential versions of such documents. The Commission shall promptly publish a notice in the **Federal Register** stating that an initial determination has been received terminating the respondent or respondents in question on the basis of a licensing or other agreement, that nonconfidential versions of the initial determination and the agreement are available for inspection in the Office of the Secretary, and that interested persons may submit written comments concerning termination of the respondents in question within ten (10) days of the date of publication of the notice in the **Federal Register.** An order of termination based upon such licensing or other agreement shall not constitute a determination as to violation of section 337 of the Tariff Act.

(c) *Consent order settlement.* An investigation before the Commission may be terminated as provided in

paragraph (a) of this section on the basis of a consent order settlement under § 211.20(b). An order of termination based upon such a settlement shall not consitute a determination as to violation of section 377 of the Tariff Act.

(d) *Effect of termination.* Except as provided in paragraphs (b) and (c) of this section, an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.56(c), and an order of termination issued by the administrative law judge shall constitute and initial determination under § 210.53.

§ 210.52 Proposed findings and conclusions.

At the time a motion for summary determination under § 210.50(a) of this part or a motion for termination under § 210.51(a) of this part is made, or when it is found that a party is in default under § 210.25 of this part, or at the close of the reception of evidence in any hearing held pursuant to this part or within a reasonable time thereafter fixed by the administrative law judge, any party may file proposed findings of fact and conclusions of law, together with reasons therefor and, when appropriate, briefs in support thereof with the administrative law judge for his consideration. Such proposals shall be in writing, shall be served upon all parties in accordance with § 210.8 of this part, and shall contain adequate references to the record and authorities relied on.

§ 210.53 Initial determination.

(a) *On issues concerning permanent relief.* Except as may otherwise be ordered by the Commission, within nine (9) months, or within fourteen (14) months in a more complicated case, of the date of publication in the **Federal Register** of the notice of investigation, the administrative law judge shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is a violation of section 337 of the Tariff Act.

(b) *On issues concerning temporary relief.* Except as may be otherwise ordered by the Commission, within four (4) months of the date of publication in the **Federal Register** of the notice of investigation, the administrative law judge shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is reason to believe there is a violation of section 337 of the Tariff Act.

(c) *On motions for summary determination, termination, finding of default, intervention, amendment to complaint or notice, more complicated designation, or suspension.* Following the filing of a motion for summary determination pursuant to § 210.50, motion for termination pursuant to § 219.51, motion for a finding of default pursuant to § 210.25, a motion for intervention pursuant to § 210.26, motion to amend the complaint or notice of investigation pursuant to § 210.22, motion to designate the investigation as "more complicated" pursuant to section 210.59, or motion to suspend the investigation pursuant to § 210.59, the administrative law judge shall grant such motions by filing with the Commission an initial determination, or shall deny such motions by issuing an order directing denial.

(d) *Contents.* The initial determination shall include: an opinion stating findings (with specific page references to principal supporting items of evidence in the record) and conclusions and the reasons or bases therefor necessary for the disposition of all material issue of fact, law or discretion presented in the record; and a statement that pursuant to § 210.53(h) of these rules the initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to § 210.54 of these rules, or the Commission pursuant to § 210.55 of these rules orders on its own motion a review of the initial determination or certain issues therein.

(e) *Notice to and advice from departments and agencies.* The Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate shall be served with a copy of the initial determination. The Commission shall consider comments, limited to issues raised by the record, the initial determination, and the petitions for review, received from such agencies when deciding whether to initiate review of the scope of review. The Commission shall allow such agencies twenty (20) days after the service of an initial determination filed pursuant to § 210.53(a) or (10) days after the service of an initial determination filed pursuant to § 210.53 (b) or (c) to submit their comments.

(f) *Initial determination made by the administrative law judge.* The initial determination shall be made and filed by the administrative law judge who presided over the investigation, except when that person is unavailable to the Commission.

(g) *Reopening of proceedings by the administrative law judge.* At any time prior to the filing of the initial determination, the administrative law judge may reopen the proceedings for the reception of additional evidence.

(h) *Effect.* An initial determination filed pursuant to § 210.53(a) shall become the determination of the Commission forty-five (45) days after the service thereof on the parties, unless the Commission, within forty-five (45) days after the date of such service shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55, or by order shall have changed the effective date of the initial determination. An initial determination filed pursuant to § 210.53 (b) or (c) shall become the determination of the Commission thirty (30) days after the date of service of the initial determination, unless the Commission, within thirty (30) days after the date of such service shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55.

(i) *Notice of determination.* In the event an initial determination becomes the determination of the Commission, the parties shall be notified thereof by the Secretary.

§ 210.54 Petition for review.

(a) *The petition and responses.* (1) Any party to an investigation may request a review by the Commission of an initial determination by filing with the Secretary a petition for review, except that a party who has defaulted may not petition for review of any issue regarding which the party is in default. A petition for review of an initial determination filed pursuant to § 210.53(a) shall be filed within ten (10) days after the service of the initial determination. A petition for review of an initial determination filed pursuant to § 210.53 (b) or (c) shall be filed within five (5) days after the service of the initial determination, except that a party or proposed respondent who has not responded to the motion before the administrative law judge pursuant to § 210.24(c) may be deemed to have consented to the relief requested and may not petition for review of the issues raised in the subject motion. A petition for review shall:

(i) Identify the party seeking review;

(ii) Specify the issues upon which review of the initial determination is sought:

(A) A finding or conclusion of material fact is clearly erroneous;

(B) A legal conclusion is erroneous, without governing precedent, rule or law, or constitutes an abuse of discretion; or

(C) The determination is one affecting Commission policy.

(iii) Set forth a concise statement of the facts material to the consideration of the stated issues; and

(iv) Present a concise argument setting forth the reasons why review by the Commission is necessary or appropriate to resolve an important issue of fact, law, or policy.

(2) Any issue not raised in the petition for review filed pursuant to this rule will be deemed to have been abandoned and may be disregarded by the Commission in reviewing an initial determination.

(3) Any party may file a response to the petition for review within five (5) days after service of the petition, except that a party who has defaulted may not file a response to any issue regarding which the party is in default.

(b) *Grant or denial of review.* (1) The Commission shall decide whether to grant, in whole or in part, a petition for review filed pursuant to § 210.53(a) within forty-five (45) days of the service of the initial determination on the parties, or by such other time as the Commission may order. The Commission shall decide whether to grant, in whole or in part, a petition for review filed pursuant to § 210.53 (b) or (c) within thirty (30) days of the service of the initial determination on the parties, or by such other time as the Commission may order.

(2) The Commission shall decide whether to grant a petition for review, based upon the petition and response thereto, without oral argument or further written submissions unless the Commission shall order otherwise. The standards for granting review of an initial determination are set forth in § 210.54(a)(1)(ii).

(3) The Commission shall grant a petition for review and order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its notice, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The notice that the Commission has granted the petition for review shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

§ 210.55 Commission review on its own motion.

Within the time provided in § 210.53(h), the Commission on its own initiative may order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. The standards for granting review of an initial determination are set forth in § 210.54(a)(1)(ii). In this notice, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The notice that the Commission has directed review on its own initiative shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

§ 210.56 Review by Commission.

(a) *Briefs and Oral Argument.* In the event the Commission orders review of an initial determination the parties may be requested to file review briefs concerning the issues on review at a time, and of a size and nature set forth in the notice of review. The parties within the time provided for filing the review briefs may submit a written request for a hearing to present oral argument before the Commission, which the Commission in its discretion may grant or deny. The Commission, shall grant the request when at least one of the participating Commissioners votes in favor of the request.

(b) *Scope of review.* Only the issues set forth in the notice of review, and all subsidiary issues therein, will be considered by the Commission.

(c) *Determination on review.* On review the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge and make any findings or conclusions which in its judgment are proper based on the record in the proceeding.

(d) *Time limit for review of initial determinations concerning temporary relief.* In the event the Commission orders review of an initial determination concerning temporary relief filed pursuant to § 210.53(b), such review shall be completed within sixty (60) days from the date review is ordered, unless the Commission orders otherwise.

§ 210.57 Implementation of Commission action.

(a) *Service of Commission determination upon the parties.* A Commission determination pursuant to § 210.56(c) or a termination on the basis of a licensing or other agreement or consent settlement pursuant to § 210.51 (b) and (c), respectively, shall be served upon each party to the investigation.

(b) *Publication and transmittal to the President.* A Commission determination that there is a violation of section 337, or that there is reason to believe that there is such a violation, together with the action taken, relative to such determination, or Commission action pursuant to Subparts B and C of Part 211 shall be immediately: (1) Published in the **Federal Register**, and (2) transmitted to the President together with the record upon which the action is based.

(c) *Enforceability of Commission action.* Unless otherwise specified, any Commission action, other than an exclusion order, shall be enforceable upon receipt by the affected party of notice of such action. An exclusion order shall be enforceable upon receipt of notice thereof by the Secretary of the Treasury.

(d) *Finality of affirmative Commission action.* If the President does not disapprove for policy reasons such Commission action within a period of sixty (60) days beginning on the day after delivery of a copy of such Commission action is delivered to the President, or if the President notifies the Commission before the close of such period that he approves such Commission action, then such Commission action shall become final on the day after the close of such period, or the day on which the President notifes the Commission of his approval, as the case may be.

(e) *Duration.* Final Commission action shall remain in effect as provided in Subpart C of Part 211.

§ 210.58 Commission action, public interest factors, and bonding.

(a) During the course of each proceeding under this part when an investigation has been instituted, the Commission shall—

(1) Consider what action (exclusion of articles from entry, exclusion of articles from entry except under bond, or cease and desist order), if any, it should take, and, when appropriate, take such action;

(2) Consult with, and seek advice and information from, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as it considers appropriate, concerning the subject matter of the complaint and the effect its actions (exclusion of articles from entry, exclusion of articles from entry except under bond, cease and desist order) under section 337 of the

Tariff Act shall have upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers;

(3) Determine the amount of bond pursuant to section 337(e) or section 337(g)(3) of the Tariff Act, taking into consideration, among other things, the amount which would offset any competitive advantage resulting from the alleged unfair methods of competition and unfair acts enjoyed by persons benefiting from the importation of the articles in question; and

(4) Receive submissions from the parties, other interested persons, Government agencies and departments, and the public, with respect to the subject matter of paragraphs (a)(1), (a)(2), and (a)(3) of this section, which submissions shall be served upon the parties and be available to the public in the Office of the Secretary. The Commission will consider motions for oral argument or, when necessary, for a hearing with respect to the subject matter of this section.

(b) Unless otherwise ordered by the Commission, or permitted by this subsection, the administrative law judge shall not take evidence or other information or hear arguments from the parties and other interested persons with respect to the subject matter of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section. However, with regard to settlements by agreement or consent order under § 210.51 (b) and (c), the parties may file statements regarding the impact of the proposed settlement on the public interest, and the administrative law judge may in his discretion hear argument, although no discovery may be compelled with respect to issues relating solely to the public interest. Thereafter, the administrative law judge shall consider and make appropriate findings in the initial determination regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. With respect to initial determinations concerning temporary relief issued pursuant to § 210.53(b), the parties may present oral or documentary evidence regarding the impact of the requested temporary relief on the public interest, submit rebuttal evidence, and conduct such cross-examination as may be required for a full and true disclosure of the facts, and the presiding officer shall thereafter in his initial determination make appropriate findings regarding the effect, if any, that the issuance of the requested temporary relief would have on the public interest, although no discovery may be compelled with respect to issues relating solely to the public interest.

§ 210.59 Period for concluding Commission investigation.

Each investigation instituted under this part shall be concluded and a final order issued no later than twelve (12) months after the date of publication in the **Federal Register** of the notice instituting the investigation, except that the Commission may designate the investigation as a "more complicated" investigation and require that it be concluded no later than eighteen (18) months after the date of publication in the **Federal Register** of the notice of investigation. A "more complicated" investigation refers to an investigation which is of an involved nature owing to the subject matter, difficulty in obtaining information, the large number of parties involved or other significant factors. The Commission shall publish its reasons for designating the investigation as a "more complicated" investigation in the **Federal Register**. For purposes of the 12-month and 18-month periods prescribed by this section, there shall be excluded any period of time during which the investigation is suspended because of proceedings in a court or agency of the United States involving similar questions concerning the subject matter of such investigation.

Subpart G—Appeals

§ 210.60 Petition for reconsideration.

Within fourteen (14) days after service of a Commission determination, any party may file with the Commission a petition for reconsideration of such determination or any action ordered to be taken thereunder, setting forth the relief desired and the grounds in support thereof. Any petition filed under this section must be confined to new questions raised by the determination or action ordered to be taken thereunder and upon which the petitioner had no opportunity to submit arguments. Any party desiring to oppose such a petition shall file an answer thereto within five (5) days after service of the petition upon such party. The filing of a petition for reconsideration shall not stay the effective date of the determination or action ordered to be taken thereunder or toll the running of any statutory time period affecting such determination or action ordered to be taken thereunder unless specifically so ordered by the Commission.

§ 210.61 Disposition of petition for reconsideration.

The Commission may affirm, set aside, or modify its determination, including any action ordered by it to be taken thereunder. When appropriate the Commission may order the administrative law judge to take additional evidence.

§ 210.70 Interlocutory appeals.

Rulings by the administrative law judge on motions may not be appealed to the Commission prior to the administrative law judge's issuance of his initial determination except in the following circumstances:

(a) *Appeals without leave of the administrative law judge.* The Commission may, in its dircretion, entertain interlocutory appeals when a ruling of the administrative law judge:

(1) Requires the disclosure of the Commission records or requires the appearance of Government officials pursuant to § 210.35(c) of this part; or

(2) Denies an application for intervention pursuant to the provisions of § 210.26 of this part. Appeals from such a ruling may be sought by filing an application for review, not to exceed fifteen (15) pages, with the Commission within five (5) days after notice of the administrative law judge's ruling. Answer thereto may be filed within five (5) days after service of the application for review. The application for review should specify the person or party taking the appeal, designate the ruling or part thereof from which appeal is being taken, and specify the reasons and present arguments as to why review is being sought. The Commission may, upon its own motion, enter an order staying the return date of an order issued by the administrative law judge pursuant to § 210.35(c) of this part or an order placing the matter on the Commission's docket for review. Any order placing the matter on the Commission's docket for review will set forth the scope of the review and the issues which will be considered and will make provision for the filing of briefs if deemed appropriate by the Commission.

(b) *Appeals with leave of the administrative law judge.* Except as previously provided in paragraph (a) of this section, application for review of a ruling by the administrative law judge may be allowed only upon request made to the administrative law judge and upon a determination by the administrative law judge in writing, with justification in support thereof: (1) That the ruling involves a controlling question of law or policy as to which there is substantial ground for difference of

opinion, and (2) that either an immediate appeal from the ruling may materially advance the ultimate completion of the investigation or subsequent review will be inadequate remedy. Applications for review in writing, not to exceed fifteen (15) pages, may be filed within five (5) days after notice of the administrative law judge's determination. Answer thereto may be filed within five (5) days after service of the application for review. Thereupon, the Commission may, in its discretion, permit an appeal. Commission review, if permitted, shall be confined to the application for review and answer thereto, without oral argument or further briefs, unless otherwise ordered by the Commission.

(c) *Investigation not stayed.* Application for review hereunder shall not stay the investigation before the administrative law judge unless the administrative law judge or the Commission shall so order.

§ 210.71 Appeals of final determination to the United States Court of Appeals for the Federal Circuit.

Any person adversely affected by a final determination of the Commission under subsection (d), (e), or (f) of section 337 of the Tariff Act may appeal such determination to the United States Court of Appeals for the Federal Circuit.

Issued: May 3, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-12482 Filed 5-9-84; 8:45 am]

BILLING CODE 7020-02-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Payments for Acquisition of Improvements

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes adoption of regulations to allow payment, under limited circumstances, for habitations and other improvements acquired by the Commission pursuant to 25 U.S.C. 640d-14. This action is necessary because Pub. L. 94-531, the Navajo and Hopi Indian Relocation Act, makes no provision for any payments other than moving expenses and incentive bonuses. The adoption of these regulations will allow the Commission to take final action on certain unresolved claims for relocation benefits which cannot be closed within the current regulatory structure.

DATE: Comments must be received by June 11, 1984.

ADDRESS: Comments may be sent to the Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002. Telephone No.: (602) 779-2721.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, the Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002. Telephone. (602) 779-2721.

The principal author if this final rulemaking is E. Susan Crystal, Attorney at Law, of the Navajo and Hopi Indian Relocation Commission.

SUPPLEMENTARY INFORMATION: Section 700.127(1) of the proposed rule provides that individuals who are denied eligibility for benefits under Commission regulations but who own habitation and improvements on the land partitioned to the Tribe of which they are not a member shall receive payment for the appraised improvements. The Navajo and Hopi Indian Relocation Act provides that payment for appraised habitations and other improvements located on lands partitioned to the tribe of which the owner is not a member, shall be combined with a housing benefit to provide the owner with a replacement dwelling. The law is silent on the issue of payment for improvement to individuals denied certification for benefits because it was never contemplated that there would be individuals who would not be eligible for replacement housing but who own improvements on the partitioned lands.

In actuality, the Commission has found in issuing eligibility determinations that a small number of applicants who are ineligible for relocation assistance do own appraised properties on the partitioned lands. The Commission has determined that acquisition of such properties without paying proper compensation to the owner would be an unconstitutional taking in violation of the Fifth Amendment.

Existing Commission regulations provide that a displaced person who already owns a decent, safe, and sanitary dwelling, free and clear, is not entitled to replacement housing benefits. Section 700.127(2) of the proposed regulations provides that an individual in such circumstances who owns improvements on lands partitioned to the tribe of which he/she is not a member shall be entitled to payment for the improvements.

List of Subjects in 25 CFT Part 700

Administrative practice and procedure, Conflict of interests, Freedom of Information, Grant program-Indians, Indian Claims, Privacy, Real Property Acquisition, Relocation Assistance.

PART 700—[AMENDED]

Authority: 25 U.S.C. 640d, Public Law 93-531, 25 U.S.C. 640d-14, Pub. L. 96-305.

Accordingly, the Commission proposes to amend Suppart B by adding § 700.127 to read as follows:

Subpart B—Acquisition and Disposal of Habitation and/or Improvement

§ 700.127 Payments for Appraisals.

Payments for appraisals shall be paid in the following situations:

(a) to individuals who have been denied benefits under these rules and who can prove ownership of habitation and improvements on land partitioned to the tribe of which they are not members:

(1) if the owner is deceased, the payment shall be made to his or her estate.

(b) to individuals who have been certified as eligible for relocation benefits but who at the time of certification own a decent, safe and sanitary dwelling as determined by the Commission pursuant to § 700.187 and who own habitation and improvements on land partitioned to the tribe of which they are not members;

(c) ownership shall be determined on the basis of Commission appraisal records.

Ralph A. Watkins, Jr.,

Chairman, Navajo-Hopi Relocation Commission.

[FR Doc. 84-12673 Filed 5-9-84; 8:45 am]

BILLING CODE 7560-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3-84-20]

Regatta; Connecticut River Raft Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Special Local Regulations are being proposed for the Connecticut River Raft Race being sponsored by the Connecticut River Raft Race Inc., of Norwich, CT to be held on July 29, 1984 between the hours of 10:00 a.m. and 2:00 p.m. The Coast Guard is considering the

issuance of this regulation to provide for the safety of participants and spectators on navigable waters during the event.

DATES: Comments must be received on or before June 11, 1984.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG D.R. Cilley, (212) 668-7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3-84-20) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addresed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG D.R. Cilley, Project Officer, Boating Safety Office, and Ms. Mary Ann Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The annual Connecticut River Raft Race is a raft race event to be held on the Connecticut River between Hurd and Haddam Meadows State Parks on July 29, 1984. It is sponsored by the Connecticut River Raft Race Inc., of Norwich CT and is well known to the boaters and residents of this area. Nearly 100 self-propelled homemade rafts will cruise down a 2.5 mile section of the Connecticut River. Vessels provided by the State of Connecticut State Police, and Department of Environmental Protection will work in conjunction with approximately 12 vessels provided by the sponsor to patrol this event. Specific requirements have been imposed upon the sponsor to ensure that all participants wear personal flotation devices throughout the event for their own safety. In order to provide for the safety of life and property, the Coast Guard will restrict commercial vessel movement prior to and during this event in this section of the river. A Coast Guard patrol vessel will be located at strategic locations on the river both above and below the regulated area to stop commercial vessel traffic.

Economic Assessment and Certification

This proposed 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 this event will draw a large number of spectator craft into the area from the duration of the event. This should easily compensate area merchants for the slight inconvenience of having navigation restricted. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

PART 100—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations by adding a temporary § 100.35-303 to read as follows:

§ 100.35-303 Connecticut River Raft Race.

(a) *Regulated Area.* That section of the Connecticut River between the Salmon River (Marker no. 48) and Middle Haddam (Marker no. 72).

(b) *Effective Period.* This regulation will be effective from 9:45 a.m. to 2:00 p.m. on July 29, 1984.

(c) *Special Local Regulations.* (1) The regulated area shall be closed to all vessel traffic in excess of 20 meters (65.6 feet) in length during the effective period. No person or vessel may move within the regulated area unless participating in this event or authorized by the sponsor or patrol personnel.

(2) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(3) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

(46 U.S.C. 454; 33 CFR 100.35 and 33 CFR 1.01-1)

Dated: April 26, 1984.

J. L. Fear,

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

[FR Doc. 84-12649 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 1-84-5]

Drawbridge Operation Regulations; Acushnet River, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of New Bedford Area Chamber of Commerce, the Coast Guard is considering amending the regulations for the Route 6 bridge over the Acushnet River, between New Bedford and Fairhaven, to limit the opening of the drawspan. The amended regulations will provide more uniform vehicular traffic movement along Route 6, and may still provide for the reasonable needs of navigations.

DATE: Comments must be received on or before June 25, 1984.

ADDRESS: Comments should be submitted to and will be available for examination between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays, at the Office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusets 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA, 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal.

The Commander, First Coast Guard District will evaluate all comments received and decide on the final course of action. The proposed regulations may be changed in light of comments received.

Drafting Information

The principal persons involved in drafing this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant Commander Robert F. Duncan, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Proposed Reguations

State Route 6 is the primary local traffic route between New Bedford and Fairhaven. The volume of traffic along the roadway reaches its peak about 7:00 a.m. and remains more or less constant until late afternoon. An opening of the drawspan during the peak hours causes a significant backup of vehicles. This situation is aggravated by multiple openings. It is alleged that the disruption of vehicle flow severely impacts businesses along Route 6 in the general vicinity of the bridge.

In February 1983, the New Bedford Chamber of Commerce proposed an opening schedule and requested that it be tried for a year. A trial period was conducted and the Chamber's review of the situation, at the end of the trial period, revealed that the regulations did not solve the traffic problem in the area. Using information gathered during the trial period, the Chamber has rewritten its proposal and has submitted it for approval. The proposal is expected to provide ample vehicular movement and also to provide for the reasonable needs of navigation.

The economic impact of these regulations is expected to be minimal assuming that current commercial and recreational use of the river above the bridge continues, as expected and projected, at current levels.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 Code of Federal Regulations by revising § 117.80 as follows:

§ 117.80 Acushnet River, Mass., State of Massachusetts bridge between New Bedford and Fairhaven.

(a) The drawspan will be opened promptly, on signal, for the passage of vessels traffic, except:

(1) Between 6 a.m. and 10 a.m. inclusive, when the draw will only be opened hourly, on the hour.

(2) Between 11:15 a.m. and 6:15 p.m. inclusive, when the draw will only be opened hourly, at quarter past the hour.

(b) Each opening of the draw, from the time vehicular traffic flow is stopped until the flow resumes, shall not exceed 15 minutes.

(c) The Mass. Dept. of Public Works shall keep posted in a conspicuous location on the upstream and downstream sides of the bridge, where it can be read easily at any time, a copy of the regulations in this subpart.

(d) The draw will be opened at any time for vessels owned or operated by the U.S. Government, the State of Mass., or by local authorites.

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

Dated: April 24, 1984.

R. I. Rybacki,

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

[FR Doc. 84-12640 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7 84-18]

Drawbridge Operation Regulations; Clearwater Pass, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Clearwater, the Coast Guard is considering a change to the regulations governing the Clearwater Pass drawbridge by permitting the number of openings to be limited during certain periods. This proposal is being made because of increased vehicular traffic and multiple draw openings. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 25, 1984.

ADDRESS: Comments should be submitted to and are available for examination from 7:30 a.m. to 4:00 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Room 816, Miami, Florida 33130. Comments also may be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Bridge Administration Specialist, Mr. Walter Paskowsky, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Bridge Administration Specialist, Mr. Walter Paskowsky, project officer and Lieutenant Commander Ken Gray, project attorney.

Discussion of Proposed Regulations

The existing regulations provide that the draw shall open on signal from 7:00 a.m. to 11:00 p.m. From 11:00 p.m. to 7:00 a.m., a delay of up to 10 minutes may be expected for a draw opening since during these hours the bridgetender is stationed at the tollbooth. To minimize delay for a draw opening, mariners can call the tollbooth by radiotelephone, KFN203 Channel 16 or by landline 462-6000, Ext. 6959. The proposed change to the regulation provides that from 12

noon to 6:00 p.m. on Saturday, Sunday and legal holidays the draw need only open on the hour, quarter-hour, half-hour and three-quarter-hour to pass all accumulated vessels. Radiotelephone and landline service will continue. The bridge logs reveal that in 1983 between 12 noon and 6:00 p.m. the bridge opened an average of 6 times per hour on summer weekends and 3.2 times per hour on winter weekends. Vehicular traffic is relatively light across the bridge, between 12 noon and 6:00 p.m. with an average summer weekend peak hourly flow of 635 vehicles. In 1983, on summer weekends from 12 noon to 6:00 p.m. the bridge was opened an average of 21 minutes per hour for passage of vessels. The average number of vehicles delayed per hour was 37. A similar proposal for 15-minute timed openings on weekends was denied by the Coast Guard in October, 1979. However, conditions on the bridge and upon the waterway have changed over the past four years to warrant this notice of proposed rulemaking. An economic evaluation of the regulation has not been made because economic impacts are expected to be minimal since the regulation exempts some commercial vessels and the draw will open every 15 minutes to pass all accumulated vessels.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been made. In accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising 117.467 to read as follows:

§ 117.467 Clearwater Pass, Clearwater, Florida.

(a) The draw of the SR-699 bridge shall open on signal at all times except that from 11:00 p.m. to 7:00 a.m. when a delay of up to 10 minutes may be expected and as outlined in paragraph (b) of this section.

(b) From 12 noon until 6:00 p.m. on Saturdays, Sundays and legal holidays the draw need not open except on the hour, quarter-hour, half-hour and three-quarter hour to allow all accumulated vessels to pass.

(c) During the display of small craft warnings, or warnings by the U.S. Weather Service for winds of greater force, the draw shall open on signal.

(d) The draw shall open at any time for the passage of public vessels of the United States, tugs with tows, regularly scheduled cruise vessels and vessels in distress. The opening signal from these vessels is five blasts of a whistle, horn or by shouting.

(e) The owner of or agency controlling the bridge shall post, on both sides of the bridge signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

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

Dated: April 27, 1984.

J. W. Kime,

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

[FR Doc. 84-12641 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD13 83-12]

Regulated Navigation Area; Puget Sound, Washington

AGENCY: Coast Guard, DOT.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard published a Notice of Proposed Rulemaking in the October 27, 1983, **Federal Register** to establish a Regulated Navigation Area in Puget Sound and adjacent waters in northwestern Washington. Significant comment was received from a wide range of user groups both during the written comment period and at a Public Hearing held in Seattle on December 14, 1983. Much of this input was developed and coordinated by the Puget Sound Users' Forum, a committee of the Sea Use Council. Although the input generally supported the need for and underlying concepts of the proposed regulation, a large number of proposed changes were received, some of which have been incorporated into the regulation. Because of these changes, this Supplemental Notice of Proposed Rulemaking is being published to allow additional public review and comment.

DATES: Comments must be received on or before June 25, 1984.

ADDRESS: Written comments should be submitted to Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174. Comments will be available for inspection and copying in Room 3506 at the above address. Normal office hours are 8:00 a.m. to 4:15. p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: CDR T. Roger Pike, USCGR, Marine Safety Division, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174. Telephone: (206) 442-5537.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13 83-12) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. No Public Hearing will be held unless the need for such additional Public Hearing is evident from the written comments received. The proposed rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Drafting Information

The drafters of this notice are CDR T. Roger Pike, USCGR, Marine Safety Division, Thirteenth Coast Guard District, and LT Aubrey W. Bogle, USCGR, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

On 27 October, 1983, the Coast Guard published a Notice of Proposed Rulemaking ("original proposal") in the **Federal Register** (48 FR 49660) proposing to establish a Regulated Navigation Area in Puget Sound and adjacent waters in northwestern Washington. Sixteen written comments were received and sixteen persons representing various user groups or themselves individually gave testimony at the

Public Hearing held in Seattle on December 14, 1983. The Puget Sound Users' Forum, a committee of the Sea Use Council representing a particularly wide range of user interests, played a significant role in forming a concensus and provided extensive input. Based upon the comments received, the Coast Guard has extensively revised its original proposal and is now soliciting comments on a "revised proposal."

One of the major objectives of the original proposal was to republish as Coast Guard regulations the U.S. Army Corps of Engineers Gill Net Regulations (33 CFR 206.93) which were cancelled in early 1983. Six favorable and no negative comments were received relative to this action. However, some recommendation for modifications were received. There was general agreement that vessels with and without tows should be treated alike for purposes of this regulation. In the original proposal, vessels with tows and vessels without tows were covered in separate paragraphs which specified slightly different requirements. There was also input which recommended different whistle signals for vessels with tows and vessels without tows to conform with signals specified in 33 CFR Part 81, Appendix A. Four comments opposed requiring a vessel engaged in fishing to leave its nets and escort an approaching vessel through concentrations of nets. At the Public Hearing, there was general agreement that this was rarely done even when the earlier Corps of Engineers Gill Net Regulations were in force and that it is not a safe practice to leave nets unattended. Finally, there was a recommendation that the general regulations include provisions for the Puget Sound Vessel Traffic Service (PSVTS), when it deems appropriate, to make an hourly advisory broadcast during periods of congestion. All of these recommendations have been incorporated into the revised proposal.

The Puget Sound Users' Forum proposed two paragraphs aimed at reducing deep-draft traffic through concentrations of vessels. One proposal called for alternative routing of traffic and the other called for adjustments to sailing times. Both have been included in the revised proposal.

There was significant and widespread support for including within the general regulations a requirement that the end of gill nets be marked by a "jacklight." Although this is a common if not universal practice, no formal requirement exists in Federal, state, or local regulation. Several comments were also received regarding the type and intensity of this light. A specific requirement has been included in this revised proposal.

The Temporary Special Traffic Lanes included in the original proposal received considerable support in the comments received. In the original proposal, fishing was prohibited in these lanes when the lanes were in force. A number of the comments continued to support this general prohibition. However, a majority of the comments—including the position taken by the Puget Sound Users' Forum—recommended allowing fishing within the Temporary Special Traffic Lane except when a vessel using that lane was approaching. There was a wide range of opinion as to how soon a vessel fishing in the lane should clear the lane for approaching traffic. However, the language which has been incorporated in the revised proposal is probably both representative and realistic. This change—from a general prohibition of fishing in the Temporary Special Traffic Lane to allowing fishing there until vessel traffic using the lane approaches—is one of the most significant differences between the original and revised proposals.

The Puget Sound Users Forum and the Puget Sound Gillnetters' Association proposed that the Temporary Special Traffic Lane, rather than being centered on the Puget Sound Traffic Separation Scheme, be offset to the east or west depending upon where concentrations of vessels were likely to occur as a result of fish migrations or other factors. This change received general support, with only one opposing comment, and has been made a part of the revised proposal.

One recommendation was received to extend the Temporary Special Traffic Lane into Commencement Bay. However, since the Temporary Special Traffic Lane is a modification of and generally follows the Puget Sound Traffic Separation Scheme, and since that TSS ends at Buoy "TC" and does not extend into Commencement Bay, the extension of the Temporary Special Traffic Lane would involve arbitrary selection of a route through the bay. Further study and input from a wider spectrum of users would be necessary before incorporating this extension into the Temporary Special Traffic Lane. Consequently, this change has not been made to the revised proposal.

The original proposal included a permanent prohibition of gill net fishing along the Mukilteo-Columbia Beach ferry route and an area in which fishing would be prohibited along the Edmonds-Kingston ferry route which could be activated as needed. The comments received tended not to support such prohibited fishing areas but, rather, supported Temporary Special Traffic Lanes along these ferry routes which would be administered in the same manner as the Temporary Special Traffic Lane along the Puget Sound Traffic Separation Scheme. As a result, Temporary Special Traffic Lanes for the Mukilteo-Columbia Beach and Edmonds-Kingston ferry routes are included in the revised proposal. These lanes would be activated and administered by PSVTS as needed when concentrations of vessels dictated.

Most fishing vessels are not presently required by regulation to monitor the PSVTS operating frequency for the area in which they are fishing. However, many if not most do. There was broad support for a requirement that vessels fishing within the Temporary Special Traffic Lane be required to monitor this frequency. (In fact, more comments—ten—were received on this single issue than any other, and of them, only one was negative.) Most of the persons and organizations commenting expressed concern that the Temporary Special Traffic Lane concept could not work effectively unless those vessel operators who had elected to engage in fishing or other operations within the lanes were required to monitor this frequency so they could know about approaching traffic. Some responses even proposed that all vessels operating anywhere in the Puget Sound Traffic Separation Scheme be required to monitor the PSVTS frequency, and one even proposed that they be required to participate fully PSVTS. However, based upon a majority of the comments received and in consideration of the primary intent of this proposed regulation, language has been added which would require vessels engaged in fishing or other operations within the Temporary Special Traffic Lanes (other than merely crossing or transmitting the area) to monitor the PSVTS operating frequency. In this way, vessels whose ability to maneuver is limited by the activity in which they are engaged must monitor the PSVTS operating frequency if they elect to operate within the Temporary Special Traffic Lanes. Other vessels (not otherwise required by regulation to monitor this frequency) could operate anywhere else in the Puget Sound region, and engage in any activity, without incurring this requirement. Likewise, when the Temporary Special Traffic Lanes are not in force, this special requirement would not be operated for any vessel.

One comment presented an opinion that these proposed regulations could not be enforced with regard to Treaty

Indians since such enforcement would result in taking away fishing rights protected by the Treaty of Point Elliott and confirmed in various court decisions. The intent of this proposed regulation is neither to regulate fishing nor to take away fishing rights, but to enhance navigation and safety during periods when concentrations of vessels engaged in fishing or other activities create conditions which lead to user conflicts. In fact, there is good reason to believe that these regulations will enhance rather than inhibit fisheries in the Puget Sound region by reducing conflicts among the various users of northwestern Washington waters. The Coast Guard's interest is in the regulation of navigation, not in the regulation of fishing, and several minor changes have been made in the revised proposal to improve the focus of this regulation.

One comment was also received which expressed concern that the economic assessment was sufficiently broad to consider possible economic impact on Treaty Indians. That assessment has been reviewed and expanded. No reason has emerged to believe that the proposed regulation will have a serious economic impact. In fact, the changes which have been made between the original and revised proposals should lower the chances for serious economic impact since no area is named in the revised proposal in which fishing is totally excluded. As indicated above, the economic affect on fisheries of the new regulation may be positive since it should significantly reduce user conflicts.

A number of miscellaneous recommendations were received during the comment period which did not relate directly to this rulemaking but which may be taken into consideration by the Coast Guard. These recommendations included (1) providing Coast Guard or other patrol craft to act as escorts on All-Citizens Gill Net Openings, (2) installing temporary buoys to mark fishing areas and Temporary Special Traffic Lanes, and (3) frequency sectorization of PSVTS communications.

This proposed regulation, if ultimately adopted, will not operate in isolation but in conjunction with other regulations, particularly the PSVTS Regulations (33 CFR Part 161) and the 72 COLREGS. Of special importance is Rule 9 of the 72 COLREGS which deals with narrow channels and fairways. The Coast Guard considers the Puget Sound Traffic Separation Scheme and the Temporary Special Traffic Lanes to be fairways in the sense that term is used in Rule 9 of the 72 COLREGS. Certain requirements therefore exist in these areas, including the requirement that "a vessel engaged in fishing***not impede***" a vessel navigating in the fairway. A recent International Maritime Organization (IMO) interpretation indicates that "when a vessel is required not to impede the passage of another vessel, such vessel shall so far as practicable navigate in such a way as to avoid the development of risk of collision." This proposed regulation, being more specific than Rule 9 of the 72 COLREGS, should enhance navigation and safety by reducing user conflicts on Puget Sound, and therefore supplement Rule 9 in providing a wider margin of safety.

Changes to the Original Proposal

Since the changes to the original proposal, as enumerated and discussed above, are quite extensive, that proposal has been entirely rewritten and reorganized. For the sake of clarity, it has been divided into "General Regulations" and "Temporary Special Traffic Lanes." The revised proposal is presented in its entirety as a part of this Supplemental Notice of Proposed Rulemaking.

Economic Assessment and Certification

This proposed 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 on the various user groups is expected to be minimal since fishing and other operations will be affected only in a very small area in comparison to the total area of Puget Sound which is involved, and because the Temporary Special Traffic Lane would be implemented only if and when concentrations of vessels in the traffic lanes create a safety hazard. Its possible impact on deep draft vessels, towing vessels, and vessels engaged in fishing has been taken into consideration.

Based upon this assessment, it is certified in accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways

Proposed Regulations

PART 165—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding § 165.1301 to read as follows:

§ 165.1301 Puget Sound, Washington—Regulated Navigation Area.

(a) The following is a regulated navigation area—All of the following northwestern Washington waters under the jurisdiction of the Captain of the Port Puget Sound: Puget Sound, Hood Canal, Possession Sound, Elliott Bay, Commencement Bay, the Strait of Juan de Fuca, the San Juan Archipelago, Georgia Strait, Rosario Strait, and all waters adjacent to the above.

(b) This regulation is intended to enhance vessel traffic safety during periods of congestion and consists of *general regulations* which are continuously in effect and *Temporary Special Traffic Lanes* which may be established by the Coast Guard in response to specific conditions. When the Coast Guard determines that the various competing uses of the above waters have resulted in or may result in such concentrations of vessels as to constitute a hazard to navigation, the Puget Sound Vessel Traffic Service (PSVTS) under authority of Section 161.107 of this Title may implement the regulations provided in this Section for Temporary Special Traffic Lanes and may, when it judges such action to be necessary, provide hourly broadcasts on the PSVTS operating frequencies advising of known or expected vessel traffic.

(c) *General Regulations.* (1) Vessels without a tow transitting areas occupied by concentrations of vessels engaged in fishing or other operations shall indicate their approach by sounding one blast of at least 10 seconds. Vessels with a tow shall indicate their approach by sounding one blast of at least 10 seconds, followed by two short blasts. At night, and after sounding the appropriate signal, approaching vessels shall since a light in the direction of their intended course.

(2) Vessels engaged in fishing or other operations along the intended course of any vessel, upon becoming aware of the approach of that vessel or hearing its signal, shall at night show a quick flash of light and, if it has nets or other gear in the water, shine a light in the direction of that gear. (For daylight hours, no specific indications of activity or position of gear are required beyond those contained in Part 81, Appendix A of this Title (72 COLREGS). The vessel engaged in fishing or other operations shall then draw in its gear, maneuver, or otherwise cooperate with the

approaching vessel to permit passage. The use of bridge-to-bridge radiotelephone communications is encouraged in arranging for safe passage and to reduce the possibility of damage to vessels and gear.

(3) During periods of heavy vessel concentrations in the water south of Lopez Island, deep-draft vessels, and tugs with tows entering and leaving Rosario Strait shall, when directed by PSVTS, transit by such route as to avoid those concentrations.

(4) To the maximum extent feasible, all vessels shall adjust sailing times to reduce traffic through areas of heavy concentrations of vessels engaged in fishing or other operations.

(5) Vessels engaged in gill net fishing at any time between sunset and sunrise in any of the above-listed waters shall, in addition to the navigation lights and shapes required by the Part 81 of this Title (72 COLREGS), display at the end of the net most distant from the vessel an all-around (32-point) white light visible for a minimum of two nautical miles and displayed from at least three feet above the surface of the water.

(6) A vessel engaged in gill net fishing shall be crewed by at least one person capable of controlling the net. Such person shall be in constant attendance upon each gill net while it is laid out.

(d) *(Temporary Special Traffic Lanes.* (1) During periods of congestion or when otherwise deemed appropriate, PSVTS may exercise its authority under Section 161.107 of this Title and establish a Temporary Special Traffic Lane, as described below, for use as an alternative to the Traffic Separation Scheme (TSS) described in Part 161 of this Title. When fishing or other operations have reached or may reach such concentrations as to create a hazard to or to significantly impede navigation, the PSVTS may establish this Temporary Special Traffic Lane and announce that fact though a Broadcast Notice to Mariners and on the PSVTS operating frequencis. PSVTS may then grant deviations for vessels to use the Temporary Special Traffic Lane in Lieu of the TSS.

(2) When established, the Temporary Special Traffic Lane may be all or any part of a lane commencing east of Pt. Wilson at the mid-point of the TSS Separation Zone on a line connecting the eastern tip of Pt. Wilson and the southern tip of Admiralty Head (said mid-point being located at 48°08'53"N, 122°43'27"W) and extending southerly to the center of Precautionary Area "TC" off Browns Point. (For a description of these Separation Zones, Traffic Lanes, and Precautionary Areas, see Sections 161.183, 161.185, and 161.187 of this Title.) One boundary of the Temporary Special Traffic Lane shall be the center line of the TSS. The other boundary shall be parallel to and one half nautical mile east of this line, or parallel to and one half nautical mile west of this line, depending upon which configuration would be most advantegous in avoiding concentrations of vessels during the period the Temporary Special Traffic Lane is to be in place. This determination shall be made by PSVTS and shall determine the description of the lane announced on the Broadcast Notice to Mariners and on the PSVTS operating frequencies. Similar Temporary Special Traffic Lanes consisting of the area within one quarter nautical mile on each side of a straight line connecting the Edmonds and Kingston ferry landings, and one quarter nautical mile on each side of a straight line connecting the Mukilteo and Columbia Beach ferry landings, may be established and administered in a similar fashion by PSVTS when deemed appropriate.

(3) During the period when the Temporary Special Traffic Lanes have been established, vessels engaged in fishing or other operations within these Temporary Special Traffic Lanes (other than merely crossing or transitting the area) shall continuously monitor the PSVTS operating frequency for the area in which they are located. Such vessels shall draw in their gear, maneuver, or otherwise clear the Temporary Special Traffic Lanes so that the required action is complete no later than 15 minutes before the estimated time of arrival at their location of any vessels transitting the Temporary Special Traffic Lanes to enable that traffic to pass with safety and without delay.

(33 U.S.C. 1231; 49 CFR 1.46(n)(4); 33 CFR 1.05-1(g)(4))

Dated: April 23, 1984.

R. J Copin,

Acting Captain, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 84-12646 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 40442-4042]

Proposed Rules for Patent Maintenance Fees

Correction

In FR Doc. 84-10844 beginning on page 17692 in the issue of Tuesday, April 24, 1984, make the following corrections:

1. On page 17693, in the first column, in the second complete paragraph, in the twenty-second line, the work "Paragraphs" should read "Paragraph".

2. On page 17694, in the first column, in the eighteenth line, the word "while" should read "While".

3. On the same page, in the same column, in the first complete paragraph, in the fourteenth line, the word "office" should read "Office".

4. On the same page, in the same column, in the ninth line from the bottom, "§ 1.366" should read "§ 1.362".

5. On the same page, in the third column, in the fourteenth line from the bottom, the word "charge" should read "change".

6. On the same page, in the same column, in the second line from the bottom, the word "claim" should read "claiming".

7. On page 17696, in the first column, in the first paragraph, in the fifth line from the end of the paragraph, the phrase "will be" should read "will not be".

8. On the same page, in the third column, in § 1.19(g), in the third line, the word "to" should read "on".

9. On page 17697, in the middle column, in § 1.362(f), in the tenth line, insert the word "next" after the word "the".

10. On page 17698, in the middle column, in § 1.378(c)(3), in the third line from the bottom of the column, the word "he" should read "the".

11. On the same page, in the third column, in § 1.378(d), in the third line, insert the word "and" after the word "Patent".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW FRL-2577-8]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate an ocean disposal site in the Southern California Bight in the Pacific Ocean near Terminal Island, California, for the disposal of fish cannery waste materials for a period of three years. This action is necessary for the disposal of fish cannery waste materials from Star-Kist Foods, Inc., Terminal Island, California. This site designation does not authorize any actual dumping of fish cannery waste materials. Permits to ocean dump at the site must be acquired through separate proceedings. Furthermore, EPA has made a tentative determination to issue a research permit to Star-Kist Foods, Inc. to dump fish cannery waste materials as authorized by the Marine Protection, Research, and Sanctuaries Act of 1972 as amended. The research permit would be issued by EPA Region IX for a 6 month period, with appropriate monitoring conditions by the permittee, to establish maximum load limitations and operating conditions.

DATE: Comments must be received on or before June 25, 1984.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), U.S. Environmental Protection Agency, Washington, D.C. 20460.

The permit application, Draft EIS and correspondence relating to this proposed action are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU)

Room 2404 (rear), 401 M Street, Southwest, Washington, D.C.

EPA Region IX, 215 Freemont Street, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228.

The permitting process for ocean dumping requires two separate actions by EPA: (1) The selection and designation of a site at which these materials may be ocean dumped. (2) The issuance of a permit for the disposal of specific types and amounts of material for a specific period of time.

In the permit issuance procedure, the permitting authority, EPA Region IX in this case, considers the need for the proposed dumping and the environmental acceptability of the specific material for ocean disposal in accordance with the requirements of 40 CFR Part 227. After review of the permit application the permitting authority will issue a public notice announcing a tentative determination and invite public comment on the proposed action. If the tentative determination is to issue a permit, the public notice will include the proposed conditions of the permit, such as column permitted to be dumped, rate of discharge, and monitoring requirements.

In the site selection and designation process, the generic nature of the waste (e.g., sewage sludge, dredged material, dish cannery wastes) is considered, and a site is selected which would minimize the impacts of the particular type or waste proposed for disposal. Site selection is in accordance with 40 CFR 228.5 and 228.6 which give five general criteria and eleven specific factors to be considered in selecting an appropriate site.

The purpose of this notice is to provide the public an opportunity to comment on the proposed designation, as an EPA approved ocean dumping site, of a site in the Southern California Bight for the disposal of fish cannery waste materials for a period of three years. This action proposes the designation of a site for the disposal of fish cannery waste materials found acceptable for ocean disposal in accordance with the requirements of EPA's Ocean Dumping Regulations. This action does not authorize use of the site. The public will have an opportunity to comment on and challenge the issuance of any permit during the permit process, as provided by 40 CFR Part 221.

A Draft Environmental Impact Statement (EIS) has been prepared on the proposed action. The EIS describes the proposed disposal operation in detail, discusses the alternatives to ocean disposal, and describes the anticipated environmental impacts associated with the proposed disposal. This document is available for public inspection at the addresses given above. The parts of this document relevant to the site designation are summarized in the following paragraphs.

EPA Region IX has received an application from Star-Kist Foods, Inc., 525 Tuna Street, Terminal Island, California 90731, for a special permit to transport and dump material into ocean waters pursuant to the Act. Star-Kist proposes to dump fish cannery waste materials resulting from two fish processing and pet food carreries near Terminal Island, California.

Nature of Waste Discharge

All of the unprocessed wastewaters (i.e., brine water, unloading water, cooker juice and press liquor) are fish wastes. Under the Act and 40 CFR 220.1(c)(1), fish wastes are not subject to permitting requirements unless the Administrator finds that their disposal may reasonably be anticipated to endanger health, the environment or ecological systems. We do not anticipate such endangerment. However, Star-Kist proposes to discharge a combination of the unprocessed fish waste and DAF process sludge. DAF process sludge (described below) is not considered a fish waste and is subject to permitting requirements under the Act.

A. Characteristics

1. Dissolved Air Flotation (DAF) sludge is derived from the floatable solids obtained in the wastewater treatment process at each cannery. The DAF process consists of floating the solid and grease portions of the wastewater by air bubbles and the addition of small concentrations of alum and polymers. The following data is based on 4 samples of Terminal Island DAF sludge:

ph 5.4 to 6.2
Bulk density—0.76 to 0.83 gm/ml
Total solids—4 to 25% wet weight
Volatile solids—83 to 87% of SS
Total organic carbon (TOC)—540 to 628 g/kg dry wt.
Total phosphorus—481 to 1290 mg/kg
Total Kjeldahl Nitrogen—1770 to 7500 mg/kg
$NO_3 + NO_2$—0.9 to 1170 mg/kg
BOD_5—84,000 to 761,000 mg/1 (2 samples)
Protein—1.1 to 4.7%
Fat, oil & grease—0.9 to 14%
Methylene Blue Active Substance (MBAS)—N.D. to 8.0 mg/1
A1—29 to 514 ppm, wet wt.

Cd—0.097 to 0.8 ppm, wet wt.
Hg—N.D. to 0.4 ppm, wet wt.
DDT—None detected
DDE—N.D. to 0.19 ppm
DDD—N.D. to 0.028 ppm

The following materials are fish wastes and are not subject to permitting requirements under the Act (unless Administrator finds that such dumping may reasonably be anticipated to endanger health, the environment or ecology systems).

2. Tuna brine is the seawater-based solution used to thaw frozen tuna on-board the fishing vessels before loading.

3. Mackerel and Anchovy unloading water is seawater pumped into the hold of fishing boats so that the catch can be off-loaded by vacuum pump.

4. Cooker juice is the broth that results from the cooking of whole raw tuna in ovens.

5. Press liquor is the material squeezed from the press in a fishmeal reduction plant.

B. Limitations

1. Maximum daily quantity to be dumped: DAF sludge—164,000 gal/day.

The maximum total volume of DAF sludge to be dumped during any one day would be limited to not more than 164,000 gallons.

2. Material to be dumped will be transported to the disposal site by vessel with a capacity of 41,000 gallons or up to a maximum of 300,000 gal/day. Material will be discharged at a total rate of 1,200 gals/min, while the vessel circles within the dump-site at a speed of 5 knots.

Site Selection Criteria

Five general criteria are used in the selection and approval for use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to prevent temporary perturbations from the dumping activities from causing impacts outside the disposal site, and to permit effective monitoring of the site to enable the detection of any adverse impacts. Where feasible, locations off the Continental Shelf are selected. If at any time disposal operations at a site are found to have caused unacceptable adverse impacts, further use of the site would be terminated or restricted. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating proposed ocean disposal sites to assure that the five general criteria are met.

The draft EIS contains information on the physical, chemical, and biological nature of the proposed dump site as well as the anticipated environmental impact of the proposed dumping. In addition, it contains a discussion of general and specific criteria required to designate an ocean dumping site under §§ 228.5 and 228.6 as they relate to this site. These criteria are summarized as follows:

1. Geographical position, depth of water, bottom topography, and distance from coast. The proposed disposal site is a circle 1.5 nautical miles (nmi) in diameter, centered at 33°38′7″ N and 118°14′3″ W. The site is just outside the 20 fathom contour sloping down from 37 meters to more than 46 meters on the south and southwest sides of the site. The bottom is composed of 63 percent fine sand and 32 percent silt; a few rocky outcrops have been noted by fathometer. The nearest shore is about 4 nmi due north of the center of the site and about 3.6 nmi to the northwest.

2. Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. The proposed site is in the Southern California Bight which is a popular area for recreational and commercial fisheries. Fish spawning occurs throughout the Bight but is more heavily concentrated close to the shores. Whales migrate through the Bight and outside of the Channel Islands, feeding on pelagic plankton or anchovy schools as do porpoises, seals, pelicans, and other birds. The disposal activity is not expected to affect the whale migration or life patterns of other species. No significant shellfish beds are present at the benthos, and no living resources found there are unique to the site.

3. Location in relation to beaches and other amenity areas. The nearest beach is about 4.5 nmi northwest of the proposed dumpsite at the westend of the Los Angeles breakwater. The White's Point advanced primary sewage outfall is west of that beach area, separated from it by the cliffs of Point Fermin. Because the wastes are expected to dilute rapidly within the dumpsite, it is not anticipated that any detectable levels of waste would ever reach the beach. Entrances to the Ports of Los Angeles and Long Beach lie about 4 nmi north and 5.7 nmi northeast of the dumpsite, respectively.

4. Types of quantities of wastes proposed to be disposed of and proposed methods of release, including methods of packing the waste, if any. The types of wastes to be disposed of have been listed previously. The maximum daily quantity of DAF sludge to be disposed of have been listed previously. The maximum daily quantity of DAF sludge to be disposed is 164,000 gallons. The limitation of the vessel proposed to be used by the permit applicant would normally allow the disposal of a total of about 300,000 gallons of waste per day. The principal characteristics of the waste are high organic content and resulting oxygen demand on the receiving waters. Initial dilution will be sufficient to preclude significant depression of dissolved oxygen so that water quality standards will continually be maintained. Suspended solids will produce initial turbidity which will be rapidly dissipated. The fate content will help create a slight visible slick breaking up from within a few minutes to 2 hours depending largely on wind velocity. The material would be released from the boat while underway through discharge ports in the hull bottom. Initial mixing would be affected by the turbulence from the hull, propellers, and by discharge velocity.

5. Feasibility of surveillance and monitoring. The proposed dumpsite is readily accessible for surveillance and monitoring. In nearby Los Angeles Harbor, substantial facilities, both public and private, are available to provide logistic and technological support for surveillance and monitoring programs. It is expected that monthly and water quality parameters will be carried out during the initial year of disposal under a NOAA-sponsored investigation similar to that reported in the baseline study submitted with the permit application.

6. Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. Dispersion was measured by concentration of ammonia, BOD, and TOC by turbidity, all of which decreased very rapidly in the water column in the field tests during actual dumping of materials allowed under the "fish waste" exclusion of the ocean dumping regulations. No evidence of limitation of vertical mixing was found in the disposal site by temperature or salinity stratification. Surface circulation is strongly wind-driven and provides horizontal transport ranging generally from 0.11 knots to 0.56 knots. Direction measured by drogues was predominately to the southeast in November and December 1981, and January 1982, and to the northeast in February, March, and April 1982. In June the surface flow direction was to the south, while the net 20 meter direction was to the west. In July 1982 the surface direction was north-northeast while the net 20 meter direction was north-northwest.

Slicks are expected to break up rapidly and disappear due to mixing, dispersion, and biochemical degradation

culture, areas of special scientific importance, and other legitimate uses of the ocean. The proposed site lies at the south margin of the Precautionary Area of the shipping lanes outside of the Los Angeles and Long Beach Harbors. All vessels are required to operate on a "see and be seen" basis within the Precautionary Area. The disposal activity will not interfere with recreational or commercial fisheries or shellfisheries. No interference is expected with other legitimate uses of the ocean, and the area has no unique or special scientific importance.

9. The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. A baseline monitoring survey of physical, chemical, biological water quality, and of the benthos was conducted at the proposed dump site and at two adjacent control sites. The water quality can generally be characterized as typical of the nearshore environment, with light penetration limited from 6 to 20 meters depth, color slate blue to green, with nutrient levels and productivity high. The fish are predominantly pelagic schools of anchovy and mackerel, with scattereed resident bottom species and rockfish.

10. Potential for the development or recruitment of nuisance species in the disposal site. The fine particulate wastes are expected to be attractive mainly to filter-feeders such as anchovy and mackerel, which in turn attract predators. Sharks were not attracted, however, during dumping of excludable fish wastes during the baseline survey and were sighted only once during 10 months of monitoring. (Soule and Oguri, 1982).

11. Existence at, or in close proximity to, the site of any significant natural or cultural features of historical importance. No historically important natural or cultural features exist at or in close proximity to the proposed dumpsite.

In December 1982, Star-Kist Foods filed with the California Coastal Commission a statement that the project is in conformance with the California Coastal Zone Management Plan. On January 27, 1983, the Coastal Zone Commission voted unanimously that Star-Kist's project is consistent with that plan. The Commission contacted the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service in addition to the Los Angeles Regional Water Quality Control Board in order to determine whether there were any objections to the dumping of these fish cannery wastes at this site. All felt that the proposed project would not significantly degrade coastal water quality of physical, chemical, biological water quality, and of the benthos was further provided for modifications in site use of designation based on the results of impact or on changed circumstances concerning use of the site. See 40 CFR 228.11. Management authority of this site will be delegated to Regional Administrator of EPA Region IX. Any permittee using the site will be required to conduct an appropriate monitoring program and report the results to EPA.

The designation of the fish cannery waste materials site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal site for fish cannery waste materials resulting from Star-Kist Foods, Inc., at Terminal Island, California. Consequently, this proposed rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: April 11, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding to § 228.12(b)(23) an ocean dumping site for Region IX as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(23) Fish cannery waste materials site—Region IX. Centerpoint location: 33°38′7″ N, 118°14′3″ W.

Size: A circle with a diameter of 1.5 nmi.

Depth: Approximately 20 fathoms (120 feet).

Primary use: 3 years from permit issuance.

Volumes: The maximum total volume that may be dumped during any one day is 164,000 gallons of Dissolved Air Flotation sludge.

Restriction: Disposal to be limited to fish cannery waste materials.

[FR Doc. 84-11874 Filed 5-9-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 205

General Administration—Public Assistance Programs; Quality Control Requirements

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: This proposal would amend the rules for the quality control (QC) review of sample cases under the Aid to Families with Dependent Children (AFDC) and adult assistance programs to—

1. Implement the changes required by The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97-248; and

2. Require State agencies administering the AFDC and adult assistance programs to conduct monthly QC sampling during a 12-month sample period. Allow States to reduce their sample size to a minimally acceptable sample size below the Federally prescribed standard sample size where the State accepts the reliability of the reduced sample.

3. Change the method and timing for submission of sample review findings and access to State and local records.

ADDRESSES: Comments may be submitted to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Family Assistance, Social Security Administration, Room B-442, Trans Point Building, 2100 Second

Street, SW., Washington, D.C. 20201, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Love, Room B-442, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20201, telephone (202) 245-2637.

DATE: Your comments will be considered if we receive them no later than July 9, 1984.

SUPPLEMENTARY INFORMATION: These proposed rules amend the regulations on the quality control (QC) system in the "Aid to Families With Dependent Children" (AFDC) and the adult assistance programs under titles I, IV-A, X, XIV, and XVI (Aid to the Aged, Blind, and Disabled (AABD)) of the Social Security Act. The QC system is the Social Security Administration's (SSA) and the States' major management tool for measuring the accuracy of AFDC and adult assistance payments and for obtaining the data needed for management to analyze and improve performance in paying benefits. The QC system is also used for determining whether the State agencies are properly spending the Federal funds that Congress appropriated for these financial aid programs. These aims are accomplished by a continuous review of a statistically valid and reliable sample of AFDC and adult assistance cases.

Under the AFDC program rules, all States are subject to a reduction of Federal financial participation (FFP) for incorrect payments that exceed established levels for State performance based on the QC sample data. The Michel Amendment (section 201 of the Labor-HEW Appropriation Bill for Fiscal year 1980 (H.R. 4389) as referenced in the Continuing Resolution for fiscal year 1980 (section 101(g) of Pub. L. 96-123)) set a series of target payment error rates for States to reach with an ultimate goal, a national standard, of 4 percent that was to be met by September 30, 1982 and was to be maintained for all fiscal years thereafter. For this purpose a State's level of performance is reviewed during an annual assessment period, October 1-September 30, which measures attainment of each preceding September 30th error target. If a State fails to meet the prescribed error rate, it is subject to a loss in FFP unless it can demonstrate it made a good faith effort to comply.

Additionally, the data from the QC system is also used under the AFDC program to compute incentive payments to a State which has a combined ineligible, overpayment, underpayment and incorrect denial error rate below 4 percent.

Recent legislation (section 156 of The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97-248, enacted September 3, 1982) amended title IV-A of the Social Security Act (the AFDC program) by adding a new section, section 403(i), governing reductions in FFP where State error rates exceed certain levels and limiting the incentive payment provisions for low error rate to the Territories. This legislation requires us to modify the existing AFDC-QC regulations. The major provisions of this legislation:

1. Establish the allowable error rates at 4 percent for fiscal year (FY) 1983 and 3 percent for FY 1984 and thereafter, and require reduction in FFP equal to the amount of erroneous excess payments;

2. Provide for a waiver of reductions in FFP in certain limited cases where a State made a good faith effort to reach the allowable error rate;

3. Require States to provide error rate data to the Secretary;

4. Authorize the Secretary to establish a State's error rates through appropriate techniques when a State fails to provide error rate data. This may include contractual arrangements;

5. Provide for the reduction of FFP otherwise payable to a State by the cost of establishing a State's error rate under 4 above;

6. Do not apply to Puerto Rico, Guam, or the Virgin Islands, and therefore the provisions of the Michel Amendment contained in 45 CFR 205.42 remain in effect;

7. Provide for the continuation of the existing disallowance regulations at 45 CFR 205.42 until new regulations are promulgated and in effect;

8. Repeal the provisions for incentive payments to States with low error rates under section 403(j) of the Social Security Act for periods after March 31, 1983, except for Puerto Rico, Guam, and the Virgin Islands.

These proposed rules do not include any provisions for offsetting disallowances by recoupment. We will issue a separate Notice of Proposed Rulemaking setting forth the procedures we propose to use in crediting against disallowances, recoveries from overpaid and ineligible recipients.

In addition to the changes in the AFDC program regulations required by TEFRA, we are proposing changes in the rules which set forth the general QC system requirements. These rules apply to both the AFDC and adult assistance programs.

The existing QC regulations do not apply across the board to the AFDC and adult public assistance programs. While the rules, (45 CFR 205.40) which require States to provide for a continuing system of quality control are applicable to the adult assistance program as well as the AFDC program, the provisions for reducing FFP for excess error rates, §§ 205.41 and 205.42, and for increasing FFP for low error rates, § 205.43, apply only to the AFDC program.

Since the major impact of TEFRA affects only the post-Michel AFDC-QC operations, we have included the new disallowance provisions that are only applicable to the AFDC program in one new section, § 205.44. This continues the precedent established in former rule making and will permit us to delete § 205.41 (the pre-Michel rules). The regulations at § 205.42 (the Michel rules) will continue in effect for the Territories.

The major provisions of the proposed rules are as follows:

1. AFDC Program

a. *National Standard*—The proposed regulations provide for a 4 percent national error rate standard for FY 1983. Commencing with FY 1984, this national standard is reduced to 3 percent. States will be required to maintain this 3 percent national standard thereafter. States which have error rates in excess of the national standard will be subject to a disallowance of FFP for the amount of their erroneous payments in excess of the standard. Currently, States are required to meet a national standard of 4 percent which was imposed by the Michel Amendment.

TEFRA requires that we change existing rules to establish a reduced national standard of 3 percent beginning with FY 1984. TEFRA specifically exempts Puerto Rico, Guam and the Virgin Islands from the new 3 percent standard. We have interpreted this to mean that the Michel 4 percent standard continued to be applicable to the Territories.

b. *Measurement Period*—We will measure States' performance under these new rules in the same fiscal year that the national standard is to be achieved.

Under the Michel rules, States were required to reduce their error rates to 4 percent by September 30, 1982. Interim standards were required to be met by September 30, 1980 and September 30, 1981. We measured achievement in the year following the September 30 date that a goal was to be achieved. Under TEFRA, the goal, a national standard, is associated with a total fiscal year and not with an end of fiscal year date of September 30th. We have interpreted the statutory language "for fiscal year

1983" as requiring that the determination of the State's error rate be made on a concurrent basis, i.e., the determination as to whether a State has met the 4 percent standard for FY 1983 is to be based on sample reviews conducted during FY 1983. Thus, the national standard, the measurement, and any potential reductions in FFP, as well as "good faith" considerations, are all concurrently examined in and for the same time period.

The following chart illustrates the AFDC Quality Control error reduction periods covered under the regulations issued by the Department on March 7, 1979, Michel and the TEFRA rules. While the TEFRA statute provides for a 4 percent standard to apply for FY 1983 and 3 percent for FY 1984 and subsequent years, it also requires that the Michel rules remain in effect until final TEFRA regulations are promulgated. Therefore, the earliest that TEFRA could be implemented would be for FY 1984. Thus, the Michel 4 percent standard will apply in FY 1983 and would be superseded by the 3 percent TEFRA standard for FY 1984.

Authority	Target date	Measurement period	Affected expenditure period
Mar. 7, 1979	4/79-9/79	4/79-9/79	4/79-9/79
	10/79-3/80	10/79-3/80	10/79-3/80
	4/80-9/80	4/80-9/80	4/80-9/80
Michel	9/30/80	FY 1981	FY 1981
	9/30/81	FY 1982	FY 1982
	9/30/82	FY 1983	FY 1983
TEFRA	FY 1983		
	FY 1984	FY 1984	FY 1984

We did consider, but rejected, two other options. The first option was to measure State performance in meeting TEFRA standards in the fiscal year following the year the standard was to be achieved. This would continue the approach used under the Michel Amendment. However, we rejected this option because the literal reading of the statutory language in TEFRA, which states that the 4 percent standard must be *for* FY 1983 and 3 percent *for* any fiscal year thereafter, clearly indicates that the measurement is to be made in the fiscal year for which the tolerance level is established. Continuation of the Michel rules would mean that the error rate determined for FY 1983 would in fact be the FY 1984 error rate rather than the FY 1983 error rate.

The second option we considered was to apply both the Michel and the TEFRA rules during FY 1983. The Michel rules would be applied in FY 1983 to determine whether a State reached a 4 percent error rate by September 30, 1982. The TEFRA rules would be applied in FY 1983 to measure compliance with the FY 1983 4 percent national standard. This approach would have resulted in a double penalty based on one measurement period for States which exceeded a 4 percent error rate in FY 1983. We rejected this option for two reasons. We considered it unreasonable to penalize a State twice for the same erroneous expenditures. Secondly, the TEFRA provisions which were effective October 1, 1982, were intended to supersede the Michel provisions and, therefore, the application of the Michel disallowance provisions during FY 1983 in addition to TEFRA disallowances would be inconsistent with congressional intent. In addition, the Health Care Financing Administration (HCFA) also rejected this option in recently published final regulations implementing similar TEFRA Medicaid disallowance provisions. Accordingly, there will only be one penalty assessed for 1983.

c. *Data Used to Measure a State's Performance*—The proposed regulations provide that we will determine a State's error rate using data from the Federal/State QC system. States will continue to be required to submit to the Department, in such form and at such times as the Department prescribes, the information needed to establish: The statistical validity and reliability of their sample results; their rates of erroneous excess payments; and other corrective action plans.

We are making three changes in the existing rules contained in § 205.40 which govern the method and timing of data submission and Federal access to State and local records. We are making these changes in response to States' request for a more timely issuance of error rate data as well as for greater uniformity among the respective QC systems. The changes will also assist HCFA and the States to develop more timely error rate data to be used in accordance with HCFA regulations at 42 CFR 431.803 to timely determine the likely medicaid error rate. Similar requirements were recently promulgated by the Department of Agriculture, Food and Nutrition Service (FNS) (49 FR 6292 published February 17, 1984).

Under our existing sample completion standard, States are required to dispose of and submit 90 percent or all but 5 cases selected in the active and negative sample each month within 75 days after the end of each month. The remaining cases from the first three sample months are to be submitted within 120 days after the third sample month, remaining cases from the fourth, fifth and sixth sample months are to be submitted within 120 days of the end of the sixth sample month.

The Food and Nutrition Service has made further changes in these timeliness specifications by requiring all cases to be submitted on a monthly schedule. We have reviewed the FNS standard and determined that both agencies require completion and submittal of 90 percent of the sample cases within 75 days after the end of each sample month.

However, FNS requires that 100 percent of the cases be submitted within 95 days at the end of the sample month. We believe that 95 days is sufficient time to complete even the most difficult cases. These time frames will improve the flow of cases and result in more timely completion of the Federal sample and calculation of national error rates. Accordingly, like FNS, we are proposing to require that 100 percent of the cases will be submitted within 95 days of the end of each sample month.

Under the Department's existing regulations, States are currently required to submit edited review findings within the 75-day and 120-day time frames, as mentioned earlier, to the Department. This requirement was promulgated (October 1982) in recognition of the national integrated quality control system under development. States have now been provided FNS furnished computer terminals on which to transmit edited review findings to a host computer for use by the Federal agencies. The Food and Nutrition Service has specified in their final regulations that States are required to submit edited review findings via the FNS supplied computer terminal or for States that do not have a FNS supplied computer terminal, in a format specified by FNS. We are proposing a similar requirement; specifically, States that have an FNS supplied computer terminal will input edited review findings into the computer terminal provided by the Federal Government and transmit data to a designated host computer. For State agencies that do not have a terminal provided by the Federal Government, the State agency shall submit the review findings in a format specified by the Department.

In order to validate the State's sample findings, it is necessary to conduct a Federal re-review of the States' sample. The existing regulations require the States to provide access by Federal staff to State and local payment/eligibility records. Many States meet this requirement by mailing, at Federal expense, case records to Federal regional offices. This practice is less disruptive to the States and significantly

reduces delays in completion of the Federal re-review sample. We are proposing to require all States to provide these records or legible copies to our regional offices within ten days of receipt of such a request. We do not believe this will create a significant burden on States. Many States now use this practice and have not reported any problems. In addition, since mailing costs are paid by us, States no not incur any additional expense by using this practice. A similar requirement is contained in the recently published Food Stamp regulation at 7 CFR 275.21.

d. *Failure to Complete a Sample*—Under TEFRA, if a State fails to cooperate with the Secretary in providing the information necessary to determine the State's error rate as required by the regulations, the Secretary, directly or through contractual or other arrangements as determined appropriate, shall establish the error rate for that State on the basis of the best data reasonably available to the Secretary and in accordance with the techniques for sampling and estimating that the Secretary finds appropriate under the particular circumstances.

We interpret this statutory requirement on cooperation to mean that the State must complete a proper sample, that the results of this sample must be reported timely and that payment/eligibility records must be provided timely where required for the Federal rereview. By a proper sample, we mean that the State has completed a sample in accordance with federally prescribed instructions and procedures. Thus, if a State does not follow the federally prescribed instructions and procedures, or if the State does not conduct its sample in accordance with its approved sampling plan, the sample will be considered invalid, unreliable, or both. Similarly, if a State does not complete the federally prescribed minimum number of reviews as specified below and submit the review data in a timely manner, the available sample results will be considered to be unreliable. State records must be timely supplied for the Federal rereview to enable the Department to determine the State error rate.

If the State does not submit proper and timely data, we will consider that a State has not provided the information the Secretary needs in order to carry out the requirements of 403(i) of the Social Security Act. Under these circumstances, we will use the best data reasonably available to us to determine a State's error rate. The proposed rules provide that we will use data derived from any one or more of the following:

(1) Error rate information for past sample periods;

(2) A partial State sample;

(3) A Federal subsample of completed State cases;

(4) A supplemental Federal sample (de novo review);

(5) The results of a Federal audit;

(6) The results of an audit conducted through a contractual agreement with a third party.

The proposed rules implementing these provisions are different from the current rules in two significant respects:

(1) These regulations allow us to use the State's payment error rates over prior periods or we may elect to complete the State sample. We modified the existing option of using the weighted average of the State payment error rate for the last three sample periods to make it a broader and more flexible option, i.e., use of State payment error rates for past sample periods. This will enable us to provide a better estimate of a State error rate when there are atypical sample periods. For example, if the State has not conducted any reviews or has not completed a valid sample, an error rate may be assigned based on a weighted average of past periods or on the trend of the State's payment error rates over prior periods, where such methods will provide the most reasonable estimate of a State's error rate that can be obtained within the resources and time that are available.

(2) We include the option of using a private sector contractor for any effort required to determine a State's error rate.

We have interpreted the statutory language that the Secretary shall use the best data "reasonably" available to mean that the Secretary has considerable flexibility in determining the method(s) to be used to determine the State's error rate. Thus, the actual method we use to establish a State's error rate will depend on the particular circumstances involved. Some of the circumstances we will consider include the timing and extent of a State's non-cooperation, and the time and resources available to the Secretary. Example: From the beginning of the sample period, a State completed a valid but less reliable sample because the sample contained fewer than the prescribed number of reviews. We may combine this State sample with the Federal subsample of this State sample and add an additional Federal sample (de novo review) to determine the State's error rate, if there is no question of the validity of the reviews conducted by the State. In this context, if we have reason to question the State's findings, we may conduct an audit directly or through a contractual agreement with a third party or use error rate information from past periods.

Similarly, if we have reason to question the validity of the reviews being conducted by the State because the State does not conduct its reviews and verification in accordance with federally prescribed procedures or improperly excludes cases from its sample, and the State fails to timely take the remedial action that is indicated, it may become necessary for us to complete these reviews. In such cases, the State will be charged for any additional federal efforts to properly review these cases, as provided in paragraph e.

(e) *Assessment Costs*—In any case in which it is necessary for the Secretary to determine a State error rate because the State failed to cooperate by providing in a timely manner the required valid and reliable information which is necessary to compute its error rate, the proposed regulations provide that the full costs incurred (directly or otherwise) by the Secretary in making the determination shall be passed on to the State by reducing the amount that would otherwise be payable to the State for quarters in the applicable fiscal year.

We interpret this TEFRA provision to require that the full costs, rather than 50 percent of the costs, incurred by the Secretary shall be passed on to the State. These costs are separate from and in addition to any reductions in FFP for erroneous assistance payments that may be required because a State's error rate is in excess of the national standard. The assessment of costs will be accomplished by reducing the amount that would otherwise be payable to the State for administrative expenses, generally no later than the second quarter following the quarter in which the costs of compiling the data for determining the State's error rate are available.

The costs assessed to a State will include such items as contract costs, Federal salaries and overtime if appropriate, and travel as well as any other expenditures incurred by the Secretary in completing a proper sample. There is no statutory provision for waiving assessment of these costs to States.

We have also revised the Michel regulations at 45 CFR 205.42(e) to provide for the same broader and more flexible options for determining a State's error rate when the State does not complete a valid and reliable sample.

However, since we do not have the statutory authority under the Michel regulations to assess the cost of determining a State's AFDC error rate, and the fact that the Michel rules apply only to the Territories after FY 1983, cost assessment provisions have not been included in the proposed revisions to 45 CFR 205.42.

f. *Waiver of Reductions in FFP*—The proposed regulations provide that if a State does not meet the national standard for any assessment period, we will reduce FFP to the State for that period unless the State is granted a waiver of this reduction in whole or part by the Commissioner of Social Security. A State that qualifies to apply for a waiver will be given an opportunity to show the Commissioner of Social Security that it made a good faith effort to meet the national standard. She will then determine whether this justification warrants a waiver of all or any part of the proposed disallowance. The proposed regulations contain some examples of the limited circumstances under which the Commissioner of Social Security may find that a good faith effort existed. The burden of proof rests entirely with the State.

These provisions are similar to the existing regulations for good faith waivers under the Michel Amendment. However, to address the emphasis that TEFRA places on the timely completion of a valid and reliable sample, we are separately identifying as factor (E), a factor which states that "a State must have operated its QC system in accordance with federally prescribed policies, procedures and time limits for sampling, conducting case reviews, and submitting QC data and reports." Also, in 45 CFR 205.42(g)(1) and 45 CFR 205.44(g)(1), we are requiring a State to submit a good faith waiver request within 30 days after the issuance of the error rates for fiscal year 1984 and within 9 months after the end of each fiscal year thereafter. Additionally, we are requiring in 45 CFR 205.42(g)(2)(i)(ii) and 45 CFR 205.44(g)(2) (i) and (ii) that a State must notify us within 30 days of a sudden event, such as fire, flood or strike, the kind and extent of the event and percent of the workload directly affected in order to qualify for a waiver under these criteria. Finally, we are requiring more objective criteria for determining when a State's good faith effort may quality it for consideration of a waiver under the limited circumstances provision of 45 CFR 205.42(g)(2)(iv)-and 205.44(g)(2)(iv). We have deleted from the example of circumstances under which a State could request a good faith waiver situations where a State was given an incorrect written Federal policy interpretation (45 CFR 205.42(g)92)(iv)). Errors associated with incorrect Federal policy interpretations are currently excluded from State error rates. Section 45 CFR 205.42(g)(2) has been renumbered as result of this deletion.

Given that States have now had considerable experience in the use of the Quality Control system, we believe that it is appropriate that some reduction in error rate be required before a State qualifies for a waiver request based on its good faith efforts. In order to be eligible to apply for a waiver, we require that a State must have demonstrated one of the following:

a. The State has achieved an error reduction rate from the last measurement period that was equal to or greater than the median error reduction rate for all States with reduced error rates.

Example: Twenty-five States showed lower error rates for FY 1983 than for FY 1982. The median error reduction rate for these 25 States was 15.7 percent. A State's FY 1983 error rate was 6.5 percent compared to 8.1 percent for FY 1982. Since the State's FY 1983 error reduction rate of 19.8 percent [(8.1% − 6.5%) ÷ 8.1%] is greater than the median error reduction rate for all States with reduced error rates, the State is eligible to apply for a waiver.

b. The State has achieved an error rate for the measurement period which does not exceed the target error rate by more than one-third of the target error rate.

Example: The target error rate for FY 84 is 3.0 percent. The State's error rate for FY 1984 is 3.8 percent. Since the State's error rate is less than 3.9 percent [3.0% + (⅓ × 3.0%], the State is eligible to apply for a waiver.

We did consider other variations in these criteria, including the one-third error reduction criteria used by Food and Nutritional Services for waiver considerations, before proposing the foregoing. We believe that there should be a uniform basis for judging when a State's request for a waiver following an unsuccessful error reduction effort warrants consideration as well as some recognition that the closer a State's error rate is to the target, the more consideration its request for a waiver should receive. We also recognize that there may be occasions when a State, having achieved the national standard, may experience a small error rate increase taking it above its target.

Consequently, we will consider a State's request for a waiver if its error reduction effort is equal to or greater than the median error reduction rate for all States with reduced error rates in the same measurement period; or, alternatively, we will also consider a waiver request from a State that does not achieve a required error rate reduction but its error rate is at a point where it does not exceed the target error rate by more than one-third of the target error rate. The first criteria compares a State's error reduction results against the midpoint of error reduction achievements in the same period. It is believed to be an equitable measurement in that it treats States on a comparable basis. We believe a one-third over the target "cap" is reasonable in that Michel Amendment set a precedent of a one-third reduction in error rates as an objective, which should also be equally applicable as a tolerance for considering when a State has demonstrated a reasonable effort for purposes of qualifying for a waiver request. We believe the "cap" concept provides the additional flexibility to recognize States that have achieved low error rates but do not meet the national error standard or the median error reduction rate.

States will be expected to meet these new qualifying error reduction criteria in order to apply for a waiver of a disallowance beginning with the FY 1983 error rates under Michel and FY 1984 error rates under TEFRA.

We are particularly interested in receiving comments on these more objective criteria which we intend to implement as a prerequisite to consideration of a good faith waiver request under 45 CFR 205.42(g)(2)(iv) and 205.44(g)(2)(iv) as well as on the various criteria already set forth in these regulations. We have made editorial revisions to factors (A) through (D) to more clearly describe the criteria under each factor. Until we have had an opportunity to evaluate these comments, we are not proposing any further changes in the good faith waiver criteria other than adding factor (E) under §§ 205.42(g)(2)(iv) and 205.44(g)(2)(iv).

g. *Exclusion of Territories*—TEFRA specifically provided that the new requirements contained in § 403(i) of the Social Security Act are inapplicable to Puerto Rico, Guam, and the Virgin Islands. The Territories will, however, continue to be subject to reductions in FFP for erroneous assistance expenditures in fiscal year 1983 and thereafter if they fail to meet the QC national standard of 4 percent established in Section 205.42.

Since section 403(i) and its legislative history are silent as to what Congress intended should apply to Puerto Rico, Guam, and the Virgin Islands with respect to disallowances of FFP in

erroneous assistance expenditures after the QC TEFRA regulations are in effect, we explored a number of options before deciding on retaining the procedures and tolerances in 45 CFR 205.42.

One option we rejected was that no disallowances should be taken. While the statute could possibly be viewed in this way, this option was rejected because there was no clear indication in the Act or legislative history that this is what Congress intended. Given that all other jurisdictions would be subject to disallowances, we believed that Congress would have been more explicit in indicating such a different policy for the Territories.

On the other hand, a better statutory argument can be made that the Secretary continues to have the authority to take disallowances in Puerto Rico, Guam, and the Virgin Islands pursuant to her discretionary authority under section 403(a)(1) of the Act, even though, by statute, TEFRA provisions do not apply to the State plans from these jurisdictions. Thus, in requiring the application of TEFRA QC to the States, section 403(i)(1)(A) begins with "notwithstanding subsection (a)(1)." The effect of this language is twofold. In jurisdictions where TEFRA QC is to be implemented it means that the provisions of section 403(i) supersede those in section 403(a)(1). However, where section 403(i) cannot be implemented, such as the Territories, the implication would seem to be that section 403(a)(1) is applicable since it is not superseded. Accordingly, under this approach, the Secretary, pursuant to her authority under section 403(a)(1) could continue to take disallowances of erroneous assistance expenditures in the Territories.

In exercising her authority under section 403(a)(1), the Secretary could elect to take disallowances in individual payments found to be incorrect in audits and program reviews conducted by SSA, the Departmental Audit Agency, and the General Accounting Office. Since that is the way disallowances were taken under the AFDC program for many years prior to the implementation of an error rate tolerance system, there is legal precedent in support of her doing so for Puerto Rico, Guam, and the Virgin Islands once TEFRA QC is in effect for all other jurisdictions. We rejected this approach because it would require the implementation of an entirely new system for taking disallowances and would not fit very neatly with section 403(j) of the Act, which requires incentive payments be made to Puerto Rico, Virgin Islands, and Guam if their error rates are below 4 percent.

However, there is also legal support, even if not expressly provided for in TEFRA, under section 403(a)(1) for continuing to apply 45 CFR 205.42 as it now exists to Puerto Rico, Guam, and the Virgin Islands. This was the authority first used by the Department in 1975 to establish 3 and 5 percent error rate tolerance levels. While the court in *Maryland* v. *Mathews*, 415 F. Supp. 1206 (1976) struck down these particular tolerance levels as arbitrary, the establishment of tolerance levels themselves was upheld under the law as within the Secretary's authority. Further, the Department subsequently published revised error rate tolerance regulations on March 7, 1979 which were in effect prior to the enactment of the Michel Amendment requirements. These earlier regulations were in concept very similar to the Michel regulations. Accordingly, there is ample precedent under section 403(a)(1) to issue regulations like those at 45 CFR 205.42. Moreover, we do not believe that maintaining a 4 percent tolerance for error rates in the Territories would be inconsistent with section 403(i) which also establishes a 4 percent tolerance for the first year for the States. The major thrust of section 403(i) is to lower the error rate tolerance to 3 percent. The use of 4 percent for the first year was merely an expedient measure to integrate the new provisions with the Michel Amendment regulations during a transitionary period so as not to disrupt the QC process. In light of this, the continuation of the Michel tolerance level in the Territories would not appear to be inconsistent with the spirit of the TEFRA QC provisions.

Finally, as a matter of policy, continuing the existing QC system for taking disallowances in the Territories would seem to be reasonable. The sampling and review methodologies used for calculating disallowances under 45 CFR 205.42 are also used for determining eligibility for incentive payments under section 403(j) of the Act. Quality Control reviews in the Territories will, therefore, continue to be done under the current process for purposes of computing incentives. Moreover, the Territories have had considerable experience in conducting reviews and making determinations under this system. Thus, the continuation of the QC system for error rate tolerance purposes as now in effect would not be administratively disruptive. In light of this, it would seem duplicative and inefficient to create a totally new system for taking disallowances when the present system appears adequate.

The changes discussed here regarding more objective criteria for waiver consideration will also apply to the Territories.

h. *Appeals*—The proposed regulations provide that a State will have 30 days after receipt of the disallowance decision to request a Commissioner's review of such decision.

The current regulations provide a 45-day period for the appeal of a disallowance decision to the Commissioner. The proposed rule conforms to the revisions to Parts 16 and 74 of Title 45 of the Code of Federal Regulations, published in the **Federal Register** on August 31, 1981, substituting new procedures for appeals to the Departmental Grant Appeals Board. This makes the time period for a State's request for the Commissioner's review of a disallowance consistent with the time period allowed for a subsequent appeal to the Departmental Grant Appeals Board.

In this regard, it is important to note the distinction between the Commissioner's decision on a good faith waiver and a disallowance. The Commissioner's decision on a "good faith" waiver request is not appealable under Parts 16 and 74 of Title 45 of the Code of Federal regulations. The Congress has given the Secretary (and, therefore, the Commissioner) discretion to determine whether any waivers should be granted for extraordinary circumstances. Because the granting or not granting of a waiver is a discretionary action on the part of the Commissioner, it is not appealable.

Once a State is formally notified of a disallowance, separate and apart from receiving the Commissioner's decision on its waiver request, the regular appeal procedures are applicable to appealable issues unrelated to the State's good faith claim or the Commissioner's waiver decision.

i. *Incentive Payments*—The proposed regulations terminate the applicability of section 403(j) of the Social Security Act (incentive provisions) to States other than Puerto Rico, Guam, and the Virgin Islands beginning April 1, 1983;

Section 403(j) authorizes increased FFP for States which have low error rates. Regulations are contained in § 205.43. TEFRA requires that the applicability of the incentive payment provisions be limited to Puerto Rico, Guam, and the Virgin Islands, and we have so modified these regulations.

We considered delaying the effective date of the incentive payment change until October 1, 1983, based on the TEFRA language which provides for a change for periods beginning after April

1983, since the period for measuring incentive payments is April 1 to September 30. We rejected this option after a review of the congressional committees' reports which led us to believe that the intent of Congress was to make the change effective on April 1, 1983.

We have made no other substantive changes in the incentive rules. We have made conforming changes to reflect the sampling changes being made in § 205.40.

2. *AFDC and the Adult Assistance Programs*—In addition to the changes required by the new statutory requirements, we are proposing several changes in the QC sample requirements contained in § 205.40. These changes affect both the AFDC and the adult assistance programs.

a. *Annual Sample*—The proposed rules provide that States will conduct monthly sampling during a 12-month sample period. With this change, the length of the sample period will be the same as the assessment period used to determine disallowances under the AFDC program.

Under current rules, State agencies conduct reviews of AFDC and adult assistance cases selected monthly by the State during a 6-month sample period. The weighted results from two 6-month sample periods are combined to determine the State's error rate for the 12-month assessment period under the AFDC program. The data are also used to compute the incentive payments that may be due to States which have error rates below 4 percent.

In these regulations, we propose to change from combining two 6-month sample periods to using one 12-month sample period. Since error rates and fiscal disallowances are to be calculated over a 12-month period and incentive payments will no longer be payable to the State (except to the Territories), we see no overriding reason for continuing the practice of using two 6-month sample periods. Moreover, recent final regulations, amending § 205.40, imposed new requirements for time limits within which monthly sample reviews must be completed and data submitted. We are proposing to amend these requirements to require completion and submittal of all cases on a monthly schedule. Therefore, even if the sample period is changed, we will still have the necessary data to make a 6-month incentive payment determination for the Territories, and States will have error rate data available for corrective action planning.

This annual sample frame permits us to re-evaluate our existing prescribed sample sizes in terms of establishing standard and minimum sample sizes within a Federally acceptable range of reliability. States may increase their sample beyond the standard but they may not reduce their sample below the minimum. For example, a State whose caseload places it in a standard sample size of 1,200 cases in a 6-month period will have a standard sample size of 2,400 cases in an annual period. The State, however, will be permitted where it meets the conditions below, to reduce its standard annual sample size of 2400 cases to the Federally acceptable minimum sample size of 1200 cases annually. The standard and minimum sample sizes dependent on State caseloads, will be specified in the AFDC Quality Control Manual.

We believe that each State shares in the responsibility for operating the QC system in an efficient and effective manner and, therefore, should be allowed flexibility in the management of the system. Consequently, we are providing States the option of reducing their samples as indicated above. States that select this option, however, must agree to accept the reliability of this reduced sample size and provide as part of their sampling plan a statement that they will not challenge the reliability of the error rates based on sample size. States, on the other hand, may select larger samples than the standard if they are not willing to accept the error rate that may result from the Federally prescribed standard State sample size. Normal FFP will be available for the additional State sampling and review cost where a State elects to increase its sample.

b. *Submission of Reporting*—The proposed regulations change the date for submitting corrective action plans from August 15 to February 15 and submitting interim progress reports from February 15 to August 15 of each year.

The current submission dates were based on 6-month sample periods. Corrective action plans under these regulations are related to an annual sample period which ends on September 30 of each year. We have revised the current requirements to allow States 135 days from the end of the sample period to complete their analysis of this period, prepare their corrective action plans, and to mail the plans to SSA. Similarly, the date for submission of the interim progress report was changed so that it will be due 6 months after the corrective action plan is submitted.

In the proposed regulation, we are also clarifying the areas an interim progress report should cover. The progress report is intended to provide an evaluation of corrective action activities identified in the last annual corrective action plan, status of implementation of corrective actions, a discussion of error rate changes, and based on the latest available data, a discussion of any new corrective actions initiated.

c. *Other Changes*—We have deleted references to error analyses and profiles of errors and non-error cases in § 205.40(b)(2)(iv)(A) because we believe States may erroneously interpret these references to mean that error analysis and profiles of error and non-error cases are the only factors we expect to have discussed in a corrective action plan. The corrective action plan requirements continue to be specified in the QC Manual.

Executive Order 12291—These regulations do not meet any of the criteria for a major regulation. Further, although levels of funding through FFP may be reduced, the reduction results from legislation, not from the terms of these regulations. Therefore, a regulatory impact analysis is not required.

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

Regulatory Flexibility Act—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of "small entities" because the rules involve minor changes in State agency procedures. "Small entities" are defined by the Regulatory Flexibility Act to include small businesses, small nonprofit organizations and small governmental entities. These regulations amend the existing federal quality control system as it applies to the States' use of federal funds in administering the AFDC program. A regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required because the Federal government will only be recouping monies that were incorrectly paid by the States.

(Catalog of Federal Domestic Assistance Programs No. 13.808 Public Assistance Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 205

Administrative practice and procedure, Aid to families with dependent children, Family assistance office, Grant programs—social programs, Public assistance programs, Reporting and recordkeeping requirements.

Dated: April 13, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: August 5, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS [AMENDED]

1. The Authority citation for Part 205 reads as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302, unless otherwise noted.

§ 205.40 [Amended]

2. Section 205.40 is amended as follows:

a. Revise paragraph (b)(2)(i) by, removing "6-month sampling" and inserting "sample" in its place and adding the following:

* * * * *

(b) * * *

(2) * * *

(i) * * *

Where a State chooses to reduce its active case sample below the standard sample size but not below the minimum sample size specified in the Quality Control Manual, the State must provide as part of its sampling plan a written statement accepting the reliability of the reduced sample size and agree not to challenge the resulting error rates based on the size of the sample.

* * * * *

b. Revise the introductory text of paragraph (b)(2)(ii) as follows:

* * * * *

(b) * * *

(2) * * *

(ii) Edited review findings for the State agency's disposed of active case and negative case actions. The State shall input these findings into the computer terminal provided by the Federal Government and transmit the data to a designated host computer. For State agencies that do not have a terminal provided by the Federal Government, the State agency shall submit the review findings in a format specified by the Department. The State agency shall dispose of and submit review findings in the following time frames:

* * * * *

c. Revise paragraph (b)(2)(ii)(B) as follows:

* * * * *

(b) * * *

(2) * * *

(B) One hundred percent of the cases selected in the active and negative case samples within ninety-five days of the end of each sample month.

* * * * *

d. Remove paragraph (b)(2)(ii)(C).

e. Add new paragraph (b)(2)(iv) as follows:

* * * * *

(b) * * *

(2) * * *

(iv) Original case record, legible copies of case record, or specified information contained in case records within ten days of the States' receipt of a request for such information.

f. Paragraphs (b)(2) (iv) and (v) are redesignated as (b)(2) (v) and (iv) respectively.

g. Revise redesignated paragraph (b)(2)(v)(A) to read as follows:

* * * * *

(b) * * *

(2) * * *

(v) * * *

(A) Corrective action plans for reducing case error rates for ineligibility, overpayments, underpayments, improper denials and terminations by February 15 of each year.

* * * * *

h. Revise redesignated paragraph (b)(2)(v)(B) to read as follows:

* * * * *

(b) * * *

(2) * * *

(v) * * *

(B) A progress report on the status of implemented corrective actions, an evaluation of their effectiveness and any new initiatives based on current error rate data since the last annual corrective action plan by August 15 of each year.

* * * * *

i. In paragraph (b)(3)(i)(C), last sentence, remove "6-month sampling" and insert "sample" in its place.

j. Revise paragraph (b)(3)(i)(D) to read as follows:

* * * * *

(b) * * *

(3) * * *

(i) * * *

(D) Even if the alternative plan is approved, the agency must submit edited review findings on all cases selected in the sample period within 95 days after the end of the last sample month.

* * * * *

§ 205.42 [Amended]

3. Secton 205.42 is amended as follows:

a. Revise the heading of § 205.42 to read as follows:

§ 205.42 Reduction in Federal financial participation (FFP) for incorrect payments by States for October 1980 through September 1983, and by Puerto Rico, the Virgin Islands and Guam thereafter.

b. In paragraph (a), first sentence, remove "beginning with the October 1980" and insert "from October 1980 through September 1983 for all States and for Puerto Rico, the Virgin Islands and Guam after FY 1983" in its place. In paragraph (a), remove the last sentence and insert "Through September 1983, these rules apply to all States which have AFDC programs and to Puerto Rico, the Virgin Islands and Guam. After September 1983, these rules apply only to Puerto Rico, the Virgin Islands, and Guam."

c. In paragraph (c), second sentence, remove "beginning with the October 1980–September 1981 period" and insert "from October 1980 through September 1983 for all States and for Puerto Rico, the Virgin Islands and Guam after FY 1983" in its place.

d. In paragraph (d)(1)(ii), the last sentence of the paragraph and the last sentence of the example which follows the paragraph, remove "the State" and insert "Puerto Rico, the Virgin Islands and Guam."

e. Paragraph (e) is revised to read as follows:

* * * * *

(e) *Information we will use.* We will use the information provided by the Federal quality control system. This system measures the dollar amount of incorrect payments for each annual assessment period. If a State fails to complete a valid and reliable sample in accord with the prescribed QC procedures, as required by 205.40, for any assessment period, we will assign to the State an error rate based on the best data reasonably available including data obtained from any one or more of the following methods: error rate information for past periods, a partially completed State sample, a Federal subsample of completed States cases, a supplemental Federal sample, a Federal audit or an audit by a third party."

* * * * *

f. In paragraph (g)(1), first sentence, remove " are going" and insert "intend" in its place.

g. In paragraph (f), revise the first sentence to read as follows:

* * * * *

(f) If a State does not meet the national standard or its target error rate for any 12-month annual assessment period, we will reduce our matching funds to the State to those 12 months, unless a State, which qualifies to apply

for a waiver, can show that it made a good faith effort to meet the target rate.

* * * * *

h. In the last sentence in paragraph (f) remove "a 6-month sample" and insert "an annual assessment."

i. Paragraph (g)(1), is revised to read as follows:

* * * * *

(g) * * *

(1) A State which qualifies to apply for a waiver will have 65 days from the date of notification of a disallowance to show that it made a good faith effort to meet the established error rate target or national standard for annual assessment periods prior to fiscal year 1984. A State which qualifies to apply for a waiver will have 30 days after the issuance of the error rates for fiscal year 1984 and 9 months after each fiscal year thereafter to show that it made a good faith effort to meet the national standard. If we find that the State did not meet the national standard despite a good faith effort, we will reduce the funds being disallowed in whole or in part as we find appropriate under the circumstances shown by the State. A finding may be made that a State did not meet the national standard despite a good faith effort under certain limited circumstances. The burden of proof for showing that a good faith effort was made rests entirely with the State.

* * * * *

j. Paragraphs (g)(2) (i) and (ii) are revised as follows:

* * * * *

(g) * * *

(2) * * *

(i) Disasters such as fire, flood or civil disorder, that require the diversion of significant personnel normally assigned to AFDC eligibility administration, or destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations. In order to qualify for a waiver under this criteria, however, a State must notify us within 30 days of the event, the kind and extent of the event and the percent of the workload directly affected;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes. In order to qualify for a waiver under this criteria, however, a State must notify us within 30 days of the event, the kind and extent of the event and the percent of the workload directly affected;

* * * * *

k. Paragraph (g)(2)(iv) is removed

l. Paragraph (g)(2)(v) is redesignated as (g)(2)(iv) and revised as follows:

* * * * *

(g) * * *

(2) * * *

(iv) The State has taken the action needed to meet the national standard, but the national standard was not met, and the State has demonstrated why these actions were not successful in meeting the standard. Request for a waiver under this criteria will not be considered unless a State has demonstrated an error reduction equal or greater than the median error reduction rate for all States with reduced error rates in the same measurement period or has reduced its error rate to a point where the State does not exceed its target error rate by more than one-third of the target rate. If a State has met the error reduction requirement above, we will evaluate requests for a good faith waiver based on the following factors:

(A) Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff and acted upon, accountability for performance, acquisition of necessary resources, implementation of statutory and regulatory provisions intended to reduce errors, e.g., monthly reporting, retrospective budgeting, direct involvement of top management in activities related to error reduction;

(B) Sufficiency and quality of manual and automated systems and the effective use of such systems designed to reduce errors that are operational in the State, e.g., BENDEX, FAMIS, interjurisdictional matches, account number validation, computer matches, local agency case monitoring systems, supervisory reviews, verification procedures;

(C) Use of effective systems and procedures for the statistical and program analysis of QC and related data, e.g., statistical analyses by error element, tests of significance, augmented samples, tabulations and cross-tabulations, geographic breakdown of QC and related data, error prone profiles, special studies; and

(D) Effective planning, management, execution and evaluation of the corrective action process, e.g., corrective action committees, assignment of responsibilities, milestones for competing tasks, monitoring of progress in completing tasks, competion of tasks, implementation of correction actions.

(E) Operation of a quality system in accordance with Federally prescribed policies, procedures, and time limits for sampling, conducting case reviews, and submitting QC data and reports.

m. Paragraph (h) is revised to read as follows:

* * * * *

(h) *Disallowances subject to appeal.* If a State does not agree with our decision to reduce (disallow) FFP, it can appeal to us within 30 days after receipt of our decision. The regular procedures for appeal of a disallowance will apply, including review by the Grant Appeals Board (see 45 CFR Part 16 and 74). This appeal provision, as it applies to AFDC Quality Control disallowances, is not applicable to the Commissioner's decision on a State's "good faith" waiver request.

§ 205.43 [Amended]

4. Section 205.43 is amended as follows:

a. In paragraph (a)(1), revise the last sentence to read as follows:

(a) * * *

(1) * * *

These rules apply to all States which have an AFDC program through March 31, 1983; however, these rules will only apply to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam thereafter.

* * * * *

b. In paragraph (a)(2), last sentence, remove "6 month" and insert "sample" in its place.

c. Amend paragraph (b) *Definitions* by adding a definition for "Sample period" immediately after the definition for "Nonpayment error rate" as follows:

* * * * *

(b) * * *

"Sample period" means the 6-month periods, October–March and April–September.

* * * * *

d. Remove the second and third sentences in paragraph (c).

e. In paragraph (d)(1), last sentence, remove "for every 6-month period" and insert a period after "denials."

f. In paragraphs, (d)(2)(i), (d)(2)(ii)(A), (d)(2)(ii)(B), (d)(2)(iii), and both places in the Example following paragraph (d)(2)(iii), remove "6-month" and insert "sample" in its place.

* * * * *

5. A new § 205.44 is added to read as follows:

§ 205.44 Reduction in Federal financial participation (FFP) for incorrect payments by States after September 1983.

(a) *Purpose and applicability.* This section provides the rules we will use beginning with October 1983 to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP)

we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs, except the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

(b) *Definitions.* For the purposes of this section—

"Annual assessment period" means the 12-month period October 1–September 30.

"Incorrect assistance payments" means payments to people who are ineligible for a payment and overpayments to eligible people.

"National standard" means a 3 percent payment error rate for fiscal year 1984 and any fiscal year thereafter.

"Payment error rate" means the dollar amount of incorrect assistance payments a State has made expressed as a percentage of the State's total assistance payments.

"We," "us" or "our" means the Department of Health and Human Services or the Social Security Administration.

(c) *General.* In these rules we are establishing national standards for incorrect payments in the AFDC program. This standard will be used to measure performance of the States in each annual assessment period beginning with the October 1983–September 1984 period.

(d) *How we will measure a State's performance.* We will use the information provided by the Federal/State quality control system.

(1) This system measures the dollar amount of incorrect payments in each annual assessment period by reviewing a statistically valid sample of cases selected during each month of the assessment period. The sampling results are then projected to the universe of all cases.

(2) If a State fails to timely complete a valid and reliable sample in accordance with the prescribed QC procedures, as required by § 205.40, for any period, we will assign to the State an error rate based on the best data reasonably available including data obtained from any one or more of the following methods: error rate information for past sample periods, a partially completed State sample, a Federal subsample of completed State cases, a supplemental Federal sample, a Federal audit, and an audit conducted through a contractual agreement with a third party.

(e) *Cost of determining a State's error rate.* In any case where it is necessary for us to determine a State's error rate for a fiscal year because the State fails to cooperate with us by not providing the information required of the State in accordance with § 205.40 of these rules, the amount that would otherwise be payable to the State for that fiscal year shall be reduced by the cost incurred (directly or otherwise) by us in making the determination. The amount payable to the State will generally be reduced no later than the second quarter following the quarter in which we establish the final costs for determining the State's error rate.

(f) *If a State fails to meet the established error rate.* If a State does not meet the national standard for any assessment period, we will reduce our matching funds to the State for that period, unless a State which qualifies to apply for a waiver can show that it made a good faith effort to meet the national standard. If a State uses the regular Federal percentage in § 403(a)(1) of the Act for FFP and has an average monthly payment per recipient of more than $32 in an assessment period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Example—In fiscal year 1984, the national standard under TEFRA is 3 percent. The State's payment error rate for the assessment period, October 1, 1983 through September 30, 1984, was 4.4 percent. Because the 4.4 percent error rate exceeds the national TEFRA standard by 1.4 percentage points, we will reduce our Federal matching funds by 1.4 percent of the Federal share of the dollars the State paid for assistance under its AFDC program during that year.

(g) *When we will reduce a disallowance because a State has made a good faith effort.* (1) A State which qualifies to apply for a waiver will have 30 days after the issuance of the error rates for fiscal year 1984 and 9 months after each fiscal year thereafter to show that it made a good faith effort to meet the national standard. If we find that the State did not meet the national standard despite a good faith effort, we will reduce the funds being disallowed in whole or in part as we find appropriate under the circumstances shown by the State. A finding may be made that a State did not meet the national standard despite a good faith effort under certain limited circumstances. The burden of proof for showing that a good faith effort was made rests entirely with the State.

(2) Some examples of the limited circumstances under which we may find that a State did not meet the national standard despite a good faith effort are—

(i) Disasters such as fire, flood or civil disorders, that require the diversion of significant personnel normally assigned to AFDC eligibility administration, or destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations. In order to qualify for a waiver under this criteria, however, a State must notify us within 30 days of the event, the kind and extent of the event and the percent of the workload directly affected;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes. In order to qualify for a waiver under this criteria, however, a State must notify us within 30 days of the event, the kind and extent of the event and the percent of the workload directly affected;

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulations, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for any consecutive 6 months in a sample period;

(iv) The State has taken the action needed to meet the national standard, but the national standard was not met, and the State has demonstrated why these actions were not successful in meeting the standard. Request for a waiver under this criteria will not be considered unless a State has demonstrated an error reduction equal to or greater than the median error reduction rate for all States with reduced error rates in the same measurement period or had reduced its error rate to a point where the State does not exceed its target error rate by more than one-third of the target rate. If a State has met the error reduction requirement above, we will evaluate requests for a good faith waiver based on the following factors.

(A) Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff and acted upon, accountability for performance, acquisition of necessary resources, implementation of statutory and regulatory provisions intended to reduce errors, e.g., monthly reporting, retrospective budgeting, direct involvement of top management in activities related to error reduction;

(B) Sufficiency and quality of manual and automated systems and the effective use of such systems designed to reduce errors that are operational in the State, e.g., BENDEX, FAMIS, interjurisdictional matches, account number validation, computer matches, local agency case monitoring systems,

supervisory reviews, verification procedures;

(C) Use of effective systems and procedures for the statistical and program analysis of QC and related data, e.g., statistical analyses by error element, tests of significance, augmented samples, tabulations and cross-tabulations, geographic breakdown of QC and related data, error prone profiles, special studies; and

(D) Effective planning, management, execution and evaluation of the corrective action process, e.g., corrective action committees, assignment of responsibilities, milestones for completing tasks, monitoring of progress in completing tasks, completion of tasks, implementation of corrective actions.

(E) Operation of a quality control system in accordance with federally prescribed policies, procedures, and time limits for sampling, conducting case reviews, and submitting QC data and reports.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a State failed to meet the national standard despite a good faith effort.

(h) *Disallowances subject to appeal.* If a State does not agree with our decision to reduce (disallow) FFP, it can appeal to us within 30 days after receipt of our decision. The regular procedures for appeal of a disallowance will apply, including review by the Grant Appeals Board (see 45 CFR Parts 16 and 74). This appeal provision, as it applies to AFDC Quality Control disallowances, is not applicable to the Commissioner's decision on a State's "good faith" waiver request.

[FR Doc. 84-12483 Filed 5-9-84; 8:45 am]
BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-231]

Increasing the Availability of FM Broadcast Assignments; Correction and Clarification

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction and clarification.

SUMMARY: This notice (1) corrects certain site restrictions listed in the *Notice of Proposed Rule Making* in this proceeding; (2) lists the proposals affected by the "Quiet Zone;" (3) corrects the channel listing for one of the communities; (4) clarifies the *Roanoke Rapids-Anamosa* showing used to demonstrate first or second aural service and (5) announces the availability of coordinates for all proposed communities.

DATE: Comments are due on or before May 14, 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.

Correction of Notice of Proposed Rule Making Proposing Additional FM Channel Assignments (MM Docket No. 84-231)

April 27, 1984.

1. On March 1, 1984, the Commission adopted a *Notice of Proposed Rule Making* in MM Docket 84-231, 49 FR 11214 published March 26, 1984. The *Notice* included a list of 684 communities for which new FM Channels were proposed. Some of the proposed channel assignments could be accomplished only with the imposition of a site restriction and that restriction was noted by each channel so affected. Due to a computer programming error the bearing on many of the site restrictions was reversed. Attached is the list which correctly identifies the site restriction.

2. We also failed to indicate that certain proposed allotments fall within the protected areas of the National Radio Astronomy Observatory and the Naval Radio Research Observatory ("Quiet Zone"). Applicants for these channels will be required to comply with section 73.1030 of our rules. This rule requires applicants to coordinate their proposed sites and E.R.P. With the Observatories so as to avoid harmful interference to the facilities. The communities affected by the Quiet Zone are listed in the attached Appendix as follows:

Virginia

Bridgewater
Broadway
Charlottesville
Churchville
Mount Jackson

West Virginia

Fisher
White Sulphur Springs

3. In reviewing the list of proposed assignments, we have discovered one channel that was incorrectly listed. The following community and channel should read:

City	Correct channel
Bremen, Indiana	239A

4. We have received numerous inquiries into what constitutes a *Roanoke Rapids-Anamosa* showing. See footnote 9, page 6 of the *Notice.* This showing is designed to document first or second aural *reception* service by plotting the 1 mV/m contours of nearby FM stations, the 0.5 mV/m contour of nearby AM stations during the day and the skywave interference free contour of the AM stations at night. The areas which are not predicted to be covered by at least one station would be considered as receiving a first aural service. Areas covered by only one predicted signal would receive a second aural service.

5. Finally we have had many requests for the actual coordinates we have used in determining the availability of a channel at a particular community. The coordinates are now available from International Transcription Services, Room 246 of the Commission's headquarters, 1919 M St., N.W., Washington, D.C., (202) 296-7322.

William J. Tricarico,

Secretary, Federal Communications Commission.

Appendix

The following list of communities includes the channels presently assigned and those which are now proposing for assignment. Where a site restriction is necessary in order for the particular channel to conform to the distance separation requirements, we have indicated that information in parenthesis. The site restrictions are expressed in miles and with the bearings. In addition we have indicated the instances where a particular assignment will need the concurrence of Canada or Mexico (to be requested by the Commission). Also, where the Quiet Zone is indicated, it will be necessary for an applicant to coordinate with the National Radio Astronomy Observatory. See § 73.1030(a) of the Commission's Rules for details. The particular channel listed for many of the communities does not represent the only channel that can be assigned. Where applicable we have selected the channel with the smallest site restriction or the highest class available.

City	Channel No.		Concurrence required
	Present	Proposed	
Alabama:			
Alabaster		247A	
Anniston	263	250A and 263	
Bay Minette	288A	288A and 293A (1.6 S.)	
Brundige		234A (3.7 NW.)	
Cordova		225A	
Dothan	238 and 259	238, 259, and 273A (1.2 N.)	
Elba		268A	
Eutaw		275A (4.2 S.)	
Florence	297	241A (3.2 E) and 297	
Fort Rucker		226A (0.1 NW.)	
Linden		287A (0.9 E.)	
Mobile	225, 235, 241, 248, and 260	225, 235, 241, 248, 260, and 290A	
Montgomery	222, 255, 270, and 277	222, 241A (3.1 S.), 255, 270, and 277	
Selma	261A, 265A and 224A	226A (3.9 W.), 261A, and 265A	
Talladega		224A and 248A	
Tallassee		247A (4.4 NW.)	
Vernon		293A	
Winfield		290A (4.1 E.)	
Alaska:			
Anchorage	247, 251, 255, 263, 267, 271, *276A, 281, 287, 293 and 298	225, 247, 251, 255, 263, 267, 271, *276A, 281, 287, 293, and 298.	
Bethel	261A	261A and 300A	
Arizona:			
Buckeye		295A	Mexico.
Chinle		297A	
Flagstaff	225, 230, and 248	225, 230, 248, and 291A	
Globe	262	247A (1.1 N.), and 262	Mexico.
Kearny		291A	Mexico.
Oraibi		267A	
Phoenix	233, 238, 245, 254, 260, 268, and 273	233, 238, 245, 254, 260, 268, 273, and 290A (0.9 SE.)	Mexico.
San Carlos		280A	Mexico.
Sierra Vista	265A	265A, and 269A (0.6 E)	Mexico.
Tuba City		252A	
Tucson	225, 229, 235, 241, 258, and 298	225, 229, 235, 241, 258, 271A (3.2 NE.), and 298	Mexico.
Window Rock		264A	
Yuma	226, 236, and 265A	226, 236, 250A, and 265A	Mexico.
Arkansas:			
Beebe		268A (3.8 W.)	
Cabot		273A	
Clarendon		295A	
Dermott		289A (3.1 S.)	
El Dorado	240A, 257A, and 276A	227A (3.8 W.), 240A, 257A and 276A	
England		243A (0.04 NW.)	
Eudora		268A	
Glenwood		284A	
Hamburg		230A	
Hardy		284A (2.8 E.)	
Helena	276A	233A, and 276A	
Horseshoe Bend		291A	
Little Rock	231, 239, 253, and 279	231, 239, 253, 279, and 294A	
Malvern		290A	
Marianna		297A (4.5 W.)	
Marked Tree		229A	
North Crossett		274A (3.3 NW.)	
Pine Bluff	222, 235, and 257A	222, 235, 257A, and 267A	
Texarkana	296A	259A, and 296A	
Trumann		294A	
California:			
Atwater		223A (4.5 SE.)	
Avenal		291A	
Bakersfield	221A, 231, 243, 268, 296A, and 300	221A, 231, 243, 261A, 268, 296A, and 300	
China Lake		278A	
Chowchilla		227A	
Colusa		243A (0.8 N.)	
Crescent North		249	
East Hemet		(267A (0.4 E.)	Mexico.
East Porterville		265A (2.1 SE.)	
Earlimart		263A	
Firebaugh		276A (4.5 W.)	
Ford City		270A	
George		264A	Mexico.
Gonzales		287A (2.6 SW.)	
Hanford	279 and 298	233A (4.5 SE.), 279 and 298	Mexico.
Independence		292A	
Kingsburg		292A (e.9 W.)	
Lake Isabella		283A	
Lenwood		287A	Mexico.
Lindsay		277A	
Madera	221A	221A and 234A (1 E.)	
McFarland		275A	
Mendota		272A (4.7 NE.)	
Merced	248 and 268	248, 268, and 299A (0.3 S.)	
Modesto	272A, 277, and 281	230A, 272A, 277, and 281	
Orange Cover		261A (4 NW.)	
Orland		294A	
Oxnard	252A and 284	252A, 271A (1.3 S.) and 284	Mexico.
Rio Dell		299A	
Rohnerville		294A	
Sacramento	233, 241, 245, 253, 263, 286, 293, and 300	233, 241, 245, 253, 263, 278A, 286, 293, and 300	
Salinas	264, 273 and 280A	250A (2.7 SE.), 264, 273 and 280A	
San Jacinto		280A	Mexico.

City	Channel No.		Concurrence required
	Present	Proposed	
San Luis Obispo	227, 241, 251	227, 241, 251, and 279A	
Santa Barbara	229, 248, 260, and 277	229, 248, 260, 277, and 299B1 (5.4 NW.)	
Santa Rosa	261A and 269A	229A, 261A, and 269A	
Searles Valley		296A	
Soledad		292A	
South Oroville		285A (2.3 W.)	
Visalia	225 and 246	225, 241A (4.5 SE.), and 246	
Winton		254A	
Colorado:			
Brush	296A	292A and 296A	
La Junta	221A	221A and 295A	
Las Animas		297A	
Pueblo	245, 255, 260, 264, 296A, and 300	245, 255, 260, 264, 283C1 (10 SE.), 296A, and 300	
Connecticut:			
Coventry		299A (0.9 SW.)	
New London	265A	2254A and 265A	
Pawcatuck		293A	
Stafford Springs		259A	
Delaware:			
Lewes		290A	
Milford	249A	249A and 267A (4.9 SW.)	
Florida:			
Century Village		286A	
Chattahoochee		227A (2.5 SW.)	
Chiefland		223A	
Daytona Beach	233 and 270	233, 270 and 277A	
Edgewater		226A (0.7 NE.)	
Englewood		282C2 (12.4 SW.)	
Fort Myers	237A, 245 and 270	229A (3.1 W.), 237A, 245 and 270	
Gifford		259A	
Graceville		271A (3.3 E.)	
Key West	223, 228A, 254, 258 and 296A	223, 228A, 254, 258, 296A and 300A	
Marianna	265A	265A and 286A	
Monticello		270A	
Orlando	222, 243, 262 and 286	222, 243 and 255A (2.3 N.), 262 and 286	
Pensacola	231, 264, 268 and 297	231, 264, 268, 291A and 297	
Quincy	269A and 285A	269A, 274A and 285A	
Tallahassee	235,240A, 255, 276A and 281	235, 240A, 255, and 276A, 281 and 298CI (20 E.)	
Watertown		289A (0.9 NW.)	
Georgia:			
Albany	242, 269A and 283	242, 269A, 279A and 283	
Arco		290A	
Ashburn		289A	
Bainbridge	247	247 and 290A	
Calhoun		300A (3.4 NW.)	
Cuthbert		264A	
Douglasville		273A (2.8 S.)	
Eatonton		264A (2.5 SW.)	
Fort Valley	292A	248A (0.9 NE.) 292A	
Hogansville		248A (1.1 S.)	
Lafayette		239A (0.2 S.)	
Lakeland		299A	
Lyons		223A (4.6 SW.)	
Macon	256, 287 and 300	256, 279A, 287 and 300	
Milledgeville	272A	222A and 272A	
Millen		275A	
Montezuma		223A	
Royston		279A	
Statesboro	261A	261A and 266A (3.6 NE.)	
Sylvester		271A	
Valdosta	225, 240A, 244A, and 266	225, 240A, 244A, 266, and 290A (1 NE.)	
Hawaii:			
Honolulu	226, 230, 234, 238, 248, 253, 258, and 262	226, 230, 234, 238, 248, 253, 258, 262, and 290	
Idaho:			
American Falls		281A	
Buhl		248A	
Gooding		253A	
Illinois:			
Bushnell		271A	
Carlyle		284A	
Carterville		236A (1.9 W.)	
Casey		286A	
Champaign	233 and 248	233, 248, and 290A	
Coal City		264A	
Decatur	236, 257A, and 275	226A (2.3 SE.), 236, 257A, and 275	
Dwight		255A	
Fairbury		239A	
Farmington		239A (3.6 NE.)	
Galena		298A (2.7 N.)	
Galva		273A	
Hamilton		282A	
Henry		247A	
Hillsboro		260A (0.7 NW.)	
Kankakee	224A and 260	224A, 236A (2.0 E.), and 260	
Lewiston		274A	
Marseilles		273A	
Marshall		281A (4.4 W.)	
Mason City		231A (0.2 N.)	
McLeansboro		283A	
Nashville		295A	
Newton		290A	
Nokor i's		287A	

City	Channel No.		Concurrence required
	Present	Proposed	
Oglesby		291A	
Oregon		263A (0.8 N.)	
Peoria	227, 289, and 295	227, 250A, 289, and 295	
Pinckneyville		282A (1.1 E.)	
Polo		299A	
Spring Valley		271A	
Villa Grove		223A	
Indiana:			
Anderson	250	230 and 250	Canada.
Attica		239A	
Austin		287A (2.9 S.)	
Berne		287A	Canada
Bicknell		289A (4.4 SW.)	
Bloomfield		266A (1.5 SE.)	
Bremen		239A	Canada.
Clinton		230A	
Corydon		243A (1.0 NE.)	
Delphi		275A	
Dunkirk		248A	Canada.
Evansville	281 and 287	281, 287, and 291B1 (5.4 S.)	
Fort Branch		268A (4.3 E.)	
Fort Wayne	236, 247, 269A, and 280A	236, 242B1 (8 W.), 247, 269A, and 280A	Canada.
Garrett		278A (0.3 E.)	Canada.
Grissom		279A	Canada.
Hanover		282A	
Indianapolis	226, 234, 238, 277, 283, 289, and 300	226, 234, 238, 242A, 277, 283, 289, and 300	
Mitchell		273A	
Mount Vernon		298A	
Nappanee		245A	Canada.
Noblesville		254B1 (2.0 NE.)	Canada.
South Bend	225, 268, 276A, and 280A	225, 268, 276A, 280A, and 292A (4.4 NW.)	Canada.
Iowa:			
Anamosa		234A	
Audubon		290A	
Belle Plaine		239A	
Cresco		238A	
Des Moines	227, 235, 247, 262, and 273	227, 235, 247, 262, 273, and 298C2 (2.7 E.)	
Eagle Grove		297A (3.2 SE.)	
Eldora		258A (0.7 SW.)	
Grinnell		294A (3 N.)	
Hawarden		270A (3.4 N.)	
Jefferson		255A (0.5 NW.)	
New Hampton		236A (0.9 NE.)	
Orange City		295A (3.9 NE.)	
Rock Rapids		230A	
Sac City		286A	
Sibley		262A	
West Union		258A (4.4 W.)	
Winterset		239A	
Kansas:			
Augusta		263A (1.5 N.)	
Fredonia		281A	
Galena		236A	
Girard		266A (0.6 SW.)	
Herington		241A (1.0 N.)	
Holton		267A (0.2 NE.)	
Kansas City	231 and 251	222A (2.5 SW.), 231, and 251	
Kingman		232A	
Medicine Lodge		240A	
North Fort Riley		273C2 (5.6 W.)	
Plainville		235A	
Topeka	247, 262, 295, and 299	223A (4.5 E.), 247, 262, 295, and 299	
Winfield	232A	232A and 254A	
Kentucky:			
Beaver Dam		274A	
Berea		300A	
Buffalo		256A	
Burkesville		253A	
Cave City		294A (2.1 NE.)	
Cumberland		247A	
Eminence		242A (0.2 N.)	
Harlan		286A	
Hawesville		289A	
Irvine		291A	
Lancaster		286A	
Lawrenceburg		273A	
Lexington	225, 233, and 251		
Lexington-Fayette		225, 233, 251, and 283A	
Louisa		222A	
Louisville	248, 259, 272A, 276A, 280A, and 295	248, 259, 263C2 (8.3 W.), 272A, 276A, 280A, and 295	
Marion		274A	
Mt. Vernon		259A	
Radcliff		278A	
Salyersville		275A	
Shelbyville		289A	
Shepherdsville		286A (1.6 NE.)	
Vancleve		287A (4.5 S.)	
Whitley City		291A (2.5 NE.)	
Williamsburg		274A (0.3 NW.)	
Louisiana:			
Alexandria	226, 245, and 262	226, 245, 262, and 287A	
Arcadia		223A (3.6 SW.)	

City	Channel No.		Concurrence required
	Present	Proposed	
Bastrop	232A and 261A	232A, 261A, and 277A	
Berwick		229A (2.7 S.)	
Bunkie		282A (1.3 NE.)	
Buras Triumph		233A	
Crowley	275	271A (4.4 S.) and 275	
DeQuincy		267A (1.1 NW.)	
Homer		260A (0.4 NW.)	
Jonesville		286A	
Lafayette	223, and 260	233,260, and 290A (2.7 E.)	
Lake Arthur		397A	
Lake Charles	241, 258, and 279	241, 258, 279, and 287C2 (14.6 SW.)	
Larose		262A	
Mansfield	224A	224A and 247A	
Monroe	270, 281, and 291	270, 281, 287A, and 291	
New Iberia	256	225A (3.1 SW.) and 256	
North Fort Polk		250A	
Opelousas	296A	238A and 296A	
Rayne		294A (4.7 W.)	
Reserve		235A (0.5 SE.)	
Ruston	298	239A and 298	
Shreveport	229, 233, 243, 261A, and 266	229, 233, 243, 261A, 266, 275C2 (13.5 E.)	
South Fort Polk		294A	
Vivian		239A	
Washington		284A (3.5 N.)	
Welsh		229A (4.7 N.)	
Maine:			
Dexter		297A	Canada.
Fairfield		232A (4.4 N.)	Canada.
Kittery		287A	Canada.
Madison		248A (3.1 N.)	Canada.
Mexico		264A (4.1 NW.)	Canada.
Pittsfield		271A (2.0 W.)	Canada.
Topsham		238A (3.8 S.)	Canada.
Van Buren		251A (0.1 SW.)	Canada.
Winslow		237A	Canada.
Maryland:			
Crisfield		245A	
Pocomoke City	273	273 and 293A	
Salisbury	232A and 288A	232A, 255A, and 288A	
Westerport		224A	
Massachusetts			
Athol		260A	Canada.
Great Barrington		251A (1.6 W.)	Canada.
Newburyport		271A (3.8 NE.)	Canada.
Orange		247A (4.1 NW.)	Canada.
South Yarmouth		280A	
Springfield	226, 234, and 271	226, 234, 250A, and 271	
Turners Falls		230A	Canada.
Michigan:			
Benton Harbor	260	235A (3.8 SE.) and 260	Canada.
Bessemer		223A	Canada.
Buchanan		256A (2.9 E.)	Canada.
Gladstone		272A	Canada.
Grand Rapids	229, 239, 245, 250, 267, 275, 281, and 289	229, 239, 245, 250, 255A (1.4 E.), 267, 275, 281, and 289	Canada.
Hartford		279A (4.5 W.)	Canada.
K. I. Sawyer		248A	Canada.
Kalamazoo	271, 293, and 299	223A, 271,293, and 299	Canada.
Kingsford		255A	Canada.
Laurium		235A	Canada.
Muskegon	283 and 295	283,295, and 300A	Canada.
Negaunee		256A	Canada.
Portage		243A	Canada.
Saginaw	251, 191A, and 296A	251, 283A, 292A, and 296A	Canada.
Vassar		247A (1.1 NE.)	Canada.
Wurtsmith		237A	Canada.
Minnesota:			
Babbitt		294A (3.2 NE.)	Canada.
Caledonia		234A	
Chisholm		263A (0.2N.)	Canada.
Granite Falls		234A	
Hoyt Lakes		267A	Canada.
Jackson		289A	
La Crescent		274A	
Lakeville		289A (4.1 N.)	
Le Sueur		241A (4.5 NW.)	
Mora		237A (0.3NE.)	Canada.
New Prague		238A (4.8 SW.)	
Silver Bay		265A	Canada.
Sleepy Eye		287A (2.7 S.)	
Spring Valley		286A	
Springfield		297A (0.5 E.)	
Staples		234A	Canada.
Stewartville		235A	
Tracy		286A	
Two Harbors		282A	Canada.
Wells		239A	
Mississippi:			
Bay St. Louis		233A (3.7 N.)	
Belzoni	296A	225A and 296A	
Clarksdale	296A and 292A	243A 269A, and 292A	
Cleveland	224A and 280A	224A, 230A, and 280A	
Columbus	276A and 280A	235C2 (1.0 SE.), 276A, and 280A	

City	Channel No.		Concurrence required
	Present	Proposed	
Durant		282A	
Greenville	250 and 264	250, 264, and 284C2 (10.4 N.)	
Greenwood	256	256 and 273A	
Hollandale		279A (1.4 SE.)	
Holly Springs	224A	224A and 235A	
Indianola	288A	277A 288A	
Laurel	262 and 272A	251A (4.8 SW.), 262, and 272A	
Lexington	292A	271A and 292A	
Lucedale		295A	
Macon		263A	
Marks		225A	
Meridian	246 and 267	236A, 246, and 267	
Monticello		271A (1.4 W.)	
Natchez	236	236 and 247A (0.4 NE.)	
Okolona		294A	
Rosedale		226A (2.0 E.)	
Senatobia	237A	237A and 294A	
Shaw		245A	
State College		282A	
Vicksburg	254 and 294	254, 266A (0.6 E.), and 294	
Water Valley		258A (2.8 E.)	
Wiggins		250A	
Yazoo City	221A	221A and 229A (4.6 W.)	
Missouri:			
Ava		258A	
Bonne Terre		282A	
Cameron		223A	
Chaffee		284A	
Charleston		291A (0.6 NE.)	
Cuba		291A(1.4 N.)	
East Prairie		287A	
Fayette		223A	
Hermann		267A	
Ironton	224A	224A and 269A (0.2 E.)	
Lamar		258A (4.9 E.)	
Macon		260A	
Marceline		222A	
Mt. Vernon		294A	
Perryville		294A (0.1 E.)	
Piedmont	285A	248A (0.5 E.) and 285A	
Slater		261A (2.1 NW.)	
Southwest City		263A	
St. James		258A (0.7 SW.)	
Warrenton		260A (2.1 SE.)	
Washington		263A (5.0 SE.)	
Montana:			
Columbia Falls		240A	Canada.
Conrad		229A	Canada.
West Yellowstone		243A	
Nebraska:			
Gering		262A	
Gothenburg		264A	
Omaha	222, 231, 241, 253, 260, 264, and 283	222, 231, 236A, 241, 253, 260, 264, and 283	
Plattsmouth		289A	
Valentine	241	225A and 241	
West Point		300A (0.3 NE.)	
Nevada:			
Hawthorne		229A	
New Hampshire:			
Farmington		293A (2.3 SW.)	Canada.
Lebanon		230A	Canada.
Somersworth		254A (0.2 SW.)	Canada.
New Jersey:			
Altantic City	236, 240A, 245, and 279	236, 240A, 245, 279, and 297B1 (3.2 S.)	
Beachwood		253A (3.9 W.)	
North Cape May		230A (3.9 SW.)	
Villas		254A	
Wildwood Crest		222A (2.0 E.)	
Woodbine		225A	
New Mexico:			
Alamogordo	232A and 288A	232A, 240A, and 288A	Mexico.
Albuquerque	222, 227, 231, 242, 258, 262, 277, and 300	222, 227, 231, 242, 258, 262, 267A (4.4 SW.), 277, and 300	
Carlsbad	221A and 281	221A, 258A, and 281	Mexico.
Clovis	256, 260, and 298	256, 260, 268A, and 298	
Farmington	225, 245, and 271	225, 239A, 245, and 271	
Gallup	229, 233, and 256	229, 233, 241A, and 256	
Grants	237A	237A and 250A	
Las Vegas	265A	265A and 271A	
Roswell	235, 246, and 263	229A, 235, 246, and 263	Mexico.
Santa Fe	238, 247, 281, 286, and 290	238, 247, 270A (1.6 W.), 281, 286, and 290	
Silver City	224A	224A and 233A	Mexico.
Taos	269A	233A and 269A	
White Rock		268A (1.1. NE.)	
New York:			
Arlington		241A	
Avon		227A (3.6 N.)	Canada.
Bonnville		236A	Canada.
Canajoharie		232A	Canada.
Canisteo		270A	Canada.
Catskill		286A	Canada.
Center Moriches		241A (2.6 N.)	
Clyde		229A	Canada.

City	Channel No.		Concurrence required
	Present	Proposed	
Dannemora		278A	Canada.
Dansville		230A (1.0 SW.)	Canada.
Delhi		262A	Canada.
Dolgeville		234A (1.5 NE.)	Canada.
Fort Edward		236A	Canada.
Fort Plain		266A (0.3 N.)	Canada.
Fredonia		243A (4.5 SW.)	Canada.
Granville		294A (0.04 NE.)	Canada.
Homer		241A	Canada.
Hoosick Falls		248A (5.0 SE.)	Canada.
Mechanicville		267A (1.4 NE.)	Canada.
New Paltz		247A (4.7 SW.)	Canada.
Palmyra		259A	Canada.
Phoenix		271A (0.8 SE.)	Canada.
Plattsburgh	260	260, 294A (3.2 E.)	Canada.
Poughkeepsie	221A, 268, and 284	221A, 268, 284, and 297A (4.2 W.)	Canada.
Ravena		242A	Canada.
Rochester	223, 243, 250, 255, 263, 267, and 280A	223, 243, 250, 255, 263, 267, 274A (3.0 NE.), and 280A	Canada.
Sandy Creek		294A (0.2 E)	Canada.
Syracuse	226, 233, 265A, 275, and 300	226, 233, 265A, 275, 290A (1.6 W.), and 300	Canada.
Utica	245, 254, 282, and 297	245, 254, 263A, 282, and 297	Canada.
Warrensburg		230A (3.7 NE.)	Canada.
Waterloo		253A (3.2 SE.)	Canada.
Whitehall		243A	Canada.
North Carolina:			
Camp LeJeune		266A (2.7 SE.)	
Elizabethtown		289A	
Fairbluff		299A (0.7 NE.)	
Jacksonville	221A and 288A	221A, 254A, and 288A	
Louisburg		273A	
Marshall		282A	
Murphy		282A	
New Bern	270 and 293	231A, 270 and 293	
Raleigh	234, 241, and 268	234, 241, 268, and 275A (2.6 E.)	
Rocky Mount	221A and 264	221A, 253A (3.2 S.), and 264	
Rose Hill		284A	
St. Pauls		295A (5.0 E.)	
Warrenton		297A (4.6 N.)	
Wilmington	247, 260, 265A, and 274	247, 260, 265A, 274, and 287A	
Windsor	249A	249A and 255A	
North Dakota:			
Beulah		250A	Canada.
Langdon		239A	Canada.
Ohio:			
Ada		226A	Canada.
Barnesville		271A (0.8 SW.)	Canada.
Coal Grove		246A	
Columbus	222, 234, 242, 246, 250, 259, and 285A	222, 234, 242, 246, 250, 255A, 259, and 285A	Canada.
Crestline		254A (0.3 SW.)	Canada.
Crooksville		297A	Canada.
Delaware		300A	Canada.
Delta		297A (2.8 N.)	Canada.
Edgewood		273A (1.5 S.)	Canada.
Gibsonburg		241A (2.0 W.)	Canada.
Greenfield		248A	Canada.
Hicksville		294A	Canada.
Lima	249A, 271, and 285A	249A, 271, 285A, and 298A (2.4 SE.)	Canada.
Loudonville		299A	Canada.
Loveland		247A (0.3 NE.)	Canada.
Mansfield	287 and 291	239A (1.9 S.), 287, and 291	Canada.
Marysville		289A	Canada.
Montpelier		263A (3.5 S.)	Canada.
North Baltimore		300A (4.9 SW.)	Canada.
Nelsonville		299A	Canada.
Oak harbor		247A	Canada.
Paulding		259A	Canada.
Ripley		258A	
Shadyside		239A	Canada.
St. Marys		277A	Canada.
Swanton		293A	Canada.
Troy		245A (2.9 SW.)	Canada.
Uhrichsville		260A (3.9 NW.)	Canada.
Union City		248A (0.1 E.)	Canada.
Wauseon		245A	Canada.
Willard		245A (4.7 S.)	Canada.
Woodsfield		226A	Canada.
Oklahoma:			
Antlers		262A	Canada.
Bixby		287A	Canada.
Commerce		259A	Canada.
Cordell	257A	229A and 257A	Canada.
Fairview		288A	Canada.
Heavener		223A	Canada.
Holdenville		286A (4.3 SW.)	Canada.
Hollis		249A	Canada.
Lawton	237A, 251, and 268	237A, 251, 268, and 297C2 (6.8 SE.)	Canada.
Lindsay		286A	Canada.
Sayre		227A	Canada.
Tishomingo		289A	Canada.
Wagoner		271A	Canada.
Walters		229A	Canada.
Wilburton		279A	Canada.

City	Channel No.		Concurrence required
	Present	Proposed	
Oregon:			
Altamont		300C1	Canada.
Milton-Freewater		250A	Canada.
Myrtle Point		231A	Canada.
Nyssa		254A	Canada.
Oakridge		221A (1.2 SE.)	Canada.
Reedsport		221A	Canada.
Seaside		234A	Canada.
Sutherlin		266A	Canada.
Pennsylvania:			
Barnesboro		278A (2. N.)	Canada.
Berwick		278A (2.1 NW.)	Canada.
Brockway		263A	Canada.
Curwensville		223A	Canada.
Edinboro		250A (4.8 NW.)	Canada.
Erie	260, 272A, 279, and 292A	235A, 260, 272A, 279, and 292A	Canada.
Everett		298A (2.8 N.)	Canada.
Johnsonburg		277A (3.1 SE.)	Canada.
Lewisburg		242A	Canada.
Lykens		263A	Canada.
Masontown		295A (4.6 SW.)	Canada.
McConnellsburg		279A	Canada.
Mexico		223A	Canada.
Meyersdale		227A	Canada.
Millersburg		255A (3.7 N.)	Canada.
Mount Carmel		259A (2. N.)	Canada.
Mount Union		258A	Canada.
Northumberland		297A (1.5 NE.)	Canada.
Oliver		235A (1.8 E.)	Canada.
Patton		230A (3.4 NW.)	Canada.
Philipsburg		290A (4.5 N.)	Canada.
Port Allegany		2235A	Canada.
Portage		289A	Canada.
Renovo		226A	Canada.
Reynoldsville		293A	Canada.
Scranton	267, 285, and 296A	258A (2.1 NW.), 267, 285A, and 296A	Canada.
Shenandoah	288A	288A and 300A, (2.3 NW.)	Canada.
Spangler		226A	Canada.
Sugar Creek		298A (1.9 N.)	Canada.
Rhode Island:			
Wakefield-Peacedale		274A (4.3 W.)	
South Carolina:			
Bishopville		229A (0.5 SE.)	
Charleston	236, 245, and 278	236, 245, 264A (3.3 NE.), and 278	
Clinton		277A (4.5 N.)	
Conway	281	229A (2.4 S.) and 281	
Georgetown	249A and 292A	231A, 249A, and 292A	
Hemingway		271A (4.3 E.)	
Kershaw		291A (2.9 E.)	
Kingstree	252A	252A and 286A (4.5 SE.)	
Loris		290A	
Marion	232A	232A and 263A	
New Ellenton		274A (3.8 NE.)	
Orangeburg	280A and 294	275A (0.9 W.), 280A, and 294	
St. Matthews		230A (0.7 SE.)	
Sumter	267	234A and 267	
Walterboro	265A	265A and 287A (2 S.)	
Williston		234A	
South Dakota:			
Canton		273A	
Chamberlain		252A	
Lead		222A	
Mission		264A	
Pine Ridge		243A	
Redfield	279	256A, and 279	
Tennessee:			
Celina		229A	
Englewood		287A	
Jackson	267A and 281	268A, 276A, and 281	
Jellico		294A	
Knoxville	248, 278, and 299	248, 278, 283A (1.1 S.), and 299	
Loudon		256A (2.4 NE.)	
Mountain City		264A	
Parsons		247A (4.2 SE.)	
Ripley	237A	231A (4.5 NE.) and 237A	
Rockwood		230A	
Rogersville		290A	
Selmer	288A	230A, 288A	
Spring City		281A (4.6 SW.)	
Tazewell		231A	
Wartburg		254A	
Texas:			
Abilene	257A, 264, 286, and 300	223C2 (5.1 SW.), 257A, 264, 286, and 300	
Beaumont	231, 236, 248, and 300	231, 236, 248, 273C2 (6.9 W.), and 300	
Beeville	285A	223A and 285A	Mexico.
Bowie		264A	
Bryan	252A and 285A	241C2 (12 NE.), 252A, and 285A	
Cameron	276A	276A and 282A (1.0 NE.)	
Carrizo Springs	228A	221A and 228A	Mexico.
Clarksville		222A	
Corpus Christi	230, 238, 243, 256, and 260	230, 234A (4.9 N.), 238, 243, 256, and 260	Mexico.
Daingerfield		282A	

City	Channel No.		Concurrence required
	Present	Proposed	
Del Rio	232A and 242	232A, 242, and 255A	Mexico.
Eagle Pass	224A	224A and 229A (2.1 N.)	Mexico.
Edna		269A	
Electra		245A	
Elgin		291A (4.2 N.)	
Friona		238A	
Hamlin	279	246A and 279	
Hemphill		222A	
Hondo		290A (3.2 S.)	Mexico.
Jacksboro		229A	
Jefferson		295A	
Killeen	227 and 288A	227, 288A, and 297A (0.2 NE.)	
Laredo	224A, 235, and 251	224A, 235, 251, and 266A	Mexico.
Longview	289	247A and 289	
Midland	222, 227, 277, and 294	222, 227, 277, 290A, and 294	Mexico.
Morton		251A	
Odessa	245, 250, and 256	245, 250, 256, and 300C1 (17.4 S.)	Mexico.
Palacios		264A (1.5 E.)	Mexico.
Pearsall	237A	231A and 237A	Mexico.
Pecos	252A	229A and 252A	Mexico.
Plainview	247 and 280A	247, 280A, and 289A	
Port Isabel		266A	Mexico.
Post		290A	
Raymondville	269A	269A and 289A (1.5 NE.)	Mexico.
Rockdale		255A	
San Angelo	225, 230, 234, 248, 254, and 298	225, 230, 234, 248, 254, 270C1, and 298	Mexico.
San Augustine		260A	
San Diego		290A	Mexico.
Tahoka		253A (1. SW.)	
Trinity		264A	
Tyler	221A, 226, and 268	221A, 226, 268, and 297C2 (9. S.)	
Uvalde	272A and 285A	223A, 272A, and 285A	Mexico.
Victoria	236, 254, and 300	236, 254, 291A, and 300	Mexico.
Wichita Falls	225, 260, 277, and 292A	225, 236A, 260, 277, and 292A	
Winters	240A	240A and 260A	Mexico.
Utah:			
Delta		252A	
Nephi		223A	
Roosevelt		228A	
Virginia:			
Bedford		290A (1.8 SE.)	
Bridgewater		290A	Quiet Zone.
Broadway		243A	Quiet Zone.
Charlottesville	224A, 237A, and 248	224A, 237A, 241A, and 248	Quiet Zone.
Chase City		260A	
Chesapeake-Portsmouth-Virginia Beach	235	235 and 271A (1.1 SW.)	
Churchville		295A	Quiet Zone.
Clincho		259A	
Emporia		250A (4.8 E.)	
Exmore	298	291A and 298	
Gloucester Point		256A (0.6 W.)	
Lawrenceville	288A	255A and 288A	
Lynchburg	252A, 261A, and 269A	227A (3.9 NE.), 252A, 261A, and 269A	
Mount Jackson		229A	Quiet Zone.
Narrows		267A (3.2 NE.)	
Petersburg	237A and 257A	237A, 257A, and 262A (4. E.)	
Richmond	233, 251, 271, 279, and 293	233, 251, 266A, 271, 279, and 293	
Roanoke	222, 235, and 256	222, 235, 256, and 273A (1.4 W.)	
Saltville		291A (3 SW.)	
South Boston	248	248 and 294A (1.6 NE.)	
West Point		300A	
Washington:			
Camas		234A (4.8 N.)	Canada.
Dayton		223A	Canada.
Medical Lake		233A	Canada.
Yakima	233, 252A, 257A, 281, and 297	233, 252A, 257A, 281, 289A (3.2 NW.), and 297	Canada.
West Virginia:			
Bridgeport		289A	
Charleston	241, 248, 260, 265A, and 274	223A, (1.7 NW.), 241, 248, 260, 265A, and 274	
Fisher		298A	Quiet Zone.
Mannington		274A	Canada.
Matewan		293A	
Mount Gay-Shamrock		234A (4 NW.)	
Point Pleasant		258A	Canada.
Salem		238A	Canada.
White Sulphur Springs		263A	Quiet Zone.
Wisconsin:			
Algoma		243A	Canada.
Auburndale		260A	
Black River Falls		259A	
Bloomer		291A (3. SW.)	
Boscobel		267A	
Brillion		242A	
Columbus		263A (3.6 NW.)	
Evansville		290A (4 SE.)	
Mayville		259A (2.1 NE.)	
Oconomowoc		283A (3.9 SW.)	
Oconto Falls		280A (5. E.)	Canada.
Peshtigo		241A (0.6 E.)	Canada.
Plymouth		282A	
Wyoming:			
Kemmerer		297A	

City	Channel No.		Concurrence required
	Present	Proposed	
Puerto Rico:			
Naguabo		247A	

[FR Doc. 84-12330 Filed 5-9-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS-79; Notice 1]

Transportation of Hazardous Liquids by Pipeline; Qualification of Welders

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: MTB proposes to incorporate by reference Section IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), 1977 Edition, for welder qualification into Part 195 in addition to the presently required API Standard 1104 (API 1104). Allowing the use of the ASME Code to qualify welders will bring the requirements for hazardous liquid pipelines into line with 49 CFR Part 192, the Federal safety standards for gas pipelines.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by (July 9, 1984), although late filed comments will be considered as far as is practicable. Interested persons should submit as a part of their written comments all material that is considered relevant to any statement of fact or argument made.

ADDRESS: Comments should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and identify the docket and notice numbers. All comments and other docket material are available in Room 8426 for inspection and copying between the hours of 8:30 a.m. and 5:00 p.m. each working day.

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

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1983, Mr. T. M. Stratton of the ARCO Oil and Gas Company, Aurora, Colorado, petitioned for a rule change to § 195.222, "Welders: Testing," to allow the testing of welders under Section IX of the ASME Code as an alternative to Section 3 of API 1104. The ARCO letter petition also withdrew an October 1982 request for waiver (Docket No. 82-9W) to the same effect. The petition for rule change was based on the fact that Part 192 for gas pipelines allows the qualification of welders under the ASME Code as well as under API 1104. Also, the petitioner argued that Part 195 should allow the use of the same provisions for welder testing that apply under ANSI/ASME B31.4, the industry standard for petroleum piping systems. The current (1977) edition of ANSI/ASME B31.4 allows welder testing under the ASME Code as well as under API 1104. Third, the petitioner stated that a precedent was established in the Louisiana Offshore Oil Port (LOOP) Project in1979. In that project, much of the welding of the platform piping was performed in a contractor's yard in Louisiana and the fabricated sections moved to the offshore LOOP platform. LOOP advised MTB by letter that yard and shop fabricators normally use the ASME Code and also stated that Coast Guard regulations for deepwater ports require compliance with ANSI/ASME B31.4 for main oil transfer piping on the pumping platform.

Present Requirements

Section 195.222 now limits welder qualification by the following:

§ 195.222 Welders: Testing

Each welder must be qualified in accordance with Section 3 of API Standard 1104, except that a welder qualified under an earlier edition of API 1104 previously listed in § 195.3 may weld but may not requalify under that earlier edition.

Section 192.227 contains the applicable welder qualification requirements for gas pipelines. Paragraph (a) reads as follows:

(a) Except as provided in paragraph (c) of this section, each welder must be qualified in accordance with section IX of the ASME Boiler and Pressure Vessel Code or section 3 of API Standard 1104. However, a welder qualified under an earlier edition previously listed in Appendix A may weld but may not requalify under that earlier edition.

The requirements for gas pipelines have been in effect since issuance of the DOT regulations in 1970 and have posed no problem, either in compliance, enforcement, or the appropriate use of either standard. Accordingly, MTB agrees with the petitioner that the ASME Code should be similarly allowed for welder qualification under Part 195.

Intrastate Pipelines

Part 195 now applies to interstate pipelines. In Docket PS-80 (49 FR 11226, March 26, 1984), MTB proposed to extend Part 195 to those "intrastate pipeline facilities," as defined in Section 202 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001), that transport petroleum, petroleum products, or anhydrous ammonia. If Part 195 becomes applicable to those intrastate pipelines, MTB proposes that the proposed amendments to §§ 195.3 and 195.222 set forth below also be adopted for those pipelines.

Classification

These proposed regulations are considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. The proposal merely updates Part 195 on welder qualification to be consistent with Part 192 and with the industry code.

Since the impact of this proposal is expected to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 195

Pipeline safety, Welder testing, Ammonia, Petroleum.

Proposal

PART 195—[AMENDED]

On the basis of the foregoing, it is proposed that 49 CFR Part 195 be amended by:

1. Revising § 195.222 to read as follows:

§ 195.222 Welders: Testing.

Each welder must be qualified in accordance with Section 3 of API Standard 1104 or Section IX of the ASME Boiler and Pressure Vessel Code, except that a welder qualified under an earlier edition than listed in § 195.3 may weld but may not requalify under that earlier edition.

2. Revising § 195.3(c)(2) to read:

§ 195.3 Matter incorporated by reference.

* * * * *

(c) * * *

(2) American Society of Mechanical Engineers:

(i) ASME Boiler and Pressure Vessel Code, Section VIII, "Pressure Vessels Division 1" (1977).

(ii) ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications" (1977).

* * * * *

(49 U.S.C. 2002; 49 CFR 1.53; Appendix A of Part 1, and Appendix A of Part 106).

Issued in Washington, D.C., on May 4, 1984.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 84-12893 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 49, No. 92
Thursday, May 10, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Skagit Wild and Scenic River, Mt. Baker-Snoqualmie National Forest, Skagit and Snohomish Counties, Washington; Analysis and Management Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of availability and implementation of final river analysis and management plan.

SUMMARY: The Skagit River was designated as a component of the National Wild and Scenic River System by Pub. L. 95-625, November 10, 1978. The Forest Service hereby gives notice of the availability for public inspection of the final Skagit River Management Analysis and Management Plan.

EFFECTIVE DATE: The Management Plan for Skagit River becomes effective August 8, 1984.

ADDRESSES: The River Management Analysis and Management Plan, along with boundary descriptions and maps, are available for public inspection and review at the following addresses:

Chief, Forest Service, USDA, Room 4225, South Agriculture Building, 12th and Independence Avenue, S.W. Washington, D.C. 20250

Regional Forester, Pacific Northwest Region, Forest Service, USDA, 319 Southwest Pine Street, Portland, OR 97208

Forest Supervisor, Mt. Baker, Snoqualmie National Forest, 1022 First Avenue, Seattle, WA 98006

District Ranger, Mt. Baker Ranger District, Sedro Woolley, WA 98284

District Ranger, Darrington Ranger District, Darrington, WA 98241

FOR FURTHER INFORMATION CONTACT: Thomas P. Lennon, Recreation Management Staff, Forest Service, P.O. Box 2417, Washington, D.C. 20013, Area Code 202, 447-2311.

Dated: May 3, 1984.

R. Max Peterson,

Chief.

[FR Doc. 84-12728 Filed 5-9-84; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Millersburg Recreation Areas Critical Area Treatment RC&D Measure, Michigan; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Millersburg Recreation Areas RC&D Measure, Presque Isle County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for land drainage and critical area treatment. The planned works of improvement for land drainage include: Subsurface tile drains and enlargement of an open ditch for the tile outlet. Works of improvement for the critical area treatment include; critical area planting, land shaping, waterway diversion, rock chute, and topsoil. Total construction cost is estimated to be $27,700; $18,000 RC&D funds and $9,700 local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: April 19, 1984.

Homer R. Hilner,

State Conservationist.

[FR Doc. 84-12594 Filed 5-9-84; 8:45 am]

BILLING CODE 3410-16-M

Peru Agricultural Land Drainage RC&D Measure, New York; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Peru Agricultural Land Drainage RC&D Measure, Clinton County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist,

Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation of an environmental impact statement is not needed for this project.

The measure concerns a plan for drainage of wet soils on 205 acres of agricultural land in Peru, New York. The planned works of improvement include the modification and construction of 2,065 feet of channel, the construction of 3,200 feet of grassed waterway, the installation of 8,740 feet of subsurface drains, and the installation of a precast drop structure. The planned works of improvement will result in increased yields, better quality forage, and increased net returns, while at the same time, decreasing inefficient farm equipment operation and providing reduced road maintenance due to frost heaving and thawing, and periodic flooding.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 30, 1984.

Paul A. Dodd,

State Conservationist.

[FR Doc. 84–12596 Filed 5–9–84; 8:45 am]

BILLING CODE 3410–16–M

Tomahawk Flooding Area Critical Area Treatment RC&D Measure, Michigan; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tomahawk Flooding Area RC&D Measure, Presque Isle County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for critical area treatment. The planned works of improvement include the following items: Critical area planting, walkways and fencing. Total construction cost is estimated to be $103,000; $61,000 RC&D cost and $42,000 Michigan Department of Natural Resources cost.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable.)

Dated: April 19, 1984.

Homer R. Hilner,

State Conservationist.

[FR Doc. 84–12593 Filed 5–9–84; 8:45 am]

BILLING CODE 3410–16–M

Tyronza River Watershed, Arkansas; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Tyronza River Watershed, Mississippi and Poinsett Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Jack C. Davis, State Conservationist, Soil Conservation Service, 2405 Federal Office Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201, telephone 501–378–5445.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Jack C. Davis, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection, flood prevention, and drainage. Alternatives under consideration to reach these objectives include systems for conservation land treatment, structural measures, and nonstructural measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. As a part of preparing

this impact statement, scoping notices will be mailed in participating in the planning and evaluation process. These scoping notices will provide a means for identifying issues to be addressed and for determining the degree of significance of these issues. Interested agencies and individuals who do not receive a copy of the scoping notice by May 21, 1984, should request a copy from the above address as soon as possible to insure that their comments are considered. The Soil Conservation Service invites the participation and consultation of everyone interested in the scoping and preparation of the draft impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. The State of Arkansas' procedure for State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: April 30, 1984.

Jack C. Davis,

State Conservationist.

[FR Doc. 84-12595 Filed 5-9-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: October 1984 School Enrollment Supplement
Form Numbers: Agency—CPS-1; OMB—0607-0369
Type of Request: New Collection
Burden: 58,000 respondents; 8,120 reporting hours
Needs and Uses: This supplemental inquiry will be conducted in conjunction with the October 1984 Current Population Survey (CPS). The supplement will provide basic data on school enrollment for individuals 5 years and over who are enrolled in elementary school, high school, college, and special schools as well as for persons 3 or 4 years of age enrolled in nursery schools and kindergarten. These data are combined with current labor force activity data to provide insight into the problems faced by the Nation's youth who participate in the labor force.
Affected Public: Individuals or households
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written coments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: May 4, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84-12701 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Monthly Retail Inventory Reports
Form Numbers: Agency—B-175, OMB—0607-0078
Type of Requests: Revision of a currently approved collection
Burden: 2,500 respondents; 3,000 reporting hours
Needs and Uses: The monthly retail inventory survey provides estimated dollar volume end-of-month inventories of retail stores. Changes in the value of the inventory levels are used by the Bureau of Economic Analysis in their calculations of gross national product. Other government agencies and businesses also use these estimates in formulating economic decisions.
Affected Public: Business or other for profit institutions/small businesses or organizations
Frequency: Monthly
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written coments and recommendations for the proposed information collection should be sent to the repective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: May 4, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84-12702 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application..

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the detemination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before may 30, 1984.

ADDRESS: 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 this application as "Export Trade Certificate of Review, application number 84-00018."

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 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 101596-10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and

methods of operation specified in the certificate and carried out during its effective period incompliance 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 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 meet 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).

Request for Public Comments

The office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevent to the Secretay's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an export Trade Certificate of Review:

Applicant: ALCO World Trade, Inc., 8181 NW 36th Street, Suite No. 4, Miami, Florida 33166
Application No.: 84–00018
Date received: April 25, 1984
Date deemed submitted: April 27, 1984
Members in addition to applicant: None
Controlling entity: Alco Standard Corporation of Valley Forge, Pennsylvania

A. Export Markets and Export Trade

Alco World Trade, Inc. expects to export the following foodservice products worldwide: baking and dough equipment; cleaning, sanitation and warewashing equipment; kitchen utensils; cooking and warming equipment; cookware, tableware, kitchenware and kitchen tools; custom fabricated equipment for kitchen interiors; fire extinguishing systems; fish and lobster tanks; food preparation equipment; serving equipment and food containers; storage and handling equipment; including refrigeration and dispensing; vending machines; ventilating systems, including industrial and kitchen fans; cash registers; counting systems; dough retarders; doughnut machines; bakery supplies; proof boxes; glass washing equipment, commercial and household; waste compactors and garbage disposers; sinks.

In connection with its Export Trade, Alco World Trade, Inc. may provide the following Export Trade Services: consulting, international market research and development, advertising, marketing, product research and design exclusively for export, transportation, trade documentation and freight forwarding, communication, processing foreign orders, foreign exchange, taking title to goods, buying and selling for export, and appointing distributors or sales representatives in the Export Markets.

B. Export Trade Activities and Methods of Operation

1. Acting as a broker or representative in export-related capacities for U.S. manufacturers and distributors in foreign markets. Negotiating export agreements with U.S. manufacturers and distributors and foreign buyers.

2. Entering into agreements with U.S. manufacturers and distributors wherein Alco World Trade, Inc. agrees to serve as the exclusive sales representative and may agree not to represent any competitors of such U.S. manufacturer or distributor unless authorized by same; or, wherein U.S. manufacturers and distributors agree not to sell, directly or indirectly through any other intermediary, into the Export Markets in which Alco World Trade, Inc. exclusively represents the U.S. manufacturer or distributor, and, if such sales do occur, to pay a commission to Alco World Trade, Inc.

3. Entering into nonexclusive agreements appointing sales representatives or distributors in the Export Markets.

4. Entering into exclusive agreements with persons in the Export Markets wherein Alco World Trade, Inc. agrees to deal in the Export Markets only through that person; or wherein that person agrees not to represent competitors of Alco World Trade, Inc. in the Export Markets or not to buy from said competitors.

5. Establishing and entering into export-related agreements setting such prices, quantities, and terms or conditions of sale or financing, including tying the sale of goods or services to other goods or services also of U.S. origin.

6. Entering into export-related agreements allocating foreign markets, territories or customers among U.S. manufacturers and distributors.

7. Entering into export-related agreements to refuse to deal with foreign buyers in competition with Alco World Trade, Inc. in the Export Markets.

8. Entering into exclusive or nonexclusive agreements with an individual buyer in the Export Markets to act as a procuring agent with respect to a particular transaction.

9. Coordinating with and for U.S. manufacturers or distributors export-related joint or cooperative bidding, trade promotion activities, and supplying goods and services whether on a continuing, infrequent or one time only basis.

10. Buying, taking title, selling, trading and exporting whether on a continuing, infrequent or one time only basis. Engage in any trading, including countertrading and bartering, as may be necessary and proper to further the Export Trade Activities of Alco World Trade, Inc.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the

Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued. Information submitted by any person in connection with this application will be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Dated: May 7, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84-12674 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DR-M

[C-201-018]

Galvanized Carbon Steel Sheet From Australia; Preliminary Negative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determined that certain benefits that constitute subsidies within the meaning of the countervailing duty law are not being provided to manufacturers, producers, or exporters in Australia of galvanized carbon steel sheet, as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is *de minimis*, and therefore our preliminary countervailing duty determination is negative.

If this investigation proceeds normally, we will make our final determination by July 17, 1984.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Melissa Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3530.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

For purposes of this investigation, the Export Expansion Grants and the Export Market Development Grants are preliminarily found to confer subsidies to the producers of galvanized carbon steel sheet. The estimated net subsidy is 0.48 percent *ad valorem*. The *ad valorem* subsidy is *de minimis*. Therefore, we preliminarily determine that there is no reason to believe or suspect that certain benefits constituting subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Australia of galvanized carbon steel sheet, as described in the "Scope of Investigation" section of this notice.

Case History

On February 10, 1984, we received a petition in proper form from the United States Steel Corporation (U.S. Steel), Pittsburgh, Pennsylvania, on behalf of the galvanized carbon steel sheet industry. In compliance with the filing requirements of section 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Australia of galvanized carbon steel sheet receive, directly or indirectly, benefits that constitute subsidies within the meaning of section 701 of the Act. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 8, 1984, we initiated a countervailing duty investigation (49 FR 8657). We stated that we expected to issue a preliminary determination by May 7, 1984.

Because Australia is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On March 26, 1984, the ITC determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the government of Australia on March 9, 1984. On April 16, 1984, we received responses to the questionnaires.

Scope of Investigation

The product covered by this investigation is galvanized carbon steel sheet. The term "galvanized carbon steel sheet" covers hot- or- cold-rolled carbon steel sheet which has been coated or painted with zinc, including any material which has been painted or otherwise covered after having been coated or painted with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320, or 608.1330 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Hot or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc or with a zinc-aluminum or aluminum-zinc alloy is not included.

There is one known producer/exporter, and one known export agent of galvanized carbon steel sheet. The period for which we are measuring subsidization is fiscal year 1983 (June 1, 1982 to May 31, 1983).

Analysis of Programs

Based upon analysis to date of the petition and responses to our questionnaires, we have preliminarily determined the following:

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Australia of galvanized carbon steel sheet under the programs discussed below.

A. *Export Expansion Grants (EEG).* The Export Expansion Grants Act 1978 established a scheme to provide for the payment of grants based on increases in exports achieved by a claimant in a grant year over the claimant's average of exports in the immediately preceding three years. The Export Development Grants Board has administered the provisions of the EEG Act 1978 since late 1978. The EEG scheme lapsed on June 30, 1983.

The responses state that the producer and the export agent received these grants. However, only the export agent was approved for a grant during fiscal year 1983. Because such grants are contingent upon export performance, we preliminarily determine that grants provided under this program confer benefits that constitute export subsidies.

In accordance with our practice of allocating very small grant amounts (less than 0.5 percent of the value of exports or total sales, as appropriate) entirely to the year of receipt, we allocated the amount of the grant received in the year for which we are measuring subsidization over total exports for that year. All grants received before the period for which we are measuring subsidization were less than 0.5 percent of the value of exports in the year of receipt. Therefore, we did not allocate these grants over time. On this basis, we calculated a subsidy of 0.42 percent *ad valorem*.

B. *Export Market Development Grants (EMDG).* The Export Market Development Grants Act 1974, as amended by the Export Market Development Grants Amendment Act 1978, established a system for the payment of cash grants to encourage Australian exporters and prospective exporters to seek out and develop overseas markets for goods, services, industrial property rights and know-how substantially of Australian origin. The amount of these grants is based on

certain promotional expenditures incurred by claimants. The Export Development Board is responsible for administering this scheme.

The responses state that the producer and the export agent were approved for these grants and received grants during fiscal year 1983. Because the purpose of these grants is to encourage the development and expansion of Australian exports, we preliminarily determine that grants provided under this program confer benefits that constitute export subsidies. Because these grants are based on promotional expenditures and these expenditures are related to specific markets, we can identify the portion of the grants attributable to the U.S. In accordance with our practice of allocating very small grant amounts (less than 0.5 percent of the value of exports or total sales, as appropriate) entirely to the year of receipt, we allocated the amount of the grants received in the year for which we are measuring subsidization over total exports to the U.S. for that year. All grants received before the period for which we are measuring subsidization were less than 0.5 percent of the value of exports in the year of receipt. Therefore, we did not allocate these grants over time. On this basis, we calculated a subsidy of 0.06 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine that the Australian federal government and the state governments are not providing subsidies to manufacturers, producers, or exporters of galvanized carbon steel sheet under the following programs:

A. *Preferential Loans.* Petitioner alleges that the Australian Industry Development Corporation (AIDC), an instrument of the Australian government, grants loans at preferential interest rates. The responses state that the AIDC, established by an Act of Parliament in 1970 to promote the development of Australian industry and Australian participation therein, provides financing for the following purposes: Resources and energy development; manufacturing and construction; food processing; processing of farm, forestry and fishing products; facilities for the transport of goods; significant developments in wholesale and retail distribution of goods; development and application of new technology; and industries or activities connected with any of the above.

The responses state that the producer of galvanized carbon steel sheet received loans from the AIDC. However, evidence on the record indicates that this program is not limited, by law or by application, to a specific industry, group of industries, or to companies in specific regions. Therefore, we preliminarily determine that loans granted by the AIDC are not countervailable.

B. *Preferential Taxation Schemes.* Petitioner alleges that the producers/exporters of galvanized carbon steel sheet benefit from preferential taxation schemes in the form of investment allowances for capital expenditures. These allowances are income tax deductions calculated by reference to expenditures on eligible plant and equipment. The Income Tax Assessment Act, Subdivision B—Investment Allowance, states that these allowances are available for " * * * a unit of eligible poperty acquired or constructed by the taxpayer that is—(a) in the case of any taxpayer, for use by the taxpayer wholly and exclusively: (i) In Australia; and (ii) for the purpose of producing assessable income * * *." Eligible property is defined as plant or articles within the meaning of section 54 and includes earth tanks constructed for the purpose of conserving water for use in carrying on a business of primary production.

The responses state that the galvanized carbon steel sheet producer has taken tax deductions under this program. Because these deductions are available to all taxpayers, and we have no evidence on the record that this program is limited to a specific industry, group of industries, or to companies in specific regions, we preliminarily determine that this program is not countervailable.

C. *Industrial Research and Development Grants.* The responses state that the purpose of these grants is to encourage the development and application in Australia of new products and processes through increased industrial research and development expenditures. This program is open to all businesses engaged in the manufacturing, mining, on-site building or construction industries. These grants provide a partial reimbursement of industrial research and development expenditures.

The responses state that the producer of galvanized carbon steel sheet received grants under this program. Because the record indicates that these grants are not limited to a specific industry, group of industries, or to companies in specific regions, we preliminarily determine that this program is not countervailable.

D. *Commonwealth Rebate for Apprentice Full-Time Training (CRAFT).* CRAFT is a financial support scheme to provide rebates to employers who release their apprentices to attend, or to study by correspondence, the education component of an approved basic trade course. Rebates are also available to employers who release their apprentices to undertake an approved course of off-the-job training. This program applies to training undertaken in Australia, and is available for employers operating in Australia and apprentices residing in Australia.

The responses state that the producer of galvanized carbon steel sheet received rebates under this program. Because we have no evidence on the record that this program is limited to a specific industry, group of industries, or to companies in specific regions, we preliminarily determine that this program is not countervailable.

E. *New South Wales Youth Employment Tax Rebate Scheme.* The New South Wales Youth Employment Tax Rebate Scheme (Scheme) provices for employers to receive a full rebate of the payroll tax paid on wages paid to young people during their first year of full-time employment. All employers are automatically covered under the Scheme without the need for prior application.

The responses state that the producer of galvanized carbon steel sheet received rebates under this program. Becasue we have no evidence on the record that this program is limited to a specific industry, group of industries, or to companies in specific regions, we preliminarily determine that this program is not countervailable.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs listed in the notice of "Initiation of Countervailing Duty Investigation" are not used by manufacturers, producers, or exporters of galvanized carbon steel sheet:

A. *Grants Provided Under the Steel Industry Plan.* On August 11, 1983, the government of Australia announced its Steel Industry Plan which included the Bounty (Steel Mill Products) Act 1983. This program is administered by the Department of Industry and Commerce. The amount of payment a company receives is based on a sliding scale dependent on the national annual industry hot-rolled feed usage.

This program did not go into effect until January 1984. The responses state that no payments were made for the period January 1 to March 31, 1984 to galvanized carbon steel sheet producers. Accordingly, we preliminarily determine this program was not used by the producer of galvanized carbon steel

sheet during the period for which we are measuring subsidization.

B. *Victoria Decentralization Program.* The Decentralized Industry Incentive Payments Act 1972 provides for incentive payments to decentralized industries. The Economic Development Act 1981 amends the previous act. Decentralized industries are defined as any person who carriers on a manufacturing or processing industry at a place or places: (a) Beyond a radius of 80 kilometers from Melbourne; or (b) within a radius of 8 kilometers from the principal post offices at Bacchus Marsh, Broadford, Gisborne, Kilmore, Kyneton or Woodend—that apply for declaration as a decentralized establishment.

The responses state that the producer of galvanized carbon steel sheet is disqualified from assistance under this program because of its plant location. Therefore, we preliminarily determine that this program was not used by the galvanized carbon steel sheet producer.

C. *Victoria Economic Development Corporation.* Petitioner alleged that the Victorian Economic Development Corporation provides loans conferring a subsidy to country industries. The Victorian Economic Development Corporation Act 1981 defines the term country industry as a manufacturing or processing industry carried on at an establishment: (a) Beyond a radius of 80 kilometers from Melbourne; or (b) within a radius of 8 kilometers from the principal post offices at Bacchus Marsh, Broadford, Gisborne, Kilmore, Kyneton or Woodend; or (c) which is a special establishment under the Decentralized Industry Incentive Payments Act 1972.

The responses state that the producer of galvanized carbon steel sheet has not received any loans from this corporation. Therefore, we preliminarily determine that this program was not used by the galvanized carbon steel sheet producer.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

ITC Notification

In accordance with section 703(f) 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 investigation. 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.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry if our final determination is affirmative, within 45 days of such a determination.

Public Comment

In accordance with § 355.35 of our regulations, if requested, we will hold a public hearing to afford interested parties an opportuntiy to comment on this preliminary determination at 1:00 p.m. on May 25, 1984, at the United States Department of Commerce, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 5 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary for Import Administration by May 18, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: May 7, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-12680 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DS-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held May 31, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue, NW., Washington D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to telecommunications equipment or technology.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217. For further information contact Mrs. Margaret A. Cornejo 202-377-2583.

Dated: May 4, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-12681 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Dr. James R. Gilbert; Permit No. 335; Modification No. 3

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 335 issued to Dr. James R. Gilbert, University of Maine at Orono, Orono, Maine 04469 on May 13, 1981 (46 FR 27514), as modified on February 5, 1982 (47 FR 6317) and April 27, 1983 (48 FR 19923) is furhter modified as follows:

Section A-1 is changed to read:

"Two hundred (200) harbor seals (*Phoca vitulina concolor*) may be restrained, drugged, sampled, and tagged with flipper tags and epoxy-attached vinyl tags. Of these, thirty (30) harbor seals may be instrumented with epoxy-attached radio tags, provided that these animals are post-weaning."

This modification becomes effective on May 2, 1984.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930-3799.

Dated: May 2, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-12661 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act. 5 U.S.C. App. (1982), notice is hereby given of subcommittee meetings of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for marine fisheries resources and on means to facilitate cooperation between public and private interests in these matters.

DATES: The meetings will convene on June 4, 1984, from 8:00 a.m. to 5:30 p.m. and on June 5, 1984, from 8:00 a.m. to 11:15 a.m.

ADDRESS: The meetings will be held at the Capitol Holiday Inn, 550 C Street, SW., Washington, D.C.

Meeting agenda. On June 4, 1984, the Budget and Strategic Planning Subcommittee will meet from 8:00 a.m. to 9:30 a.m. to discuss the FY 84–86 budgets for NMFS; DOC objectives; and NMFS objectives. The Marine Recreational Fishing Subcommittee will meet from 9:45 a.m. to 11:30 a.m. to discuss fisheries statistics; status of Marine Recreational Fishing Licensing and Enhancement Act of 1984, D–J expansion, and striped bass proposed legislation: artificial reef guidelines; and recreational fisheries development. The Habitat Conservation Subcommittee will meet from 12:45 p.m. to 2:30 p.m. to discuss the habitat conservation policy implementation report; Winchester Dam small hydro project; NOAA/Corps of Engineers partnership for habitat rehabilitation; and mitigation-banking survey and update. The State/Federal/Regional Councils Subcommittee will meet from 2:45 p.m. to 4:15 p.m. to discuss interjurisdictional fisheries management implementation and strategies; fishery management plan update; and plan jurisdiction. The Public Relations Subcommittee will meet from 4:30 p.m. to 5:30 p.m. to discuss subcommittee organization and operational guidelines.

On June 5, 1984, the Commercial Fishing Subcommittee will meet from 8:00 a.m. to 9:45 a.m. to discuss fishery management plans: when they work and when they do not work; and promoting economic stability and growth of the fishing industry. The Consumer Affairs Subcommittee will meet from 10:00 a.m. to 11:15 a.m. to discuss quality inspection; nutritional value per dollar for protein content; status of current Saltonstall-Kennedy solicitation proposals; and a review of NMFS consumer education/domestic marketing activities.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, D.C. 20235, telephone: (202) 634–9563.

Dated: May 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84-12660 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-22-M

Randall S. Wells; Receipt of Modification Request to Permit No. 417

Notice is hereby given that Mr. Randall S. Wells, Dolphin Biology Research Associates, Inc., 163 Siesta Drive, Sarasota, Florida 33581, has requested a modification of Permit No. 417 issued on May 10, 1983 (48 FR 22181), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Permit No. 417 authorizes the capture, sampling, marking, tagging, and release of up to 105 Atlantic bottlenose dolphins (*Tursiops truncatus*) over a period of two years for the purpose of scientific research.

The Permit Holder is requesting to modify Permit No. 417 as follows:

To attach a contact hydrophone to the dolphins' melon with a suction cup while the animals are being held in the raft for measurements or sampling in order to monitor the calls of the individual dolphins.

To radio tag five dolphins of the 105 dolphins authorized under the permit.

To examine skin abnormalities in dolphins and obtain skin biopsies and photographs of diseased areas from up to 20 animals.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors. Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whiteheaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: May 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-12662 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-22-M

Salmon and Steelhead Advisory Commission; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Final meeting of the Salmon and Steelhead Advisory Commission.

DATES: May 29 and 30, 1984. The meeting will commence at 9:30 a.m. on May 29 and 8:30 a.m. on May 30, continuing no later than 5:00 p.m. either day. The meeting will be open to interested members of the public; a public comment period will be scheduled for 11:00 a.m. on May 29.

ADDRESS: Sea-Tac Hyatt Hotel, 17001 Pacific Highway South, Seattle, Washington 98118, (206)244–6000.

Meeting agenda: The Commission will meet to approve the final report to the Secretary of Commerce on a coordinated approach to the management of salmon in the

Washingon and Columbia River conservation areas.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Kruse, Acting Regional Director, National Marine Fisheries Service, 7600 Sand Point Way NE., Bin C15700, Seattle, Washington 98115, Telephone: (206) 526–6150.

Dated: May 7, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–12605 Filed 5–9–84; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Notice of Intent To Grant Exclusive Patent License

As a pro forma announcement to comply with Pub. L. 96–517 and 41 CFR Part 101–4.104–3(1)(a)(i), the National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Key Pharmaceutical Company, having a place of business in Miami, Florida, an exclusive right to manufacture, use, and sell products embodied on the invention entitled "A Short Total Synthesis of Morphinan Compounds which uses Cyclization of a Cycloalkylcarbonyl Compound Selected from Cyclopropylcarbonyl and Cyclobutylcarbonyl," U.S. Patent Application S.N. 6–564,515 and all divisional and continuing applications thereof and all patents issuing thereon. The invention disclosed and claimed in the patent application identified herein is an improvement on a dominating invention disclosed and claimed in a prior-filed patent application which is being exclusively licensed to Key Pharmaceutical Company as previously announced in the **Federal Register** on August 8, 1983. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The Proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84–12670 Filed 5–9–84; 8:45 am]

BILLING CODE 3510–04–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

MEETING: National Marine Fisheries Services, NOAA, Commerce.

The North Pacific Fishery Management Council will meet in Anchorage, AK, May 23–25, 1984, to discuss herring management and research; review recent regulatory changes made by the Alaska board of fisheries on king crab and Tanner crab to determine if any plan amendmnets are required, and review any available foreign vessel permits.

The Council will also hear reports on prohibited species problems and solutions in the Bering Sea and Gulf of Alaska, and strategic goals being developed by a Council workgroup. The Council will also review sablefish management in the Gulf of Alaska and draft regulations for observers on trawlers in sensitive crab areas.

The Council's Scientific and Statistical Committee and its Advisory Panel will meet in Anchorage, May 21–22, to discuss the same subjects. Plan team and workgroup meetings may be held on short notice during the Council meeting and will be announced at the Council offices. A detailed agenda for the Council meeting will be available to the public around May 7. All meetings are open to the public. For further information contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907)–274–4563.

Dated: May 7, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–12667 Filed 5–9–84; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Categories 369 pt. (Shop Towels) and 433 (Men's and Boys' Suit-Type Coats)

May 4, 1984.

ACTION: On April 24, 1984 the Government of Hong Kong with respect to Categories 369 pt. (shop towels) and 433 (men's and boys' suit-type coats). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating 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 later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 369 pt. and 433, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984. The Government of the United States also reserves the right to control imports in these categories at the established limits.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 369 pt. and 433 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public

which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-12697 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Category 651 (Man-Made Fiber Nightwear)

May 7, 1984.

On May 1, 1984 the Government of the United States requested consultations with the Government of Hong Kong with respect to Category 651 (man-made fiber nightwear). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textiles 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 request the Government of Hong Kong to limit exports in Category 651, produced or manufactured in Hong Kong and exported to the United States during 1984. The Government of the United States reserves the right to control imports in this category at the established limit.

Anyone wishing to comment or provide data or information regarding the treatment of Category 651 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-12682 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Japan To Review Trade in Category 334 (Men's and Boys' Other Cotton Coats)

May 4, 1984.

On April 27, 1984 the Government of the United States requested consultations with the Government of Japan with respect to Category 334. This request was made on the basis of the bilateral agreement of August 17, 1979, as amended and extended, between the Governments of the United States and Japan relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, until a different solution is reached in consultations, as a result of this request the Government of Japan should limit exports in Category 334, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984 to a level of 20,093 dozen. The U.S. Government reserves the right to control imports at this level.

A summary market disruption statement concerning this category follows this notice. Anyone wishing to comment or provide data or information regarding the treatment of this category under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementaion of Textile Agreements.

Japan—Market Statement

Category 334—Men's and Boys' Cotton Coats, Other

April 1984.

U.S. imports of Category 334 from Japan totaled 20,078 dozen during the year ending February 1984 compared with only 8,316 dozen a year earlier. The import to production ratio increased from 112.5 percent in 1981 to 114.3 percent in 1982. These imports are being entered at duty-paid values well below the U.S. producer prices for comparable coats.

[FR Doc. 84-12698 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Sri Lanka To Review Trade in Categories 336 (Cotton Dresses) and 339 (Women's, Girls' and Infants' Knit Shirts and Blouses)

May 4, 1984.

On April 30, 1984, the Government of the United States requested consultations with the Government of Sri Lanka with respect to Categories 336 and 339. This request was made on the basis of the agreement between the Governments of the United States and Sri Lanka relating to trade in cotton, wool and man-made fiber textile products of May 10, 1983. The agreement

provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

According to the terms of the bilateral agreement, if no mutually satisfactory solution is reached during consultations, the U.S. will establish prorated specific limits for the April 30-May 31, 1984 period and annual specific limits of 35,954 dozen for Category 336 and 335,508 dozen for Category 339 for the subsequent agreement period (June 1, 1984-May 31, 1985).

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in these categories of goods exported during the 90-day consultation period which began on April 30, 1984 and extends through July 28, 1984 at the prescribed limits of 9,893 dozen for Category 336 and 92,317 dozen for Category 339.

In the event the limits established for the ninety-day period are exceeded, such excess amounts, if allowed to enter, may be charged to the limits established during the subsequent agreement year.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Sri Lanka, further notice will be published in the **Federal Register.**

Summary market statements for these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Anyone wishing to comment or provide data or information regarding the treatment of Categories 336 and 339 under the bilateral agreement with the Government of Sri Lanka, 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 Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because 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 Textile and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

SUPPLEMENTARY INFORMATION: On June 21, 1983 a letter dated June 16, 1983 was published in the **Federal Register** (48 FR 28311) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the thirteen-month period which began on May 1, 1983. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, pending agreement on a different solution, to prohibit entry for consumption or withdrawal from warehouse for consumption, of cotton textile products in Categories 336 and 339, produced or manufactured in Sri Lanka and exported during the indicated ninety-day period, in excess of the designated amounts.

Effective May 11, 1984.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Sri Lanka—Market Statement

Category 336—Cotton Dresses

April 1984

U.S. imports of Category 336 from Sri Lanka totaled 40,555 dozen during the year ending February 1984 compared with only 9,291 dozen a year earlier. The import to production ratio increased from 21.6 percent in 1981 to 22.8 percent in 1982. These imports are being entered at duty-paid values well below the U.S. producers prices for comparable dresses.

Category 339—Women's, Girls', and Infants' Cotton Knit Shirts and Blouses

U.S. imports of Category 339 from Sri Lanka totaled 304,855 dozen during the year ending February 1984 compared with 133,536 dozen a year earlier. The import to production ratio increased from 102.2 percent in 1981 to 106.1 percent in 1982. These imports are being entered at duty-paid values below the U.S. producers prices for comparable shirts.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of June 16, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the thirteen-month period which began on May 1, 1983.

Effective on May 11, 1984, paragraph one of the directive of June 14, 1983 is hereby amended to include the following levels of restraint for cotton textile products in Categories 336 and 339, exported during the ninety-day period which began on April 30, 1984 and extends through July 28, 1984:

Category	90-day level [1]
336	9,893 dozen.
339	92,317 dozen.

[1] The levels have not been adjusted to account for any imports exported after April 30, 1984.

Textile products in Categories 336 and 339 which have been exported to the United States before April 30, 1984 shall not be subject to this directive.

Textile products in Categories 336 and 339 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The actions taken with respect to the Government of Sri Lanka and with respect to imports of cotton textile products from Sri Lanka have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-12699 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With Yugoslavia on Category 433 (Men's and Boys' Wool Suit-Type Coats)

May 4, 1984.

On April 30, 1984, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the Socialist Federal Republic of Yugoslavia to enter into consultations concerning exports to the United States of wool apparel products in Category 433, produced or manufactured in Yugoslavia.

The purpose of this notice is to advise the public that, until a different solution is reached in consultations as a result of this request, the Government of the Socialist Federal Republic of Yugoslavia should limit exports in Category 433, produced or manufactured in Yugoslavia and exported to the United States during the twelve-month period which began on April 30, 1984 and extends through April 29, 1985, to a level of 3,184 dozen. The U.S. Government reserves the right to control imports at this level.

A summary market statement follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Anyone wishing to comment or provide data or information regarding the treatment of Category 433 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Yugoslavia—Market Statement

Category 433—Men's and Boys' Wool Suit-Type Coats

April 1984.

U.S. imports of Category 433 from Yugoslavia totaled 3,737 dozen during the year ending February 1984 compared with only 804 dozen a year earlier. The import to production ratio increased from 16.5 percent in 1981 to 21.7 percent in 1982. These imports are being entered at duty-paid values well below the U.S. producer prices for comparable suit-type coats.

[FR Doc. 84-12700 Filed 5-9-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Wednesday, 23 May 1984 and Wednesday, 13 June 1984, Rosslyn, VA. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Arms Control Verification.

Dated: May 7, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-12625 Filed 5-9-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Community College of the Air Force (CCAF Advisory Committee); Meeting

The Community College of the Air Force will hold a meeting on June 12, 1984 at 8:00 a.m. in the Conference Room, Number 121, Building 836, located at Maxwell Air Force Base, Montgomery, Alabama.

The meeting is open to the public.

Agenda items include: State of the College, Review of Enlisted Programs Available for CCAF Credit, Reaffirmation of Accreditation, Computer Status, and CCAF Policy/Quality Issues.

For further information contact Lieutenant Colonel James H. Conely, (205) 293-7937, Community College of the Air Force, Maxwell Air Force Base, Alabama 36112.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-12671 Filed 5-9-84 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Wednesday, 30 May 1984.

Times of meeting: 0830-1700 hours (Closed).

Place: Fort Knox, Kentucky.

Agenda: The Army Science Board Ad Hoc Subgroup on Near Term Implementation of "How to Fight", a follow-on to the ASB 1983 Summer Study on the Army Future Development Goal, will meet for classified briefings and discussions on this armor concepts review with the Commanding General of the U.S. Army Armor Center/Commandant, U.S. Army Armor School at Fort Knox. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84-12623 Filed 5-9-84; 8:45 am]

BILLING CODE 3710-08-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-2585-8]

Ground Water System Underlying the Naco/Bisbee Area in Cochise County, Arizona; Request for Sole Source Designation of Aquifer System; Request for Public Comment

AGENCY: Envirnomental Protection Agency.

ACTION: Notice of receipt of petition and request for public comments.

SUMMARY: The Environmental Protection Agency (EPA) has received a petition requesting the designation of the ground water system(s) underlying the Naco/Bisbee area as the sole or principal source of drinking water and opens a public comment period to solicit information relevant to the determination. EPA requests relevant studies, data, or references to additional sources of information about the petitioned area and the areas dependent upon the aquifer for drinking water.

DATES: Comments will be accepted until October 31, 1984. The decision to grant or deny the petition and any notices of public hearing will be published in the Federal Register and in newspapers of general circulation in the affected area. At least 30 days notice will be given before the hearing is to be conducted.

ADDRESS: Written comments should be sent to: Environmental Protection Agency, Region 9, Water Management Division, Attn: Arizona/Hawaii/Nevada Branch (W-4), 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Corine Li, Project Officer, at the above address or telephone (415) 974-7971 or FTS 454-7971. Copies of the petition will be made available upon request.

SUPPLEMENTARY INFORMATION: The petition was submitted under Section 1424(e) of the Safe Drinking Water Act (P.L. 93-523) which authorizes the Administrator to determine, on his own initiative, or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area, and which if contaminated would create a significant hazard to public health. On January 23, 1984, concerned citizens from the Naco-Bisbee area petitioned EPA to designate the ground water systems underlying the area as the sole or principal drinking water source for that portion of southeastern Arizona. The petitioned area lies along the international border and encompasses approximately 27 square miles of valley-fill terrain that is bounded on the north by the Mule Mountains, on the east by Gold Gulch Wash, and on the west by the Naco Hills. This delineates a mapped area bounded by the northwest corner of T23S, R23E Section 27; the southwest corner of T24S, R23E Section 15; the northeast corner of T23S, R24E Section 26; and the southeast corner of T24S, R24E Section 14. Major population centers in the area include Naco, Huachuca Terrace, Bisbee Junction, parts of Warren, and the Bisbee Municipal airport.

The petition reflects a collective concern by residents of the Naco-Bisbee area regarding protection of their ground water systems. The present estimated population which is serviced by the aquifer was given to be 16,247. The petition also states that no other feasible water supply exists in the area that would be of comparable volume and quality. Topographic maps of the proposed area for designation were included in the petition.

Information is solicited about the petitioned area and the areas dependent upon the aquifer for drinking water. Relevant material regarding the hydrogeology of the petitioned area, the surfaced boundary of its recharge zones, and the number and kinds of small entities (businesses, organizations, or governmental jurisdictions) receiving federal financial assistance would assist the Environmental Protection Agency in its evaluation of the aquifer system(s). Pursuant to the Regulatory Flexibility Act, all regulatory actions, which includes sole source aquifer designations, must be evaluated with respect to impacts on small entities. In addition, EPA requests information on the existence of any other current or anticipated projects receiving federal financial assistance that may result in the contamination of the aquifer.

If the aquifer is so designated, no commitment for Federal financial assistance may be entered into for any project which EPA determines may contaminate the aquifer. The sole source designation provides EPA with the opportunity to review these projects to assure that proper mitigation measures are taken to negate any adverse impacts to the area. EPA will decide whether or not to make the requested determination following its review of relevant data and after providing the opportunity for full public participation on its proposed decision.

Dated: April 13, 1984.

Judith E. Ayres,
Regional Administrator.

[FR Doc. 84-12618 Filed 5-9-84; 8:45 am]
BILLING CODE 6560-50-M

[OPP-00177); PH-FRL 2586-1]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to review: the data base supporting EPA's decision to place amitrole in Special Review status; the data base supporting the Agency's decision to place aldicarb in Special Review status; the decision to suspend on an emergency basis the grain and grain milling machinery fumigation uses of ethylene dibromide; and a draft staff paper entitled "Oncogenic Potential: Guidance for Analysis and Evaluation of Long Term Rodent Studies." The meeting will be open to the public.

DATES: Tuesday, Wednesday, and Thursday, June 12-14, 1984, from 8:30 a.m. to 5:00 p.m. each day.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Rm. 1112, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1117, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7096).

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Review of the Agency's approach to assessing the oncogenic risk of the herbicide amitrole. The Agency is concerned that certain uses and application techniques may result in unreasonable adverse effects to applicators. Applicator exposure occurs at doses comparable to the antithyroid effects in laboratory animals and the potential for risk may be high for these are patterns and application techniques. The Agency invites the Panel's opinion on the scientific basis underlying the Special Review.

2. Contamination of ground water by aldicarb, which has caused the Agency to place this compound in Special Review status.

3. The Agency's February 3, 1984, emergency suspension of the grain and grain milling machinery fumigation uses of ethylene dibromide.

4. Review of a draft Standard Evaluation Procedure entitled "Oncogenic Potential: Guidance for Analysis and Evaluation of Long Term Rodent Studies," prepared by Dr. Orville Paynter of the Hazard Evaluation Division, Office of Pesticide Programs.

5. Completion of any unfinished business from previous Panel meetings.

6. In addition, the Agency may present status reports on other ongoing activities of the Office of Pesticide Programs.

Copies of documents relating to items 1 and 2 may be obtained by contacting: By mail: Michael Branagan, Registration Division (TS-767C), Office of Pesticide Programs, Enviromental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 728E, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7420).

Copies of documents relating to item 3 may be obtained by contacting: By mail: Richard J. Johnson, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7420).

A copy of the document referred to in item 4 may be obtained by contacting: By mail: Dr. Orville Paynter, Office of Pesticide Programs, Hazard Evaluation Division (TS-769), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1128D, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7695).

Any member of the public wishing to submit written comments should contact Philip H. Gray, Jr., SAP Executive Secretary, at the address or telephone number listed above to confirm the Panel's agenda. Interested persons are permitted to file such statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments. Persons wishing to make oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than June 5, 1984.

Individuals who wish to file written statements are required to submit 10 copies by June 8, 1984, in order to ensure appropriate consideration by the Panel.

Dated: April 20, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-12806 Filed 5-9-84; 8:45 am]

BILLING CODE 6560-60-M

[OPTS-59152A; TSH-FRL 2586-4]

Propoxylated Polyoxypropylenediamine; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-84-42. The test marketing conditions are described below.

EFFECTIVE DATE: May 4, 1984.

FOR FURTHER INFORMATION CONTACT: Joe B. Boyd, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-202, 401 M St. SW., Wshington, DC. 20460, (202-382-3739).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt any person from premanufacture notification (PMN) requirements and permit such person to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its findings that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-84-42. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and durations of exposure must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

TME 84-42

Date of Receipt: March 14, 1984.

Notice of Receipt: April 6, 1984 (49 FR 13744).

Applicant: Texaco Chemical Company.

Chemical: (S) Propoxylated polyoxypropylenediamine.

Use: (S) A component in making flexible polyurethane foam for carpet underlay.

Production Volume: 60,000 lbs.

Number of Customers: 15

Worker Exposure: Manufacture: dermal and inhalation, one worker, up to 8 hrs/day for 3 days during the 18 months of test marketing. Processing and distribution: dermal, a total of 140 workers.

Test Marketing Period: 18 months.

Commencing on: May 4, 1984.

Risk Assessment: The Agency identified no significant health effect concerns. Worker exposure is expected to be very low. Although EPA identified ecological effect concerns by comparison with chemical analogues, environmental releases will be low. Therefore, EPA finds that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of any exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: May 4, 1984.

Don R. Clay,

Director, Office of Toxic Substance.

[FR Doc. 84-12608 Filed 5-9-84; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Advisory Committee of the Export-Import Bank of the United States; Open Meeting

Summary: The Advisory Committee was established by Pub. L. 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

Time and place: Thursday, May 31, 1984 from 9:30 a.m. to 12 noon. The meeting will be held in Room 1143, 811

Vermont Avenue, NW., Washington, D.C. 20571.

Agenda: The meeting agenda will include discussion of the annual competitiveness report of the Export-Import Bank's various programs.

Public participation: The meeting will be open to public participation; and the last 20 minutes will be set aside for oral questions or comments. Members of the public may also file written statement before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, Room 1203, 811 Vermont Avenue, NW., Washington, D.C. 20571, (202) 566-8871, not later than May 24, 1984.

Further information: For further information, contact Joan P. Harris, Room 1203, 811 Vermont Avenue, NW., Washington, D.C. 20571, (202) 566-8871.

Warren W. Glick,

General Counsel.

[FR Doc. 84-12658 Filed 5-9-84; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-704-DR]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA-704-DR), dated May 3, 1984, and related determinations.

DATED: May 3, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: Notice is hereby given that, in a letter of May 3, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.* Pub. L. 93-288) as follows:

I have determined that the damage resulting from severe storms and tornadoes in certain areas of the State of Oklahoma beginning on April 26, 1984, are of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Alton S. Ray, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Oklahoma to have been affected adversely by this declared major disaster:

Creek, Okmulgee, Osage, and Pawnee Counties for Public Assistance and Individual Assistance.

Tulsa and Wagoner Counties for Individual Assistance only.

Payne and Washington Counties as adjacent counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718.02.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84-12586 Filed 5-9-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-365]

First State Savings of Wisconsin, Waukesha, Wisconsin; Final Action Approval of Conversion Application

Notice is hereby given that on February 22, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First State Savings of Wisconsin, Waukesha, Wisconsin, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Chicago, Illinois 60601.

Dated: May 3, 1984.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-12583 Filed 5-9-84; 8:45 am]

BILLING CODE 6720-01-M

Senior Executive Service—Performance Review Board Updated Membership

In accordance with Title IV of the Civil Service Reform Act of 1978, the Federal Home Loan Bank Board hereby gives notice of new memberships on the SES Performance Review Board. Current members are C. Thomas Long (Chairman), Frank M. Dorer, Bobby L. Hughes, Richard L. Petrocci, and Jean C. Chabot.

FOR FURTHER INFORMATION CONTACT: Doris H. McGhee, Director of Personnel, Federal Home Loan Bank Board, (202) 377-6050.

J. J. Finn,

Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 84-12592 Filed 5-9-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Fleet Financial Group, Inc., et al.; Formation of; Acquisitions by; and Mergers of Bank Holding Companies

The Companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 1, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Insland; to acquire 100 percent of the voting shares of assets of Fleet National Bank of Boston, Boston, Massachusetts, a *de novo* bank.

2. *Fleet Financial Group, Inc.*, Providence, Rhode Island; to acquire 100 percent of the voting shares or assets of Fleet National Bank of Connecticut, Hartford, Connecticut, a *de nove* bank.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *National American Bancorp, Inc.*, Towanda, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Bradford County, Towanda, Pennsylvania.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1445 East Sixth Street, Cleveland, Ohio 44101:

1. *Lewis Bancshares, Inc.*, Vanceburg, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Lewis County, Vanceburg, Kentucky.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Central Fidelity Banks, Inc.*, Richmond, Virginia; to acquire 100 percent of the voting shares of the successor by merger to The Bank of Christiansburg, Christiansburg, Virginia.

2. *First Community Bankshares, Inc.*, Princetan, West Virginia; to acquire 80 percent or more of the voting shares or assets of Bank of Winfield, Winfield, West Virginia.

E. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hillside Investors, Ltd.*, Hillside, Illinois; to become a bank holding company by acquiring 87.1 percent of the voting shares of Bank of Hillside, Hillside, Illinois.

2. *Pulaski Bancshares, Inc.*, Pulaski, Wisconsin; to become a bank holding company by acquiring 90 percent of the voting shares of Pulaski State Bank, Pulaski, Wisconsin.

3. *RBDC Corporation*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Republic Bancorp Co., Chicago, Illinois, and thereby indirectly acquiring Republic Bank of Chicago, Chicago, Illinois.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Sunbelt Bancorporation, Inc.*, Tulsa, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Sunbelt Bank and Trust Company, Tulsa, Oklahoma.

Board of governors of the Federal Reserve System, May 4, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-12564 Filed 5-9-84; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Nonbanking Activities; First Interstate Bancorp

The company listed in this notice has filed applications under § 225.23(a)(3) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794), to engage *de novo* through national bank subsidiaries in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiaries will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (Press Release of March 23, 1984). Although the Board is publishing notice of these applications, under established Board policy the record of the applications will not be regarded as complete and the Board will not act on the applications unless and until as preliminary charter for each proposed national bank subsidiary has been submitted to the Board.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the applications have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the applications must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than May 31, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bancorp*, Los Angeles, California; to engage through the following national bank subsidiaries in providing consumer banking services, including lending services; deposit-taking activities; and trust and advisory services: First Interstate Banks of San Antonio, N.A., San Antonio, Texas; First Interstate Bank of Boston, N.A., Boston, Massachusetts; First Interstate Bank of Philadelphia, N.A., Philadelphia, Pennsylvania; First Interstate Bank of Chicago, N.A., Chicago, Illinois; First Interstate Bank of Pittsburgh, N.A., Pittsburgh, Pennsylvania; First Interstate Bank of Fort Worth, N.A., Fort Worth, Texas; First Interstate Bank of Atlanta, N.A., Atlanta, Georgia; First Interstate Bank of Austin, N.A., Austin, Texas; First Interstate Bank of New York, N.A., New York, New York; First Interstate Bank of Orlando, N.A., Orlando, Florida; First Interstate Bank of Dallas, N.A., Dallas, Texas; and First Interstate Bank of Houston, N.A., Houston, Texas. These activities will be conducted by each national bank subsidiary on a statewide basis.

Board of Governors of the Federal Reserve System, May 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-12565 Filed 5-9-84; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers Hanover Corporation; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794), to engage *de novo* through a national bank subsidiary in deposit-taking, including the taking of

demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (Press Release of March 23, 1984). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than May 31, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York: To engage through a national bank subsidiary, Manufactuers Hanover Trust Company of Florida, N.A., Miami, Florida, in taking demand, checking, savings, and time deposits, including now accounts and certificates of deposit; and making loans to individuals for personal, family, household or charitable purposes. These activities will be conducted in the State of Florida.

Board of Governors of the Federal Reserve System, May 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-12566 Filed 5-9-84; 8:45 am]

BILLING CODE 6210-01-M

Rainer Bancorporation; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794), to engage *de novo* through a national bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (Press Release of March 23, 1984). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than May 31, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Rainer Bancorporation*, Seattle, Washington; to engage through a national bank subsidiary, Rainer Bank of California, N.A., Monterey, California, in consumer and mortgage lending; commercial and industrial lending; trust and investment advisory services; and the acceptance of time deposits. These activities will be conducted in the state of California.

Board of Governors of the Federal Reserve System, May 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-12567 Filed 5-9-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Automobile Mileage Advertising, Consumer Protection; Information Collection

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for review of a survey to gather data on consumers' perception and interpretation of miles per gallon estimates and disclosures in print automobile advertising.

SUMMARY: The FTC is requesting OMB review under 5 CFR 1320.14 of a consumer survey of consumers' response to mileage information disclosures in print automobile advertising. The purpose of this study is to assess the impact of the FTC's "Guide Concerning Fuel Economy Advertising for New Automobiles." The information developed by this survey will contribute to an evaluation of the fuel economy guide to determine whether and how the guide should be modified.

DATES: Comments on this request for OMB review must be submitted on or before June 11, 1984.

ADDRESS: Send comments to Mr. Don Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. Copies of the request for OMB review may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Edward Popper, Division of Advertising

Practices, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1530.

John H. Carley,

General Counsel.

[FR Doc. 84-12855 Filed 5-9-84; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 84-0299—National Freight Consortium p.l.c.'s proposed acquisition of voting securities of Merchants Home Delivery Services, Incorporated, (Estate of Robert L. Hays, UPE).	Apr. 12, 1984.
(2) 84-0331—Carson, Pirie, Scott & Company's proposed acquisition of voting securities of County Seat Stores, Incorporated, (Super Valu Stores, Incorporated, UPE).	Apr. 20, 1984.
(3) 84-0339—Savannah Foods & Industries, Incorporated's proposed acquisition of voting securities of Michigan Sugar Company.	Do.
(4) 84-0341—Savannah Foods & Industries, Incorporated's proposed acquisition of voting securities of Michigan Sugar Company.	Do.
(5) 84-0357—Sun Company Incorporated's proposed acquisition of assets of Petro-Lewis Incorporated.	Do.
(6) 84-0298—William F. Farley's proposed acquisition of voting securities of Condec Corporation.	Do.
(7) 84-0289—The Ohio Mattress Company's proposed acquisition of voting securities of Lifetime Foam Products, Incorporated, (Sears, Roebuck and Company UPE).	Do.
(8) 84-0278—Gillett Communications, Incorporated's, (George N. Gillett, Jr., UPE) proposed acquisition of voting securities of Post Corporation.	Apr. 23, 1984.
(9) 84-0279—United States Gypsum Company's proposed acquisition of voting securities of Masonite Corporation.	Do.
(10) 84-0291—United States Gypsum Company's proposed acquisition of voting securities of Masonite Corporation.	Do.
(11) 84-0328—Huffington Incorporated's, (Roy M. Huffington, UPE) proposed acquisition of voting securities of Enstar Corporation.	Do.
(12) 84-0376—General Cinema Corporation's proposed acquisition of voting securities of Carter Hawley Hale Stores, Incorporated.	Do.
(13) 84-0325—Owens-Illinois, Incorporated's proposed acquisition of voting Securities of Dougherty Brothers Company.	Apr. 24, 1984.
(14) 84-0337—Hanson Trust P.L.C.'s proposed acquisition of voting securities of U.S. Industries Incorporated.	Do.
(15) 84-0346—Royal Dutch Petroleum Company's proposed acquisition of assets of Petro-Lewis Corporation.	Do.
(16) 84-0352—Chemical New York Corporation's proposed acquisition of assets of Continental Illinois Corporation.	Do.
(17) 84-0370—FMI Associates Limited Partnership's proposed acquisition of voting securities of Grand Central Incorporated.	Do.
(18) 84-0372—FMI Associates Limited Partnership's proposed acquisition of voting securities of Grand Central Incorporated.	Do.
(19) 84-0319—Weyerhaeuser Company's proposed acquisition of voting securities of Mason-McDuffe Mortgage Company, (Diablo Mortgage Corporation, UPE).	Apr. 25, 1984.
(20) 84-0203—Standard Oil Company of California's proposed acquisition of voting securities of Gulf Corporation.	Apr. 26, 1984.
(21) 84-0204—Standard Oil Company of California's proposed acquisition of voting securities of Platte Pipe Line Company.	Do.
(22) 84-0205—Standard Oil Company of California's proposed acquisition of voting securities of Interprovincial Pipeline Limited.	Do.
(23) 84-0206—Standard Oil Company of California's proposed acquisition of voting securities of Colonial Pipeline Company.	Do.
(24) 84-0207—Standard Oil Company of California's proposed acquisition of voting securities of Sun Company Corporation.	Do.
(25) 84-0210—Standard Oil Company of California's proposed acquisition of voting securities of Gulf Corporation.	Do.
(26) 84-0312—Pier 1 Imports Incorporated's proposed acquisition of voting securities of NGC Incorporated, (Intermark, Incorporated, UPE).	Do.
(27) 84-0332—Warnaco Incorporated's proposed acquisition of voting securities of Olga Company, (Jan J. Erteszek and Olga Erteszek, UPE's).	Do.
(28) 84-0342—Lanoga Corporaton's proposed acquisition of voting securities of Conagra, Incorporate.	Do.
(29) 84-0360—HealthCrest, A. Ronald Turner, UPE's proposed acquisition of voting securities of one retail pharmacy from American Medical International, Incorporated.	Do.
(30) 84-0366—United Savings of America's proposed acquisition of assets of Aetna Finance Corporation, Computer Equipment Leasing Corporation, (ITT Corporation, UPE).	Do.
(31) 84-0375—American Express Company of voting securities of Lehman Brothers Kuhn Loeb Holding Company, Incorporated.	Do.
(32) 84-0379—DHM Corporation, David H. Monnich, UPE of voting securities of Southwestern Drug Corporation, (Gulf Broadcast Company, UPE).	Do.
(33) 84-0381—Societe Civilede Participation Financiere proposed acquisition of voting securities of Fanny Farmer Candy Shops, Incorporated, (Amoskeag Company, UPE).	Do.
(34) 84-0386—Universal Foods Corporation's proposed acquisition of certain assets of Warner-Jenkinson Conpany, Incorporated, (Philip Morris Incorporated, UPE).	Do.
(35) 84-0397—Philip Morris Incorporated's proposed acquisition of assets of the Beverage Division of Universal Foods Corporation.	Do.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-12854 Filed 5-9-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming small business exchange meeting to be chaired by George J. Gerstenberg, Director, Brooklyn District Office.

DATE: The meeting will be held at 1 p.m., Wednesday, June 6, 1984.

ADDRESS: The meeting will be held at the White Plains Public Library, 100 Martine Ave., White Plains, NY 10601.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-6466.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small business and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: May 4, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-12581 Filed 5-9-84; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Health Systems Agencies and State Health Planning Development Agencies; Certificate of Need Reviews

Correction

In FR Doc. 84-11922 appearing on page 18899, in the issue of Thursday, May 3, 1984, make the following correction: In column three, line sixteen, "$174,000" should read "$714,000".

BILLING CODE 1501-01-M

Revision to Announcement of Availability of Grants for Family Planning Services Delivery Improvement Research Published on Friday, April 13, 1984.

AGENCY: Office of Family Planning, PHS, HHS.

ACTION: Revision to notice.

The Office of Family Planning Services (OFP) hereby makes two revisions to the Announcement of Availability of Grants for Family Planning Services Delivery Improvement Research Published on Friday, April 13, 1984, on pages 14912 and 14913 of the **Federal Register.**

1. The final sentence in section "II. Research Scope" appearing at the top of the first column should end after "* * * budgeted in the proposal." This revision deletes the requirement for "a plan for making the data-sets available to a public use data archive or the Office of Family Planning" as part of the application.

2. The first sentence in the third paragraph in section "VI. Method of Applying" should be revised to read "an original and 2 copies of the application must be postmarked before 4:30 p.m. Eastern Time on June 1, 1984." In addition, the requirement for a copy of the full proposal to be sent to Donald Underwood should be deleted. These changes reduce the number of copies of the application to be submitted to an original and two copies, all of which are to be sent or delivered to: Division of Research Grants, National Institutes of Health (NIH), Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, MD 20205.

If you have any questions concerning this Notice, please contact Dr. Patricia Thompson, OFP, at 202/245-0151.

Dated: May 4, 1984.

Marjory Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 84-12650 Filed 5-9-84; 8:45 am]

BILLING CODE 4160-17-M

Announcement of Availability of Grants for Research on Adolescent Family Life

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.

ACTION: Notice.

The Office of Adolescent Pregnancy Programs (OAPP) of the Public Health Service invites research grant applications for investigations of four topics: (1) The relationships between exposure to communications media and adolescent premarital sexual relations; (2) the health and social consequences of adolescent premarital sexual relations; (3) the characteristics and family involvement of fathers of adolescent premaritally conceived births; and (4) the longer-term consequences for the adolescent mother of making an adoption plan for her baby.

Title XX of the Public Health Service Act authorizes research concerning adolescent premarital sexual relations, contraceptive use, pregnancy, and childrearing. This RFA addresses that portion of the research agenda appropriate to field-initiated research studies. The RFA identifies the scope of OAPP interest in these questions but does not require that proposals conform to narrowly specified research requirements.

This request for applications is for a single competition with a specified deadline (June 22, 1984) for receipt of applications. Proposals will be reviewed by a specially convened group of scientific peer reviewers under the auspices of the Division of Research Grants, National Institutes of Health. Proposal review and award decisions will take place during the Summer, 1984. The earliest start date for grants would be October 1, 1984; and proposals should be written with that date in mind.

I. Background

The Adolescent Family Life Demonstration Projects Act (Title XX, Public Health Service Act) widened the conern of the Federal Government with adolescent pregnancy and parenting. The Act provides for research concerning the societal causes and consequences of adolescent premarital sexual relations, contraceptive use, pregnancy, and childbearing.

The research areas outlined in this RFA are: (1) the relationship of media exposure to adolescent premarital sexual relations; (2) the consequences of adolescent premarital sexual relations; (3) the characteristics and family involvement of fathers of adolescent premaritally conceived births; and (4) the longer-term consequences of adoption.

II. Research Areas

A. The Relationship Between Exposure to Communications Media and Adolescent Premarital Sexual Relations.

During the 1970's the proportion of teenagers who had had premarital sexual intercourse increased dramatically. In the same period the frequency of television viewing by adolescents increased, and the frequency of sexually explicit programming also increased. It is often speculated that the increased viewing of sexually explicit programming by teenagers was one cause of the increase in adolescent premarital sexual relations. Other communications media—rock music, films, and magazines—have also been suggested causes of the increase in adolescent premarital sexual relations. On the other hand, it has been argued by some that trends in the media and adolescent sexual behavior are correlated, but not causally related; both may have resulted from a liberalization of moral values and the spread of methods for preventing an unwanted birth.

Despite the ubiquity of ideas about media exposure and adolescent premarital sexual relations, little empirical research has been addressed to the issue. In part this may reflect the inherent difficulty of discovering the psychological and behavioral effects of media exposure—more than a decade of research was needed to demonstrate that television viewing is sometimes a cause of aggressive behavior.

Because it is important to establish the true relationship between media exposure and adolescent premarital sexual relations, the Office of Adolescent Pregnancy Programs requests proposals for research which will answer one or more of the following questions.

1. What is the sexual content of the media to which adolescents attend?

A full answer to this question would require describing the viewing, listening, and reading habits of adolescents, and devising and applying techniques for

measuring the sexual content of the media. Describing media habits might include the frequency and duration with which the various media are used, the social context of media use, and the personal and interpersonal functions of media use by adolescents. Measures of sexual content might be subjective or objective, quantitative or qualitative, thematic or episodic.

2. In what ways and to what extent are the sexual knowledge, attitudes, and behavior of adolescents affected by the sexual content of the media?

The media may affect knowledge, or attitudes, or behavior, or none of these. Media influence may encourage or discourage adolescent premarital sexual relations, or the influence may be neutral on balance, or the influence may vary depending on certain other conditions. If the media have an effect, it may be directly on the individual adolescent, or through its effect on youth subcultures, or through its effect on the wider cultural climate. A full answer to the question would address all of these issues.

3. In what ways and to what extent is the effect of media on adolescent premarital sexual relations modified by the intervention of parents or community institutions?

The effect of the media may be modified if parents set rules for the amount and type of media exposure, or if they interpret the meaning of sexual messages for the adolescent. Parents would intervene in these ways only if they were aware of, and concerned about, the possible effect of sexual messages on adolescent behavior. Schools, churches, and other community institutions might also intervene in similar ways if they were aware and concerned. Thus it would be desirable to know about the awareness and concern of parents and institutions, about their intervention in adolescents' use of the media, and about the effect of their intervention on adolescents' use of media and their sexual knowledge, attitudes and behavior.

If the proposed research on media includes adolescents personal sexual attitudes and behavior, the applicant should use existing data for these elements. The collection of original data on adolescent personal sexual attitudes and behavior for study of this topic will not be supported by OAPP at this time.

B. The Health and Social Consequences of Adolescent Premarital Sexual Relations

It is well-established in the research literature that adolescent premarital pregnancy and childbearing may lead to undesirable health and social consequences for the young mother and her child. Those undesirable consequences are sometimes cited as a reason for encouraging single teenagers to postpone sexual relations until they reach a more mature age. In addition, however, some research evidence has emerged which suggests that even *without* pregnancy adolescent premarital sexual relations may be deleterious. For instance, it has been reported that among sexually active persons those who have intercourse at an early age are more likely than others to contract a sexually transmitted disease. Women who use oral contraceptives at an early age—frequently a concomitant of early sexual relations—are reported to be at greater risk than other pill users of developing breast cancer. Premarital sexual relations among adolescents often causes estrangement between them and their parents, depriving adolescents of social and emotional support they need during an important part of their life.

Despite these indications of potential hazard, there has been no systematic study of the health and social consequences of premarital adolescent sexual relations. Therefore, the Office of Adolescent Pregnancy Programs requests applications for research which will answer one or more of the following questions.

1. Aside from pregnancy, parenthood, marriage, and their consequences, what are the principal independent health and social consequences of adolescent premarital sexual relations?

2. In what ways and to what extent do those consequences differ for major subgroups of the adolescent population?

3. How do adolescent premarital sexual relations affect parent-child communication, parental support for adolescent children, and other aspects of the family system?

4. What are the effects of adolescent premarital sexual relations on the development (psychological, social, moral, etc.) of the adolescent?

C. The Characteristics and Family Involvement of Fathers of Adolescent Premaritally Conceived Births

Although the problem of childbearing by unwed teenage women has been studied extensively, little is known about the fathers of out-of-wedlock births. While many fathers are not involved with the unwed mother and her child, others are involved significantly, either socially or economically. It is important to understand the circumstances and conditions which lead to the involvement or noninvolvement of the fathers, because it may have important consequences for the unwed mother, her child, and the father himself. If the father is involved socially with the mother during her pregnancy, it may affect her decisions about abortion and adoption; his involvement may also affect her compliance with the prenatal regimen, and thus the medical outcome of the pregnancy. If the father continues to be socially involved with the mother in the postnatal period, it may affect her adjustment to the role of mother and her application of mothering skills; for instance, his continued presence would provide the opportunity for sharing some child care responsibilities. If the father remains socially involved into the child's infancy, it will affect the child's development, because the presence of a father (or father-figure) is an important ingredient in normal developmental processes. ("Development") is construed broadly to include psychological, social, physical, moral, and other aspects of development.) And of course, the nature and extent of the father's social involvement with the unwed mother and *his* child will have important consequences for his self-concept and role behavior.

Whether or not fathers are socially involved, they may be economically involved with the unwed mother and her child. It is often assumed that the fathers of out-of-wedlock adolescent births are adolescents themselves, and therefore are unable to contribute financially to the support of the unwed mother and child. But the fathers tend to be several years older than the mothers, old enough for many of them to have completed high school and found jobs. Many are capable, therefore, of contributing financially, and some do. Of those fathers not able to contribute financially at the time of the pregnancy and birth, many become able to do so at some time during the infancy of the child. Furthermore, if the father cannot contribute, his family (the paternal grandparents of the out-of-wedlock birth) may be able to do so. Of course, financial support from any paternal source at any time may have an important impact on the economic circumstances of the unwed mother and *her* family; also, it might reduce the burden of public welfare.

Although the social and financial involvement of the fathers of children born to single teenagers has some appeal from the viewpoints of public policy on the family and welfare, its feasibility and potential impact depend on the characteristics of the fathers, financial and otherwise, and little is known about those characteristics. Therefore, the Office of Adolescent

Pregnancy Programs requests applications for research which answers one or more of the following questions:

1. What are the demographic, social, ethnic, and economic characteristics of the fathers of babies born to single teenage women? To what extent are they different than fathers of babies born to married teenagers?

2. In what ways and to what extent are the fathers of out-of-wedlock teenage births involved in the lives of the mothers and children, socially and financially? Is their involvement different from that of fathers of babies born to married teenagers?

3. What are the social, economic, health, and developmental consequences of fathers' involvement in the lives of their out-of-wedlock children? Are those consequences different from the consequences of involvement with fathers of babies born to married teenagers?

4. Are the problems of teenage fathers of children born to single adolescent mothers very different from those of older fathers of children of adolescent mothers?

5. What can be done to alleviate some of the difficulties facing fathers of children born to the adolescent women while at the same time increasing their involvement with and responsibility for the young mother and their child?

6. What are the advantages and disadvantages of fathers not marrying the pregnant adolescent from the point of view of the young mother, the child, the father, and society as a whole?

D. The Longer-Term Consequences for the Adolescent Mother of Making an Adoption Plan for Her Baby

If a pregnant adolescent plans to carry the pregnancy to term, she may decide to relinquish the baby for adoption or keep it herself. In recent years relatively few (under 10%) have decided on adoption; the vast majority (over 90%) have decided to keep the baby themselves, apparently believing that they, with the support of others, could provide adequate mothering for the baby and still achieve other life goals, such as a high school education, economic independence, and a stable marriage. Many succeed, but some do not. Some are too immature or too poorly supported by others to assume the responsibilities of single motherhood *and* make the transition from adolescence to young adulthood. They become inadequate mothers or they do not assume the roles of young adulthood (student, wife, or worker) when and as they would like. Those relatively few adolescent mothers who decide to relinquish their baby for adoption, presumably do so because they and the others who participate in the decision believe that the young women can thereby avoid the risks of a failed motherhood and a tardy, incomplete adulthood. That is, they believe that by relinquishing the baby rather than keeping it, the young woman increases her chances of completing her education, becoming economically independent, and contracting a stable marriage. They may also believe that in the longer-term, the health and welfare of the baby will be better in an adoptive home than they would be if the baby stayed in the care of its adolescent mother.

Although those are reasonable beliefs under the circumstances, they have not been empirically verified. To provide a better basis for informed decisionmaking about adoption, those beliefs should be verified by comparing the biological mothers and their babies in cases where adoption occurred, with the mothers and babies in cases where adoption did not occur. Therefore, the Office of Adolescent Pregnancy Programs requests applications for research projects which will answer one or both of these questions.

1. Among women who were adolescent mothers, what was the effect of their making an adoption decision for the baby (or keeping the baby) on their subsequent life chances—on education, employment, marriage, and so on?

2. Among children who were born to adolescent mothers, what was the effect of their being adopted by another family (or staying with their biological mother) on their subsequent health and welfare, including their psychological, social, and moral development?

III. Research Scope

This FRA encourages all applicable social science and other scholarly approaches to the study of the research questions it poses. Applications should include a well-organized statement of the problem to be addressed, the research design, the conceptual framework within which the design has been developed, the methodology to be employed, the evidence upon which the analysis will rely, and the manner in which the evidence will be analyzed. Proposals should indicate how data and analysis from such activities will advance scientific understanding of the larger research questions. It is the goal of the program to develop a research base in all research areas and sub-areas described in the RFA. An attempt will be made to fund an array of proposals so that the program goal is achieved.

The program is committed to funding only proposals that excel in meeting the review criteria enumerated in Section VI below and that show substantial promise of producing results that will have relevance for policy-makers and service providers.

In order to make data available to other interested scholars and policymakers as quickly and broadly as possible, copies of data sets and accompanying documentation produced with funds granted through this RFA will be deposited with a public use data archive, such as the Data Archive on Adolescent Pregnancy and Pregnancy Prevention or the Inter-University Consortium for Political and Social Research; alternatively, data sets may be deposited with OAPP. Data sets will be deposited only after: (1) appropriate deletions have been made to protect the personal privacy of subjects, and (2) the grantee has had a reasonable length of time, not to exceed 18 months after the final budget period, to complete the study and report its results. The cost of making such data available should be budgeted in the proposal, and applicants should plant to make the data sets available to a public use data archive or OAPP.

IV. Mechanism of Support

This program will award research grants under Title XX of the Public Health Service Act (Adolescent Family Life Research Grants, 42 U.S.C. 3002, Catalog of Federal Domestic Assistance number 13.111. Applicable regulations are found at 42 CFR Parts 52 and 52h.) It is anticipated that direct costs for the projects funded will range between $10,000 and $100,000. Although all applications for funds in that range will be evaluated for scientific merit according to the same standards and criteria, OAPP hopes to make some awards to new investigators in the range of $10–20,000, and some awards to established investigators in the range of $20–100,000.

Under Title XX, no project may incur direct costs beyond $100,000 per year unless OAPP obtain a special waiver from the Secretary of Health and Human Services, and only if the Secretary determines that: "(A) Exceptional circumstances warrant such waiver and that the project will have national impact; or (B) additional amounts are necessary for the direct costs of conducting limited demonstration projects for the provision of necessary services in order to provide data for research carried out under this title." Sec. 2008(a)(3).

By statute, the total project period of the proposal must not exceed 5 years and normally no project will receive an

initial award for more than a year. Applicants should specify whether costs sharing will be accomplished through Institutional Agreement or negotiated prior to award. Grant policies of the Public Health Service will prevail. Approximately $800,000 is available for grants under this announcement and it is anticipated that between 6 and 10 grants will be awarded.

V. Eligibility

This competition is open to any corporation, public or private institution or agency, including corporations operated for profit. Salary information for all project personnel should be included in the original application but may be omitted from copies. Confidential business information in applications will be protected from disclosure under provisions of the Freedom of Information Act.

VI. Review Criteria

The review of applications is governed by Title 42 CFR Part 52. Review criteria include:

1. Scientific merit and significance of the project;
2. Competency of proposed staff in relation to the type of research involved;
3. Feasibility of the project;
4. Reasonableness of proposed budget period in relation to the proposed research;
5. Amount of grant funds necessary for completion, and adequacy of applicant's resources available for project;
6. Adequacy of methodology proposed to carry out the research; and
7. The adequacy of the proposed means for protecting against adverse effects upon human, animals, or the environment, where an application involves activities which could have such effects.

VII. Method of Applying

Applications should be submitted on Form PHS-398. This form may be obtained from university offices of sponsored research or from the Division of Research Grants, NIH (address below). The instructions in the application kit should be followed. No review is required under E.O. 12372, nor by a Health Planning Agency, unless the proposed research would establish a demonstration project for purposes of collecting data.

An original and 2 copies of the applications must be received before 4:30 p.m. Eastern time, on June 22, 1984. Late applications may not be accepted for consideration. Applications should be sent or delivered to: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Type across the mailing envelope and the top of the application face page: Submitted in response to the FRA Entitled "Adolescent Family Life." If you have questions regarding this RFA please contact Dr. Gerry Hendershot, OAPP, at (202) 245-7473.

Dated: May 4, 1984.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 84-12651 Filed 5-9-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Under Secretary

[Docket No. N-84-1380]

Advisory Committee on Contract Document Reform; Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The sixth meeting of the Committee on Contract Document Reform will be held on Thusday, May 31, 1984 at 9:30 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

The purpose of the meeting is to discuss and analyze suggested amendments to contract document clauses.

This meeting is 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.

FOR FURTHER INFORMATION CONTACT: Joseph Lupica, Special Assistant to the Secretary, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone: (202) 755-5713. [This is not a toll-free number.]

Dated: May 3, 1984.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84-12344 Filed 5-9-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

California Indian Task Force; Meeting

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice of this meeting is hereby given in accordance with the Federal Advisory Committee Act. This notice also sets forth the proposed agenda of the forthcoming meeting. The meetings will concern the critical Indian issues in California.

DATE: The meeting will begin at 1:00 p.m. on May 23, 24, and 25, 1984.

ADDRESS: The meeting will be held at the Beverly Garland Motor Lodge, 1780 Tribute Road, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Mr. Maurice W. Babby, California Indian Task Force Chairman, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, telephone number [(916)-484-4682].

SUPPLEMENTARY INFORMATION: In its opening business session, the Task Force will hear opening remarks by Chairman Maurice Babby followed by a statement from Assistant Secretary Ken Smith. The remainder of the first two days will center around identification and discussion of critical Indian issues in California. On the third day written and oral testimony will be received from tribes, individuals, and Indian organizations from within the Central California Agency on critical Indian issues.

The meeting is open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come-first-served basis after space has been reserved for elected tribal officials. Any member of the public may file with the Task Force a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact the California Indian Task Force Chairman, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, telephone number [(916)-484-4682].

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 2550, 2800 Cottage Way, Sacramento, California.

This notice is published in exercies of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: May 8, 1984.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-12729 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

California Desert District, Eureka Valley Dunes; Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of Eureka Valley Dunes Area of Critical Environmental Concern Management Plan.

SUMMARY: The Management Plan for the Eureka Valley Dunes ACEC has been prepared in order to provide additional protection and management to a highly significant array of critical resources especially vegetation, rare and endangered flora, wildlife, archaeologica, visual, and non-vehicular recreation. The authorities for the management plan are 43 CFR 8000.0-6, 8340, 8341, 8342, 8343, 8351, 8364, and 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, the Antiquities Act and Archaeological Resources Protection Act of 1979. The ACEC contains approximately 5,126 acres of BLM managed public lands in Inyo County. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan. The results of the ACEC Management Plan included extensive public involvement.

EFFECTIVE DATE: May 10, 1984.

ADDRESS: The Eureka Valley Dunes ACEC Management Plan, as well as a map of the area within the ACEC, will be available at the Ridgecrest Resource Area Office, 112 East Dolphin Street, Ridgecrest, California 93555 between the hours of 7:30 a.m. and 4:00 p.m. on regular working days. For further information contact Peter Rowlands at the above address or (619) 375-7125.

Plan Actions

The purpose of the restrictions in this management plan is to provide for the protection of the Eureka Dunes and its biota, while maintaining other nondestructive, low impact uses of the area.

Off-road vehicle use is currently prohibited on the Eureka Dunes. To prevent degradation of the entire ACEC, this closure will continue to be enforced, and vehicle use will be restricted to designated roads within the remainder of the area.

Camping is prohibited within ⅛ mile around the Eureka Dunes to preserve the sensitive vegetative resources.

Signs will be posted along the ACEC boundary and in restricted camping areas.

A monitoring plan will be initiated for the ACEC as outlined in the management plan.

Administrative access into closed areas by BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state and county employees is allowed only when on official duty and when cleared beforehand by the Authorized Officer. The public lands within the ACEC will remain open to all other resource uses not in conflict with the objectives of the ACEC Management Plan.

A map showing the restricted area is available for review at the Ridgecrest Resource Area Office. Copies of the map are available upon request.

Any person who violates or fails to comply with the regulations and restrictions implemented by this plan may be prosecuted and subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: May 4, 1984.

Gerald E. Hillier,

District Manager, California Desert District.

[FR Doc. 84-12571 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-40-M

California Desert District, Last Chance Canyon; Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of Last Chance Canyon Area of Critical Environmental Concern Management Plan.

SUMMARY: The Last Chance Canyon ACEC was established to provide protection and enhancement of significant natural and cultural resource values. This ACEC also provides for other resource uses to the extent that they are compatible with the overall goal of protection and enhancement of key natural and cultural resources. The authorities for the management plan are 43 CFR 8000.0-6, 8340, 8341, 8342, 8343, 81, 8364, and 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, the Antiquities Act and Archaeological Resources Protection Act of 1979. The area affected by this management plan is the Last Chance Canyon ACEC. The ACEC contains approximately 5,274 acres of BLM managed public lands in Kern County. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan. The results of the ACEC Management Plan included public involvement.

EFFECTIVE DATE: May 10, 1984.

ADDRESS: Send inquiries to Area Manager, Ridgecrest Resource Area, 112 East Dolphin Street, Ridgecrest, California 93555. The ACEC Management Plan and public comments will be available at the above address from 7:30 a.m. to 4:00 p.m. on regular working days. For further information contact Elva Younkin at the above address or (619) 375-7125.

Plan Actions

The purpose of this management plan and restrictions is to minimize conflicts between recreation use, mineral use, and natural and cultural resources.

Vehicle use is restricted to designated roads and signed accordingly. Implementation will include posting ACEC signs at boundaries and access routes; posting of archaeological resources protection and interpretive signs and to establish a monitoring program for the significant cultural resources.

Administrative access into closed areas by BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state and county employees is allowed when on official duty and when cleared before hand by the Authorized Officer. The public lands within the ACEC will remain open to all other resource uses not in conflict with the objectives of the ACEC Management Plan.

A map showing the restricted areas is available for review at the Ridgecrest Resource Area Office. Copies of the map are available upon request.

Any person who violates or fails to comply with the regulations and restrictions implemented by this plan may be prosecuted and subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: May 4, 1984.

Gerald E. Hillier,

District Manager, California Desert District.

[FR Doc. 84-12572 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-40-M

California Desert District, Saline Valley Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of Saline Valley Area of Critical Environmental Concern Management Plan.

SUMMARY: The Saline Valley ACEC was identified as a special management area in the California Desert Conservation Area (CDCA) Plan to provide timely, protective management of significant wildlife habitats (sand dune, mesquite-thicket, meadow and wetland), and prehistoric and historic cultural resources. The plan area consists of approximately 9,000 acres of public land and includes: All public lands in T. 13 S., R. 38 E., Sections 27, 28, 29, 30, 31, 32, 33, 34, 35, and T. 14 S., R. 38 E., Sections 9, 10, and 15 within a triangle bordered by the Saline Valley, Warm Springs and Artisan Roads, as well as all public lands within portions of T. 14 S., R. 38 E., Sections 21, 22, 23, 26, 27, 28, and 35. As such the following rules of conduct shall apply: The user shall camp overnight only in places provided or posted for such purposes. The authorities for the Management Plan are 43 CFR 8372, 8000.0-6, 8340, 8341, 8342, 8343, 8352, and 8365, the Federal Land Policy and Management Act of 1976, the Antiquities Act and the Archaeological Resources Protection Act of 1979. The Saline Valley ACEC Management Plan, approved on October 22, 1982, was developed following the guidelines established for the area in the California Desert Conservation Area Plan. The final management plan includes public involvement. A total of 196 people, and/or organizations submitted comments regarding the Saline Valley ACEC during the development of the CDCA Plan.

EFFECTIVE DATE: May 10, 1984.

ADDRESS: The Saline Valley ACEC Management Plan as well as a map of the area within the ACEC will be available at the Ridgecrest Resource Area Office, 112 East Dolphin Street, Ridgecrest, California 93555, between the hours of 7:30 a.m. and 4:00 p.m., on normal working days, Telephone (619) 375-7125. Address inquiries to the Area Manager.

Plan Actions

The purpose of the guidelines in this management plan is to minimize conflicts between the user public and the protection of all sensitive natural resources. To prevent degradation of the natural resources, vehicle use will be limited to designated and signed routes. Administrative access by vehicle into areas closed to vehicle access can be allowed for BLM personnel, BLM contractors, licensees and other federal, state or county employees when on official duty and only when approved by the Authorized Officer.

Any person who violates or fails to comply with the regulations and restrictions implemented by this plan may be prosecuted and subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: May 4, 1984.

Gerald E. Hillier,

District Manager, California Desert District.

[FR Doc. 84-12570 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-40-M

California Desert District, Stream Well Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of Steam Well Area of Critical Environmental Concern Management Plan.

SUMMARY: The Steam Well ACEC was identified as a Special Management Area in the California Desert Conservation Area (CDCA) Plan to provide protective management of significant prehistorical culture resource values. The protection of these values is required for two reasons; the high significance of the resource and its vulnerability to vandalism, theft, or other irreparable damage.

The Steam Well ACEC is located in San Bernardino County and contains approximately 40 acres of public land. The authorities for the management plan are 43 CFR 8000.0-6, 8340, 8341, 8342, 8351, 8364, and 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, the Antiquities Act and Archaeological Resources Protection Act of 1979. The ACEC Management Plan was developed following the guidelines established in the California Desert Conservation Area Plan. The results of the ACEC Managment Plan included public involvement.

EFFECTIVE DATE: May 10, 1984.

ADDRESS: Send inquiries to Area Manager, Ridgecrest Resource Area, 112 East Dolphin Street, Ridgecrest, California 93555. The ACEC Management Plan and public comments will be available at the above address from 7:30 a.m. to 4:00 p.m. on regular working days. For further information contact Elva Younkin at the above address or (619) 375-7125.

Plan Actions

The purpose of this management plan is to present how those resources can best be managed and protected and what the costs and schedule of implementation will be. These restriction will be implemented to minimize conflicts between recreation use, mineral use and natural and cultural resources. the implementation objectives are to protect and preserve the Steam Well petroglyphs site, to maintain the visual integrity of the Steam Well ACEC, and to develop an interpretive program for the education and enjoyment of the public.

Implementation of the plan consists of: fencing the petroglyph location, removing safety hazards, map petroglyphs, and establish a monitoring program.

The ACEC will be closed to shooting. However, hunting, managed by the California Department of Fish and Game, will be allowed to continue. The public lands within the ACEC will remain open to other resource uses not in conflict with the objectives of the ACEC Management Plan. Administration access by vehicle into areas closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state, and county employees is allowed when on official duty and when cleared beforehand by the Authorized Officer. A map showing the restricted areas is available for review at the Ridgecrest Resource Area Office. Copies of the map are available upon request.

All restrictions will be identified on an interpretive sign posted at the entrance of the Steam Well ACEC.

Any person who violates or fails to comply with the regulations and restrictions implemented by this plan may be prosecuted and subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: May 4, 1984.

Gerald E. Hillier

District Manager, California Desert District.

[FR Doc. 84-12569 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-48-M

Land Resource Management; Filing of Plat Survey; Montana

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of filing of plat of survey.

SUMMARY: Plats of survey of the lands described below accepted April 12, 1984, will be officially filed in the Montana State Office effective 8 a.m. on July 5, 1984.

Principal Meridian, Montana

T. 8 N., R. 3 W.

The Supplemental Plat of section 10, Township 8 North, Range 3 West, Principal Meridian, Montana, showing new Lot 16, is the segregation survey of the Combstock Lode. The area described is in Jefferson County.

This plat was prepared at the request of the Butte District Office to meet certain administrative needs of the Bureau.

EFFECTIVE DATE: July 5, 1984.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: April 30, 1984

Linda M. Wagner,

Chief, Branch of Records.

[FR Doc. 84-12573 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-DN-M

Michigan; Intent To Prepare a Planning Analysis

SUMMARY: The Milwaukee District Office, Bureau of Land Management, is initiating a plan in the State of Michigan to determine the eventual disposition of Bureau-administered public lands and to delineate areas and objectives for management of Federal mineral estate. The plan will be prepared under the provisions of 43 CFR 1610.8(b) and other applicable regulations.

Key Dates and Public Reviews

Notice and Request for Comments—May 1984

Second Request for Comments—June 1984

Proposed Plan Released—September 1984

Final Decision—November 1984.

SUPPLEMENTARY INFORMATION: Federal public lands administered by the Bureau of Michigan consist of approximately 750 tracts ranging in size from one-half an acre to more than 500 acres. They are predominantly small tracts and islands widely scattered throughout 53 counties. Total acreage is approximately 3,000 acres. Nearly all tracts are under application by the State of Michigan for Recreation and Public Purposes. There are a number of unauthorized use and title conflict cases which must be resolved prior to any other action, however, for planning purposes, all tracts will be dealt with as if the Bureau has clear ownership.

Approximately 136,00 acres of Federal minerals underlie state, county and private surface ownership. The Bureau administers approximately 1.2 million acres of Federal minerals under other Federal agencies' surface. Planning documents will discuss the mineral potential underlying these lands, outline the policies and programs of the Bureau as they relate to the plans and prescribed resource allocations these agencies have identified to date.

Planning will decide whether to retain or dispose (through sale, interagency transfer, R&PP lease or other means) of surface tracts. Planning will also delineate management areas and objectives based on mineral potential and the sensitivity of surface resources. Planning decisions will be prepared by the Milwaukee District Manager and approved by the Eastern States Director, Bureau of Land Management, Alexandria, Virginia.

In the past, the Eastern States Office of the BLM has not had an active management posture with regard to public domain lands in Michigan. This situation has led to ownership conflicts and unauthorized uses. To help alleviate these problems, a concerted effort towards accurate and well-maintained lands records has been initiated with the assistance of State, local governments and the general public.

Mineral ownership in Michgan is located on tracts administered by the Bureau of Land Management, other Federal agencies, the state and private parties. In order to facilitate minerals actions, every effort will be made to coordinate with these entities and maintain accurate minerals records.

This planning effort is the culmination of an effort begun in 1982 as the Michigan Multiple-Use Plan (MUP), under procedures which are now obsolete. The plan will be completed as a Category I Planning Analysis, which means that an environmental assessment (EA) will be prepared as an integral part of the process.

This plan, when approved, will supersede the Bureau's Regional Oil and Gas Environmental Assessment currently in effect in the State of Michigan.

The environmental assessment to be prepared during this planning effort will evaluate and compare the probable effects of the proposed plan, a "no action" alternative (meaning no change from current management), and reasonable lands and minerals subalternatives.

Planning team members will include a natural resource specialist, a cultural resource specialist, a realty specialist, several geologists and an environmental scientist.

Persons wishing to comment and to be kept informed on this effort should immediately contact the team leader at the address or telephone number listed below. Please request to be placed on the mailing list for the Michigan plan.

FOR FURTHER INFORMATION CONTACT: Larry Johnson, Planning Team Leader, U.S. Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201-0631, Telephone (414) 291-4416, FTS 362-4416.

Dated: May 2, 1984.

Chuck Steele,

Milwaukee District Manager.

[FR Doc. 84-12574 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-GJ-M

California Desert District; Off-Road Vehicle Closure of Three Routes; Southwestern Imperial County and One Route in Eastern San Diego County

AGENCY: Bureau of Land Management, Interior.

ACTION: Off-road vehicle closure notice for four routes of travel on public lands in southwestern Imperial County and eastern San Diego County, California.

This closure notice affects four routes within the administrative jurisdiction of the El Centro Resource Area, California Desert District. Three of the routes are located in southwestern Imperial County near Mount Signal, Tps. 16 ½ S., 17 S., R. 12 E., San Bernardino Base and Meridian. These routes are associated with construction of the La Rosita 230 kV transmission line and were identified for closure as a mitigation measure in the Environmental Assessment, dated 10/14/83. Each route is closed to public use in order to prevent adverse impacts to wildlife, cultural, and botanical resources.

The Bureau of Land Management is closing these routes under authority of 43 CFR 8364.1. This closure order is effective immediately and shall remain in effect until such time as the route of travel decisions for the area are reviewed and updated. Individual routes will be barricaded and signed closed.

The fourth route is located in San Diego County near Jacumba, California in Section 35, T. 17 S., R. 8 E., San Bernardino Base and Meridian. The route lies within the Table Mountain Area of Critical Environmental Concern and parts of it pass through the Table Mountain District, listed on the National Register of Historic Places. This route

was closed as a result of a management decision of the 1981 Eastern San Diego County Management Framework Plan, because of conflicts with wildlife concerns and cultural resource values.

This route is closed under authority of 43 CFR 8341.1(c). This closure was effective with finalization of the Management Framework Plan decision on April 9, 1981, and will remain in effect until rescinded or modified by the authorized officer. The road is barricaded and signed closed.

Maps showing the exact location of routes affected by this closure notice are available from the El Centro Resource Area, 333 South Waterman Avenue, El Centro, CA 92243. Access on any of these four routes is limited to official vehicles on official business or other vehicles whose use is expressly authorized by the authorized officer. Any person who knowingly and willfully violates this closure order may be subject to a $1,000 fine or imprisonment for not longer than 12 months, or both, under authority of 43 CFR 8364.2 and 43 CFR 8340.0–7.

Dated: May 1, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84–12568 Filed 5–9–84; 8:45 am]

BILLING CODE 4310–84–M

[Realty Action I–19639 and I–19640]

Competitive Sale of Public Land in Lincoln County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action I–19639 and I–19640, competitive sale of public land in Lincoln County, Idaho.

SUMMARY: The following described lands have been examined, and through land use planning and public input have been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976. Fair market value will be available no less than 30 days prior to the sale date. Sealed bids only will be accepted.

Boise Meridian, Idaho

T. 4 S., R. 19 E. (I–19639)
Sec. 17: NW¼SW¼.
Containing 40 acres.
T. 3 S., R. 19 E. (I–196)
Sec. 32: W½NW¼.
Containing 80 acres.

The lands when patented will be subject to the following reservations to the United States:

1. Ditches and canals.
2. Oil and gas resources.
3. All valid, existing rights and reservations of record.

The lands are hereby segregated from all appropriation under the public land laws including the mining laws until sold or these sales are suspended.

Sealed bid must be received in this office no later than August 31, 1984. Bids for less than the fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A $50 nonreturnable filing fee for processing such conveyance, along with one-fifth of the full bid price must accompany each bid. We will offer any unsold parcel the third Friday of each month for three consecutive months or until these sales are suspended.

DATE: AND ADDRESS: The sale offering will be held on August 31, 1984, at 10:00 a.m. in the Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Detailed information concering the sale and conditions, bidding procedures, and other details can be obtained by contacting Mike Austin at (208) 886–2206 or writing to BLM, P.O. Box 2B, Shoshone, Idaho 83352.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Shoshone District Manager of the above address.

Dated: May 3, 1984.

Charles J. Haszier,

District Manager.

[FR Doc. 84–12575 Filed 5–9–84; 8:45 am]

BILLING CODE 4310–GG–M

[Realty Action I–19637]

Direct Sale of Public Land in Lincoln County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I–19637, Direct Sale of Public Land in Lincoln County, Idaho.

SUMMARY: The following described land has been examined, and through land use planning and public input has been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976. Fair market value will be available no less than 30 days prior to the sale date.

The subject land is being sold to Ralph Riley based on historic use, adjacent landownership, and value added by him on the land. Failure of the proponent to submit a sealed bid will result in cancellation of the direct sale to him and the lands will be sold at a later date to the highest bidder.

T. 4 S., R. 20 E.,

Boise Meridian, Idaho

Sec. 5: NW¼SE¼
Containing 40 acres.

The land when patented will be subject to the following reservations to the United States:

1. Ditches and canals.
2. Oil and gas resources.
3. All valid, existing rights and reservations of record. The land is hereby segregated from all appropriation under the public land laws including the mining laws until sold or the sale is suspended.

Sealed bid must be received in this office no later than August 31, 1984. Bids for less than the fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A $50 nonreturnable filing fee for processing such conveyance, along with one fifth of the full bid price must accompany the bid. If the lands are unsold we will offer them on a competitive bid basis the third Friday of each month for three consecutive months to anyone wanting to purchase them or until this sale is suspended.

DATE AND ADDRESS: The sale offering will be held on August 31, 1984, at 10:00 a.m. in the Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale and conditions, bidding procedures, and other details can be obtained by contacting Mike Austin at (208) 886–2206 or writing to BLM, P.O. Box 2B, Shoshone, Idaho 83352.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Shoshone District Manager of the above address.

Dated: May 3, 1984.

Charles J. Haszier,

District Manager.

[FR Doc. 84–12576 Filed 5–9–84; 8:45 am]

BILLING CODE 4310–GG–M

Public Land Exchange Management Framework, Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Exchange of Public Lands in Coos County, Oregon; Notice of Intent to Amend the South Coast-Curry Management Framework Plan (MFP).

In accordance with 43 CFR 1601.3 notice is given that the Bureau of Land Management in the State of Oregon, Coos Bay District, intends to amend the South Coast-Curry Management Framework Plan (MFP).

The amendment is to include public land administered by the BLM on the Coos Bay North Spit and described as follows:

Willamette Meridian, Oregon

T. 25 S., R. 13 W.,
Sec. 4, N½NW¼;
Sec. 5, NW¼NW¼;
Sec. 6, All;
Sec. 7, Lots 2, 3, 4, 5, 6, 7, 8, and 9, SW¼SW¼,NE¼, SE¼NW¼, and E½SW¼,
Sec. 18, NW¼NE¼ and E½NW¼.
T. 25 S., R. 14 W.,
Sec. 12, Lot 1;
Sec. 13, Lots 3 and 4;
Sec. 23, Lot 1;
Sec. 24, Lots 1, 2, 3, 4, 5, 6, 7, and 8, NW¼NE¼, and NE¼SW¼;
Sec. 25, Lot 2;
Sec. 26, Lots 4, 5, and 6.

Aggregating approximately 1,605.52 acres.

The North Spit is located in Coos County between the Pacific Ocean, Coos Bay and the Siuslaw National Forest. The existing MFP did not include lands on the North Spit, as these lands were administered by the Corps of Engineers when the plan was completed in 1983.

Additionally, this notice services as the Notice of Realty Action as required by 43 CFR Part 2201. The Coos Bay District has received an informal exchange proposal affecting 54.29 acres of public land and is described as follows:

Willamette Meridian, Oregon

T. 25 S., R. 13 W.,
Sec. 7, Lots 6 and 9;
Sec. 18, Lot 6.

Comprising 54.29 acres, more or less.

Contingent upon approval of the amended MFP, the above described 54.29 acres will be in conformance with the approved land use plan and therefore, suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. In exchange for these lands, the Federal Government will acquire the following land from the Oregon International Port of Coos Bay:
T. 25 S., R. 13 W.,
Sec. 26, Lots 4 through 16, inclusive; Block 30, Nasburg's Addition to Marshfield.

The purpose of the exchange is to acquire lands which the Corps of Engineers (COE) currently leases from the Oregon International Port of Coos Bay and on which the COE has constructed docking facilities and associated ancillary facilities. Acquisition of this property has the distinct benefit of consolidating the ownership of the improvements and land in the Federal Government and relieving the COE from annual lease payments. The acquisition of this land will be consistent with the Bureau's planning system and the public interest will be well served by the exchange. The value of the lands have not been determined, however, upon completion of the final appraisal the acreage will be adjusted or money will be used to equalize the values.

The public lands will be transferred subject to: (1) The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945); (2) all valid existing easements, leases, permits or licenses issued by the COE; (3) the reservation to the United States of the oil/gas rights; and (4) all other valid existing rights. The surface and mineral estate except for oil/gas rights will be transferred to the United States subject to valid existing rights.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be 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 two years from date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the proposed exchange and land use plan amendment, including the environmental analysis will be available for review at the Coos Bay District Office, 333 S. Fourth Street, Coos Bay, Oregon 97420.

Comments

Pursuant to the purpose of this publication, two comment periods are provided at this time. The comment period for the land exchange proposal will be 45 days and the comment period on the preliminary issues and planning criteria for the proposed land use plan amendment will be 30 days. Comments on each or both proposals should be submitted to the Coos Bay District Manager at the above address. Any adverse comments received as a result of the Notice of Realty Action will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Public Participation in the Plan Amendment

Major issues involved in the plan amendment are the protection of important and sensitive environmental and social values and disposal of Federal land for industrial use or through exchange to acquire private inholdings. Disciplines to be represented on the interdisciplinary team preparing the plan amendment and Environmental Assessment (EA) are: Wildlife, recreation, watershed lands and realty, fisheries, forestry and land use planning. More detailed information on planning criteria, issues and preliminary management alternatives is available at the Coos Bay District Office and has also been mailed to known interested parties. The comment period on preliminary issues and planning criteria for the plan amendment and associated EA will close June 10, 1984. Other public participation activities will include a 60 day review of the draft plan amendment and EA and an open house to receive comments and answer questions. Dates, times, and locations will be announced through local media and mailing to interested parties. Planning documents are available for inspection at the Coos Bay District Office during normal working hours.

Dated: May 2, 1984.

Robert T. Dale,

District Manager.

[FR Doc. 84-12577 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-33-M

Colorado; Craig District Advisory Council Meeting

In accordance with Pub. L. 94-579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on June 12, 1984.

The meeting will begin at 10 a.m. at the Craig District Office, 455 Emerson Street, Craig, Colorado.

The agenda of the meeting will include:

1. Taylor Grazing Act Commemoration
2. Piceance Basin Resource Management Plan
3. Oil Shale Tract C-a Offsite Disposal
4. Azure/Wolford Water Development Projects
5. Special Recreation Permits for Outfitters and Guides

6. Socio-Economic issues associated with mineral development
7. Little Snake Resource Management Plan

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 10 a.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement should notify the District Manager, Bureau of Land Management, 445 Emerson Street, Craig, Colorado 81625, by June 8, 1984.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: May 1, 1984

Lee Carie,

District Manager.

[FR Doc. 84-12628 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-JB-M

[N-34272]

Nevada; Order Providing for Opening of Lands

May 1, 1984.

The following described lands were reconveyed to the United States in an exchange and title was accepted on January 3, 1984.

Mount Diablo Merdian, Nevada

T. 16 N., R. 38 E.,
Sec. 3, W½SW¼;
Sec. 4, SE¼NE¼;
Sec. 10, SW¼NE¼ N½NW¼, SE¼NW¼, N½SE¼.

The areas described comprises approximately 360 acres.

The land lies in Lander County, approximately 40 air miles southwest of Austin, Nevada.

All minerals in the following described lands are reserved to the United States:

Mount Diablo Meridian, Nevada

T. 16 N., R. 38 E.,
Sec. 3, W½SW¼;
Sec. 10, N½NW¼, SE¼NW¼, SW¼NE¼, N½SE¼.

All minerals in the remaining lands are in private ownership.

On the 30th day, commencing with the date of this publication, the land described above will be open to the operation of the public land laws, subject to valid existing rights, existing classifications, and the requirements of applicable laws. All valid applications received from the date of this publication and until the opening of business on the 30th day, will be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

Inquiries concerning this land should be addressed to District Manager, Bureau of Land Management, Second and Scott Streets, Battle Mountain, Nevada 89820.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 84-12627 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-HC-M

[W-6228]

Wyoming; Partial Termination of Classification of Public Lands for Multiple-Use Management and Partial Termination of Mineral Segregation

April 30, 1984.

1. On November 22, 1967, (FR Vol. 32, No. 226, pages 16057 and 16058), the public lands described in the notice aggregating approximately 2,077,702 acres were classified for multiple-use management under the Act of September 19, 1964, and segregated as follows: (a) All the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes, 28 Stat. 687 (formerly 43 U.S.C. 1171); (b) the public lands described in paragraph 4 of the notice from appropriation under the general mining laws (30 U.S.C. 21). On December 9, 1970 (FR Vol. 35, No. 238, pages 18682 and 18683), the classification was amended to further segregate additional lands, as described in paragraph 3 of that notice, from appropriation under the general mining laws (30 U.S.C. 21). Except as provided in (a) and (b) in the order dated November 22, 1967 above, and the amendment of December 7, 1970, the lands remained open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classification, referred to under paragraph 1 above, is hereby terminated with the exception of the lands as set out in paragraph three below. This action will restore all of the lands, except those described in paragraph 3 below, to the operation of the public land laws, subject to valid existing provisions of existing withdrawals and the requirements of applicable law.

3. The following described lands shall remain classified as stated in the order dated November 22, 1967, and the amendment of December 9, 1970, stated above. They are segregated from appropriation under the agricultural land laws, sales under R.S. 2455 (repealed), and the general mining laws:

Sixth Principal Meridian, Wyoming

T. 34 N., R. 90 W.,
Sec. 9, NE¼SE¼;
Sec. 10, NW¼SW¼.
T. 27 N., R. 91 W.,
Sec. 2, N½NW¼SE¼.
T. 28 N., R. 91 W.,
Sec. 27, E½SW¼SE¼
Sec. 29, N½NE¼SW¼;
Sec. 34, W½NE¼NE¼, E½NW¼NE¼, NE¼SW¼NE¼, and NW¼SE¼NE¼.
T. 30 N., R. 96 W.,
Sec. 10, SE¼NE¼;
Sec. 11, S½NW¼NW¼ and SW¼NW¼.
T. 29 N., R. 99 W.,
Sec. 3, NW¼SW¼NW¼;
Sec. 6, lots 1, 3, 4, 9, 12, 16, and SW¼SE¼ NW¼;
Sec. 7, lot 1;
Sec. 9, W½SW¼NW¼.
T. 30 N., R. 99 W.,
Sec. 29, SE¼SW¼ and W½SW¼SE¼;
Sec. 32, lots 1, 4, 6, S½NE¼NE¼, and S½ SW¼NW¼;
Sec. 33, NW¼SW¼NW¼ and N½SW¼ SW¼NW¼.
T. 29 N., R. 100 W.,
Sec. 1, lots 1, 5 and 9;
Sec. 9, SE¼NE¼SW¼, NE¼SE¼SW¼, SW¼NW¼SE¼,and SW¼SE¼;
Sec. 12, NE¼NE¼NE¼,NE¼SW¼NW¼, and S½SW¼NW¼;
Sec. 18, NE¼NE¼SW¼, SW¼NE¼SE¼, NW¼SE¼,NE¼SW¼SE¼, and SE¼ SE¼;
Sec. 19, E½E½NE¼;
Sec. 20, lots 1 to 7 inclusive, lots 9, 10, NW¼NE¼,N½NW¼, SW¼NW¼, and S½S½;
Sec. 21, W½SW¼, W½NE¼NE¼SE¼, SE¼NE¼SE¼, S½NE¼SW¼SE¼,N½ SE¼SW¼SE¼, and E½NE¼SE¼SE¼;
Sec. 22, NW¼NW¼NW¼NE¼, E½NW¼ NE¼SW¼, W½NE¼NE¼SW¼, NW¼SW¼SW¼, E½SW¼SW¼SW¼, and W½SE¼SW¼SW¼;
Sec. 26, SW¼NE¼, W½SE¼NE¼, and SE¼SE¼NE¼;
Sec. 27, N½NW¼NW¼ and SE¼NW¼ NW¼;
Sec. 28, N½N½NE¼.

The area described contains 1,913.47 in Fremont County, Wyoming.

4. The following described lands that were described in paragraphs 3 and 4 of the notices, which were further segregated from appropriation under the general mining laws (30 U.S.C. 21), will be open to location under the United States mining laws at 10:00 a.m. on June 18, 1984, subject to valid existing rights.

T. 27 N., R. 90 W.,
Sec. 15, S½NW¼ and N½SW¼.
T. 39 N., R. 90 W.,
Sec. 12, SE¼;
Sec. 13, NE¼.
T. 27 N., R. 91 W.,
Sec. 2, S½NW¼SE¼;
Sec. 3, SE¼SW¼, and SW¼SE¼;
Sec. 4, S½S½SW¼;
Sec. 5, NW¼SE¼SE¼;
Sec. 9, N½N½NW¼;
Sec. 10, NW¼NE¼ and NE¼NW¼;

Sec. 12, S½NE¼, E½SW¼, and NW¼SE¼;
Sec. 13, lot 3 and NW¼NW¼.
T 28 N., R. 91 W.,
Sec. 27, NE¼SW¼, NW¼SE¼, and W½SW¼SE¼;
Sec. 29, S½NE¼SW¼;
Sec. 34, E½E½NE¼, W½W½NE¼,SE¼SW¼NE¼, and SW¼SE¼NE¼.
T. 28 N., R. 92 W.,
Sec. 25.
T. 28 N., R. 93 W.,
Sec. 7, S½S½SE¼;
Sec. 18, N½NE¼ and NE¼NW¼.
T. 30 N., R. 96 W.,
Sec. 10, NE¼SE¼ and N½SE¼SE¼;
Sec. 11, NW¼NW¼SW¼.
T. 31 N., R. 97 W.,
Sec. 27, NE¼NE¼.
T. 29 N., R. 99 W.,
Sec. 3, lots 3, 4, S½NE¼, NE¼SW¼NW¼, S½SW¼NW¼, and SE¼NW¼;
Sec. 4, lot 1, SE¼SW¼NE¼, E½SW¼SW¼NE¼, W½SW¼SE¼NE¼, NE¼NW¼SE¼, E½NW¼NW¼SE¼, and W½NW¼NE¼NE¼.
Sec. 6, lots 10, 11, 15, N½SE¼NW¼, and SE¼SE¼NW¼;
Sec. 9, E½SW¼NW¼.
T. 30 N., R. 99 W.,
Sec. 29, SW¼SW¼ and E½SW¼SE¼;
Sec. 32, lots 3, 9, 10, N½NE¼NE¼, NW¼NW¼, and N½SW¼NW¼;
Sec. 33, SW¼, S½NW¼SE¼, and S½SE¼;
Sec. 34, S½SW¼SW¼.
T. 28 N., R. 100 W.,
Sec. 21, SW¼SW¼;
Sec. 28, NW¼NW¼.
T 29 N., R. 100 W.,
Sec. 1, lots 10 and 14;
Sec. 3, lots 6, 7, 8, 10, 11, 12, 13, 14, 15, and 18;
Sec. 9, SE¼NE¼, NE¼SE¼, and that part of NW¼ lying north and west of State Highway 28;
Sec. 10, NW¼SW¼;
Sec. 11, lot 1;
Sec. 12, lot 2, SW¼NE¼, W½SE¼NW¼, and NW¼SW¼NW¼;
Sec. 14, lot 5, NW¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 17, S½NW¼NE¼, N½SW¼NE¼, and W½SW¼SW¼;
Sec. 18, lot 6, SE¼NE¼SW¼, and SE¼SW¼SE¼;
Sec. 19, lot 4, W½NE¼NE¼, and SW¼SE¼SW¼;
Sec. 21, E½NW¼NE¼SE¼, N½NE¼SW¼SE¼, W½SW¼SE¼, and S½SE¼SW¼SE¼;
Sec. 22, NE¼NW¼NE¼; NE¼NW¼NW¼NE¼, S½NW¼NW¼NE¼, S½NW¼NE¼, E½NE¼NE¼SW¼, S½NE¼SW¼, W½NW¼NE¼SW¼, and W½NW¼SW¼;
Sec. 26, NE¼SE¼NE¼;
Sec. 27, SW¼NW¼NW¼;
Sec. 28, S½NE¼NE¼;
Sec. 30, lot 1 and NW¼NE¼NW¼.

The area described contains 4,455.06 acres in Fremont County, Wyoming.

All of the lands described in paragraphs 3 and 4 above, have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Hillary A. Oden,

State Director, Wyoming.

[FR Doc. 84-12626 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-22-M

[AA-13358]

Alaska Native Claims Selection; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance to Cook Inlet Region, Inc., published in the **Federal Register** on November 30, 1979, is modified as to pages 69373 and 69374. This decision is modified by adding reserved easements, and changing the navigability determination, therefore redescribing the lands, and applies only to the lands not yet conveyed.

Any party, known or unknown, who may claim a property interest which is adversely affected by the decision shall have until June 11, 1984 to file an appeal on the issues in the decision. However, parties receiving service by certified mail shall have 30 days from the date they receive the decision, to appeal. Appeals must be filed in the Bureau of Land Management office identified below, where more data on the manner of and requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR, Part 4, Subpart E, shall be deemed to have waived their rights.

Copies of the modified decision can be obtained by contacting the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

Except as modified by this decision, the decision of November 30, 1979, stands as written.

Kamilah Rasheed,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-12638 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-JA-M

[AA-12417, AA-12420, AA-12430]

Alaska Native Claims Selections; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(h)(8) (1976)) (ANCSA), will be issued to Bristol Bay Native Corporation, for approximately 10,015 acres. The lands involved are within the Seward Meridian, Alaska:

T. 16 S., R. 50 W.
T. 46 S., R. 59 W.
T. 50 S., R. 66 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 11, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-12639 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-JA-M

Burley District Grazing Advisory Board; Meeting and Agenda

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-463, the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy and Management Act, that the Burley District Grazing Advisory Board will meet on June 21, 1984.

The meeting will convene at 9:30 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items for the meeting will include: (1) Election of officers; (2) Range improvement projects for fiscal year 1985; (3) Allotment Management Plan review; (4) Items of information; (a) Idaho BLM minimum monitoring standards, (b) status of Cassia RMP/EIS, (c) grazing regulation changes, (d) project maintenance, (e) fencing between private and federal land, (f) exchange-of-use agreements and percent public land use permits/leases.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:30 and 2:30 p.m. or they may file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, by June 19, 1984. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Detailed minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours (7:45 a.m. to 4:30 p.m. Monday through Friday) within 30 days following the meeting.

DATE: June 21, 1984.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318

FOR FURTHER INFORMATION CONTACT: John Davis, Burley District Manager, (208) 678-5514.

John S. Davis,

District Manager.

[FR Doc. 84-12633 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-GG-M

[Serial Nos. I-1542, I-2835]

Idaho; Termination of Classification for Multiple-Use Management

1. Pursuant to the authority delegated by BLM Manual Section 1203—Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land Management Multiple-Use Classification Orders dated June 14, 1968 and October 8, 1970 (Serial Nos. I-1542 and I-2835) published in the **Federal Register** June 28, 1968 and October 8, 1970, (Vol. 33, No. 126 page 9513 and Vol. 35, No. 196 page 15851) respectively, insofar as they affect the lands described below:

Boise Meridian, Idaho

Power County

(I-1542)

T. 4 S., R. 28 E.
T. 5 S., R. 28 E.
Secs. 1 to 18, inclusive;
Sec. 19, W½, W½SE¼;
Sec. 20, E½;
Secs. 21 to 28 inclusive;
Sec. 29, E½NE¼;
Sec. 30, W½NE¼, NW¼, SW¼;
Sec. 31, W½, SE¼;
Sec. 33, E½, E½W½;
Secs. 34 to 36, inclusive.
T. 6 S., R. 28 E.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1 to 3, inclusive, S½NE¼, SE¼NW¼, SW¼, SE¼;
Sec. 5, lot 4, SW¼NW¼, W½SW¼;
Secs. 6 to 12, inclusive;
Sec. 13, S½SW¼;
Secs. 14 to 23, inclusive;
Sec. 24, S½NE¼, NW¼, SW¼, W½SE¼;
Sec. 25, W½NE¼, NW¼, N½SW¼, SW¼, NW¼SE¼
Secs. 26 to 35, inclusive.
T. 7 S., R. 28 E.,
Sec. 2 N½NE¼, SW¼NE¼, W½;
Sec. 3;
Sec. 10;
Sec. 11; W½E½, W½;
Sec. 13; W½NW¼, SW¼;
Sec. 14, 15, 22 and 23;
Sec. 24; NW¼NE¼, S½NE¼, W½, SE¼.
T. 4 S., R. 29 E.,
Sec. 1 to 26, inclusive;
Sec. 27, N½, N½SW¼, SW¼SW¼, N½SE¼, SE¼SE¼;
Secs. 28 to 33, inclusive;
Sec. 34, W½NW¼, S½.
T. 5 S., R. 29 E.,
Secs. 3 to 10, inclusive;
Secs. 17 to 20, inclusive;
Sec. 21, W½NW¼, SW¼;
Sec. 28, W½W½;
Secs. 20 to 32, inclusive;
Sec. 33, NW¼NW¼.
T. 7 S., R. 29 E.,
Sec. 19, S½N½, S½;
Sec. 20, SW¼NE¼, NE¼NW¼, S½NW¼, S½.

Blaine County

T. 1 S., R. 25 E.,
Tps. 1, 3, 4, and 5 S., R. 26 E.,
Tps. 3, 4 and 5 S., R. 27 E.,
T. 3 S., R. 28 E.,
T. 3 S., R. 29 E.,

Bingham County

(I-2835)

T. 1 N., R. 30 E.,
Secs. 1, 2 and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.
T. 1 N., R. 31 E.,
T. 1 N., R. 32 E.,
Secs. 1 to 12, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 1 N., R. 33 E.,
Secs. 5 and 6.
T. 2 N., R. 33 E.,
Secs. 3 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 3 N., R. 33 E.,
Sec. 25, S½S½;
Sec. 26, SE¼SE¼;
Sec. 31, NE¼, S½;
Secs. 32 to 36, inclusive.
T. 1 N., R. 34 E.,
Sec. 13;
Sec. 14, NE¼;
Secs. 24, 25, and 36.
T. 1 N., R. 35 E.,
Secs. 13, 14, 15, and 18;
Sec. 19, W½;
Secs. 22 to 27, inclusive;
Sec. 30, W½;
Sec. 31, W½, W½SE¼;
Sec. 33, SE¼NE¼, E½SE¼;
Sec. 34, N½, SE¼, W½SE¼;
Sec. 35, W½NW¼;
Sec. 36.
T. 1 N., R. 36 E.,
Sec. 13, W½NW¼;
Sec. 14, N½, SW¼;
Sec. 15;
Sec. 18, SW¼;
Sec. 19;
Sec. 20, W½, SW¼SE¼;
Sec. 22, N½NW¼;
Sec. 23, NE¼NW¼;
Sec. 28, SW¼NE¼, W½NW¼, SE¼NW¼, SW¼, W½SE¼;
Sec. 29 to 32, inclusive;

Sec. 33, W½NE¼, NW¼.
T. 1 S., R. 30 E.,
Sec. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.
T. 2 S., R. 30 E.,
T. 3 S., R. 30 E.,
T. 4 S., R. 30.E.,
Secs. 1 to 20, inclusive;
Sec. 21, N½N½;
Sec. 22, N½N½;
Sec. 23, N½N½;
Sec. 24, N½N½;
Secs. 29, and 30.
T. 1 S., R. 31 E.,
T. 2 S., R. 31 E.,
T. 3 S., R. 31 E.,
T. 4 S., R. 31 E.,
Sec. 1, N½;
Secs. 3, and 4;
Sec. 5, lots 1 to 4, inclusive, S½NE¼, E½ SE¼;
Secs. 6 and 7;
Sec. 8, NE¼NE¼; S½NE¼; W½ SE¼;
Sec. 9, W½;
Sec. 18, W½NE¼, W½, W½SE¼;
Sec. 19, NW¼NE¼, N½W¼.
T. 1 S., R. 32 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Sec. 22, W½SW¼;
Sec. 27, W½NW¼SW¼;
Secs. 28 to 33, inclusive;
Sec. 34, W½.
T. 2 S., R. 32 E.,
Sec. 2, S½SW¼;
Sec. 3, W½, S½SE¼;
Sec. 4 to 10, inclusive;
Sec. 11, W½;
Secs. 15 to 22, inclusive;
Sec. 23, S½;
Secs. 26 to 30, inclusive.
T. 3 S., R. 32 E.,
Sec. 19, S½;
Secs. 20 to 35, inclusive.
T. 4 S., R. 32 E.,
Sec. 2, N½, N½SW¼.
T. 4 S., R. 32 E.,
Sec. 3, N½, N½S½;
Sec. 4;
Sec. 5, N½;
Sec. 6, N½;
Sec. 9, N½N½.
T. 3 S., R. 33 E.,
Sec. 19;
Sec. 20, N½;
Sec. 21, W½NW¼;
Sec. 30.
T. 1 S., R. 34 E.,
Sec. 1, lots 1 and 2 SE¼;
Sec. 12, NE¼.
T. 1 S., R. 35 E.,
Sec. 2, lots 3 and 4;
Secs. 3 to 8, inclusive;
Sec. 9, N½N½, SW¼NW¼, W½SW¼;
Sec. 10, N½NW¼;
Sec. 13, SE¼SE¼;
Secs. 17 to 20, inclusive;
Secs. 24 and 25;
Sec. 26, E½E½;
Secs. 29 to 32, inclusive.
T. 2 S., R. 35 E.,
Sec. 5, W½W½;
Sec. 6;
Sec. 7, N½;
Sec. 8, W½NW¼.
T. 1 S., R. 36 E.,
Sec. 4, lots 2, 3, and 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Secs. 5 to 8, inclusive;
Sec. 9, W½NE¼, W½, W½SE¼;
Sec. 15, SW¼;
Secs. 16 to 21, inclusive;
Sec. 22, W½;
Sec. 27, W½;
Secs. 28, 29, and 30;
Sec. 31, N½;
Sec. 32, N½.

Bonneville County

T. 1 N., R. 34 E.,
Secs. 1, 2, 3, 11 and 12.
T. 2 N., R. 34 E.,
Sec. 1, lots 2, 3, 4, S½N½;
Sec. 2;
Sec. 3, lots 1, 2, 3, S½N½, S½;
Sec. 4, SE¼;
Sec. 8, S½SE¼;
Secs. 9 to 17, inclusive;
Sec. 20, N½, N½SW¼, SE¼;
Secs. 21 to 27, inclusive.
T. 2 N., R. 34 E.,
Sec. 28, N½, N½SW¼, N½SE¼, SE¼SE¼;
Sec. 29, NE¼, NE¼, N½SE¼;
Sec. 33, E½E½;
Secs. 34, 35 and 36.
T. 3 N., R. 34 E.,
Sec. 31;
Sec. 32, N½;
Sec. 33, NW¼;
Sec. 34, NE¼, SE¼SW¼, SE¼;
Sec. 35, W½, SE¼.
T. 1 N., R. 35 E.,
Secs. 1 to 12, inclusive.
T. 2 N., R. 35 E.,
Sec. 6, SW¼, W½SE¼;
Secs. 7 and 8;
Sec. 9, W½NE¼, W½, W½SE¼;
Sec. 14, S½N½, S½;
Secs. 15 to 23, inclusive;
Sec. 24, S½N½, S½;
Secs. 25 to 36, inclusive.
T. 1 N., R. 36 E.,
Sec. 1, S½SW¼;
Secs. 2 to 6, inclusive;
Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 8, N½N½S½, SE¼SE¼;
Secs. 9, 10, and 11;
Sec. 12, NW¼, W½SW¼.
T. 2 N., R. 36 E.,
Sec. 19, S½N½, S½;
Sec. 28, SW¼;
Sec. 29, lots 3 and 4, S½NW¼, S½;
Secs. 30, 31, and 32;
Sec. 33, lots 1 to 6, inclusive, S½N½, N½S½;
Sec. 34, lots 1 to 4, inclusive, N½SW¼, NW¼SE¼;
Sec. 35.

The area described contains aproximately 711,835 acres.

The lands described above have been and will continue to be open to the mining laws, and applications and offers under the mineral leasing laws.

The segregative effect on the lands described in this order will terminate upon publication of this notice in the **Federal Register** as provided by the regulations in 43 CFR 2461.5(c)(2), at 9:00 a.m. on June 8, 1984, these lands shall be open to operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on June 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Operations, Bureau of Land Mangement, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: May 2, 1984.

Clair M. Whitlock,

State Director.

[FR Doc. 84-12630 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Modified Competitive Sale of Public Lands; Chaves and Lea Counties, New Mexico

SUMMARY:

Proposed Action:

The Bureau of Land Management is proposing to dispose of the following described public lands by modified competitive sale in compliance with the procedures of 43 CFR 2700, Circular No. 2467, at no less than the fair market value as determined by appraisal.

Tract No.	Legal description	Acreage	Fair market value
	New Mexico Principal Meridan.		
1. (NM-55768)	T. 11 S., R. 27 E., Sec. 8, N½N½.	160.00	$14,400
2. (NM-55770)	T. 7 S., R. 29 E., Sec 22, NW¼SW¼.	40.00	$3,000
3. (NM-55775)	T. 22 S., R. 36 E., Sec. 1, Lots 3 & 4, S½N½, SE¼.	400.24	
	T. 22 S., R. 37 E., Sec. 6, Lots 6 and 7.	74.06	$42,700

The area described aggregates 674.3 acres, with Tracts 1 and 2 being located within Chaves County, New Mexico and Tract 3 within Lea County New Mexico.

These lands have been identified through land use plans for disposal under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713).

For a period of 60 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final

determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

Sealed bids to be considered must be received at the address below by 4:30 p.m. on August 14, 1984.

The sale will be conducted at the Roswell District Office, 1717 W. Second St., Roswell, New Mexico 88201 at 2:00 p.m. on August 15, 1984. Any tracts not sold on that date will remain available for over-the-counter competitive sealed bid sale until November 21, 1984 at 10:00 a.m.

SUPPLEMENTARY INFORMATION:

Method of Bidding

The sale will be by modified competitive sealed bids for each tract. No bids will be accepted for a partial tract, or for less than the fair market value indicated.

All sealed bids will be publicly opened on the sale date, time and location specified above. If two or more valid sealed bids tie for apparent high bid, the determination as to which will be considered the apparent highest bid shall be by drawing, to be held immediately following the opening of the bids.

Preferential Purchasers

Because the tracts to be offered for sale are isolated, and have no legal access, the preference to purchase consistent with terms herein will be extended to Mr. David Carpenter for Tract No. 1; to Mr. Vern Newlin for Tract No. 2; and competitively to Snyder Ranches, Ltd., and Nyemeyer Properties, for all the land within Tract No. 3.

The preference purchasers will be offered the opportunity by formal written notice to meet or exceed the apparent highest sealed bid received or to offer to purchase in the absence of sealed bids. Multiple preference purchasers for the same tract will submit competitive sealed bids between them. Failure to exercise this action will constitute a loss of preference purchase offer, and the tract will be sold to the highest bidder.

Continuing Sale

Tracts that are not sold through the sealed bids or to preferential purchasers will remain available for sale to the public at the highest bid through over-the-counter sealed competitive bids at the above address at no less than the fair market value consistent with all terms of this notice. The bids received will be publicly opened at that address at 10:00 a.m. local time of each succeeding Wednesday of business. The tracts will be sold to the highest valid bid of that opening that meets or exceeds the fair market value.

Payment

Each sealed bid must be accompanied by a deposit of a certified check, postal money order, bank draft, or cashiers check made payable to Bureau of Land Management for not less than one-fifth of the bid amount.

The successful bidder must pay the balance of the full bid price within 30 days from notice by BLM. Failure to submit the full bid price shall result in cancellation of the sale of the specific tract and the deposit shall be forfeited.

All deposits from unsuccessful bidders will be returned within 30 days.

Acceptance or Rejection of Offer

The acceptance or rejection of any offer to purchase shall be by written notice no later than 30 days after receipt of such offer. The BLM may reject any offer or withdraw any tract from sale prior to formal notice of acceptance of an offer.

Reservations and Conditions

The patent will contain the following reservations to the United States;

1. A right-of-way thereon for ditches or canals constructed by the United States under authority of the Act of August 30, 1890, (27 Stat 391, 43 U.S.C. 945 et seq).

2. All minerals, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe (43 U.S.C. 1719).

The patent will be subject to;

1. Those rights granted to existing mineral lessees to use so much of the surface as is necessary for exploration, development, and production under applicable law and such regulation as the Secretary may prescribe consistent with the reserved minerals.

2. The right of BLM to manage under applicable law and regulations for the existing grazing lease rights through February 28, 1991 for Tract No. 1 and through April 16, 1985 for tract No. 3, unless waived by the lessees.

3. Those rights granted to existing authorized rights-of-ways of record on the date of the patent for the duration of the grant and any authorized extensions and the right of BLM to manage and charge for such grants consistent with law and regulation in effect at date of patent. Upon termination, relinquishment, or cancellation of any said rights-of-ways, this encumbrance shall terminate.

Public Documents: The land use planning, decisions, environmental documentation, land report analysis, record of public comments and involvement, and appraisal are available for public inspection at the above BLM address.

Earl R. Cunningham,

District Manager, Roswell District Office.

[FR Doc. 84-12632 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-84-M

Roswell District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Roswell District Grazing Advisory Board.

DATE: June 12, 1984, beginning at 10:00 a.m. A public comment period will be held at 2:00 p.m.

Location: Roswell Inn, 1815 N. Main Street, Roswell, NM 88201.

FOR FURTHER INFORMATION CONTACT: Richard Bastin, Associate District Manager, or Guadalupe G. Martinez, Public Affairs Specialist, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201 (505) 622-7670.

SUPPLEMENTARY INFORMATION: The proposed agenda will include: (1) Election of Chairman and Vice Chairman, (2) Benefit/Cost Analysis for Range Improvement Projects, (3) Recommendations on FY 85 Range Projects, (4) Update on Grazing Fee Study, (5) Report on Cooperative Management Agreements, and (6) Public Comment Period.

The meeting is open to the public. Interested persons may make oral statements to the Board during the public comment period or may file written statements. Anyone wishing to make an oral statement should notify the District Manager by June 5, 1984. 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, Roswell, New Mexico.

[FR Doc. 84-12629 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-84-M

[U-54165]

Utah; Invitation To Participate in Coal Exploration Program; Getty Mining Co.

Getty Mining Company is inviting all qualified parties to participate in a program for the exploration of coal reserves in the skyline North Prospect area near Scofield, Utah. The lands are located in Carbon and Sanpete Counties, Utah, and are described as follows:

T. 13 S., R. 6 E., SLM, Utah
Sec. 2, lots 1–4, S½N½, S½;
Sec. 3, lots 1–4, S½N½, S½;
Sec. 4, lots 1–11, S½NE¼, SE¼NW¼, E½ SW¼, SE¼;
Sec. 9, lots 1–11, N½NW¼, E½SE¼;
Sec. 10, lots 1 & 2, NE¼, E½ NW¼;
Sec. 11, N½, N½S½;
Sec. 16, lots 1–8;
Sec. 21, lots 1, 3 & 4, E½E½;
Sec. 28, lots 1–8;
Sec. 33, N½N½, SE¼NE¼, SE¼NW¼, E½SW¼, SW¼SW¼, SE¼.

Containing 4,707.23 acres, more or less.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 and to Mark L. Adkins/James W. Osborn, Getty Mining Company, P.O. Box 7900, Salt Lake City, Utah 84107. Such written notice must be received within 30 days after the publication of this notice in the **Federal Register**. A copy of the application is available for inspection at the Public Room, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Getty Mining Company is available for public review during normal business hours, in the following office under Serial Number U–54165: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

W. R. Papworth,
Deputy State Director, Operations.

[FR Doc. 84–12631 Filed 5–9–84; 8:45 am]

BILLING CODE 4310–DQ–M

Minerals Management Service

Development Operations Coordination Document; CNG Producing Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that CNG Producting Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4827, Block 77, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on May 1, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD 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 (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0874.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs 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 revised § 250.34 of Title 30 of the CFR.

Dated: May 1, 1984.

John L. Rankin,
Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–12635 Filed 5–9–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Exxon Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 026, Block 30, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on May 3, 1984.

ADDRESSES: A copy of the subject DOCD 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 (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Emile H. Simoneaux, Jr., Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0872.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs 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 revised Section 250.34 of Title 30 of the CFR.

Dated: May 3, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-12634 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Transco Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Transco Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3414, Block 34, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Venice and Delcambre, Louisiana.

DATE: The subject DOCD was deemed submitted on May 4, 1984.

ADDRESSES: A copy of the subject DOCD 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 (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Emile H. Simoneaux, Jr., Minerals Management Service, Gulf of Mexico Region; Rules and production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0872.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs 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 revised § 250.34 of Title 30 of the CFR.

Dated: May 4, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-12636 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-MR-M

Mid-Atlantic Planning Area Lease Sale No. 111; Intent To Prepare an Environmental Impact Statement

Pursuant to the regulations implementing the procedural provision of the National Environmental Policy Act of 1969 (40 CFR 1501.7), the Atlantic Region of the Minerals Management Service (MMS) is announcing its intent to prepare an environmental impact statement (EIS) regarding a proposed oil and gas lease sale off the Middle Atlantic States, to be known as Mid-Atlantic Lease Sale No. 111. This Notice of Intent serves to announce the scoping process which will be followed for the EIS. The scoping process is intended to involve Federal, State, and local governments and other interested parties in aiding the MMS in determining the significant issues and alternatives to be analyzed in the EIS. The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the area defined in the Area Identification procedure as the proposed Federal action. Alternatives to the proposal which may be considered are to delay the sale, cancel the sale, or modify the sale.

Federal, State, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues which should be addressed, and alternatives which should be considered to Richard Wildermann, Chief, Environmental Assessment Section, Atlantic Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180. Comments should be received no later than May 18, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84-12622 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-MR-M

Alaska Offshore; Availability of the Draft Environmental Impact Statement and Locations and Dates of Public Hearings for Proposed Oil and Gas Lease Sale 89 in the St. George Basin Area

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service (MMS) has prepared a draft environmental impact statement (EIS) for proposed oil and gas lease Sale 89 in the St. George Basin area.

Single copies of the draft EIS can be obtained from the Office of the Regional Manager, Minerals Management Service, Alaska Region, P.O. Box 101159, Anchorage, Alaska 99510, telephone (907) 261-2414.

Copies of the draft EIS will also be available for inspection in the following public libraries: Alaska Federation of Natives, Suite 304, 1577 O Street, Anchorage, AK 99501; Anchor Point Public Library, Anchor Point, AK 99556; Department of the Interior Resources Library, Box 36, 701 C Street, Anchorage, AK 99513; Cordova Public Library, Box 472, Cordova, AK 99574; Kenai Community Library, Box 157, Kenai, AK 99611; Elim Learning Center, Elim, AK 99739; Haines Public Library, P.O. Box 36, Haines, AK 99827; North Star Borough Library, Fairbanks, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Homer Public Library, Box 356, Homer, AK 99603; Z. J. Loussac Public Library, 427 F Street, Anchorage, AK 99801; Juneau Memorial Library, 114 W. 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901; Department of Defense, Army Corps of Engineers Library, P.O. Box 7002, Anchorage, AK 99501; Kodiak Public Library, P.O. Box 985, Kodiak, AK 99615; Metlakatla Extension Center, Metlakatla, AK 99926; Department of the Interior, Bureau of Mines Library, AF-F.O. Center, P.O. Box 550, Juneau, AK 99802; Petersburg Extension Center, Box 289, Petersburg, AK 99833; Seldovia Public Library, Drawer D, Seldovia, AK 99663; Seward Community Library, Box 537, Seward, AK 99664; University of Alaska Juneau Library, P.O. Box 1447, Juneau, AK 91447; Sitka Community Library, Box 1090, Sitka, AK 99835; Douglas Public Library, Box 469, Douglas, AK 99824; University of Alaska Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; University of Alaska Elmer E. Rasmusson Library, Fairbanks, AK 99701; Wrangell Extension Center, Box 651, Wrangell, AK 99929.

In accordance with 30 CFR 256.26, the MMS will hold public hearings in order to receive comments and suggestions relating to the EIS. The hearings will be held on the following dates at the locations and times indicated:

June 8, 1984	*June 14, 1984*
Old Federal Building 4th Avenue Anchorage, Alaska (1:00 p.m.)	Community Center St. George, Alaska (7:00 p.m.)

June 13, 1984	*June 15, 1984*
City Council Room	Community Center
Unalaska, Alaska	St. Paul, Alaska
(7:00 p.m.)	(7:00 p.m.)

The hearings will provide the Secretary of the Interior with information from both public and private sectors to help evaluate the potential effects of leasing for oil and gas purposes in the St. George Basin area.

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings are asked to contact Nancy Hendrix, Office of the Alaska Region, at the address and telephone number above by 4:00 p.m. (Alaska Daylight Time), Friday, June 8, 1984. Time limitations make it necessary to limit the length of oral presentations to 10 minutes. An oral statement may be supplemented by a more complete written statement which may be submitted to a hearing official at the time of oral presentations or by mail until July 3, 1984. This will allow those unable to testify at a public hearing an opportunity to make their views known and for those presenting oral testimony to submit supplemental information and comments. To the extent that time is available after presentation of oral statements by those who have given advance notice, others will be given an opportunity to be heard.

Written comments should be addressed to the Regional Manager, Office of the Alaska Region, P.O. Box 101159, Anchorage, Alaska 99510.

William D. Bettenberg,

Director, Minerals Management Service.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 84-12621 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur, Operations in the Outer Continental Shelf; Marathon Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Marathon Oil Company, Unit Operator of the West Delta Block 79 Federal Unit Agreement No. 14-08-0001-13841, submitted on April 27, 1984, and December 19, 1983, a proposed annual plan of development/production describing the activities it proposes to conduct on the West Delta Block 79 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. 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 on 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: May 3, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-12578 Filed 5-9-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-198)]

Burlington Northern Railroad Company—Abandonment—in Lawrence County, MO

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 11.05-mile rail line between milepost 269.55 near Aurora and milepost 280.6 near Mt. Vernon in Lawrence County, MO. 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.

James H. Bayne,

Secretary.

[FR Doc. 84-12665 Filed 5-9-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30438]

Consolidated Rail Corporation—Trackage Rights Exemption—In Peoria, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11343 *et seq.*, the acquisition by Consolidated Rail Corporation of trackage rights over a one-mile line owned by Toledo, Peoria & Western Railroad Company in Peoria, IL., subject to employee protective conditions.

DATES: This exemption shall be effective on June 11, 1984. Petition to stay must be filed by May 21, 1984, and petitions for reconsideration must be filed by May 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30438 to:

(1) Office of the Secretary: Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Charles E. Mechem, 1138 Six Penn Center Plaza, Philadelphia, PA 19103

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: May 2, 1984.

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

James H. Bayne,

Secretary.

[FR Doc. 84-12664 Filed 4-9-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Stipulation and Judgment Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 18, 1984 a Stipulation and proposed Judgment in *United States* v. *Borden, Inc.*, Civ. No. 83-357-T, was lodged with the United States District Court for the Western District of New York. The Stipulation and proposed Judgment would, by consent of the parties, settle the underlying Clean Air Act litigation. Specifically, Borden would be required to achieve compliance with the New York State Implementation Plan, relating to emissions of volatile organic compounds from its Lyons, New York plant, by installing control equipment not later than October 1, 1984. Such equipment would be required to be operated effectively so as to achieve permanent compliance not later than December 1, 1984. Borden would also be required to pay civil penalties of $20,000 for past violations of the Clean Air Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Borden, Inc.*, D.J. Ref. 90-5-2-1-584.

The proposed Judgment may be examined at the office of the United States Attorney, Western District of New York, United States Courthouse, Rochester, New York 14614 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the Judgment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed Judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-12579 Filed 5-9-84; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Artists in Education Advisory Panel and Media Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a joint meeting of the Artists in Education Advisory Panel and the Media Arts Advisory Panel to the National Council on the Arts will be held on May 17, 1984, from 9:00 a.m.-5:30 p.m. in room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Ave., NW., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be guidelines for a Children's Television Series.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: May 3, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-12669 Filed 5-9-84; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Through Wall Crack in Vent Header Inside BWR Containment Torus

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled in or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). One of the general criteria notes that major degradation of essential safety-related equipment can be considered an abnormal occurrence. The following description of the incident also contains information on the remedial actions planned and taken.

Date and Place

On February 3, 1984, a through wall crack was discovered in the vent header within the containment torus which degraded the containment pressure suppression capability of Georgia Power Company's Hatch Unit 2, a boiling water reactor (BWR) plant located in Appling County, Georgia. The event raised a possible generic concern for other BWR plants which utilize similar containment and inerting system design.

Nature and Probable Consequences

The primary containment for Hatch Unit 2 is a pressure suppression system consisting of a drywell, pressure suppression chamber (torus) containing a large volume of water, a connecting vent system between the drywell and water pool, isolation valves, vacuum relief systems, containment cooling systems, and other equipment. The drywell is a steel pressure vessel which houses the reactor vessel, the recirculation system, and other systems and components important to safety.

The pressure suppression chamber is a steel pressure vessel in the shape of a torus which is located below the drywell. Eight circular vent pipes form a connection between the drywell and the torus. The vent pipes exhaust into the 54-inch diameter continuous vent header, which is located in the torus, from which 80 downcomer pipes extend downwards into the water in the torus.

During operation, the drywell and suppression chamber free air spaces are inerted with nitrogen to minimize the possibility of hydrogen combustion during or following a loss of coolant accident (LOCA). The nitrogen supply system is designed to evaporate liquid nitrogen and warm the nitrogen gas before it is dischared into the primary containment. At Hatch, the discharge temperature of the gas is normally controlled at greater than 100°F. A temperature switch controls the discharge valves such that the valves close if discharge temperature drops to or below 0°F. However, under worst case conditions of equipment failure, the discharge temperatures could drop far below 0°F. Such temperatures would cool materials below their nil ductility temperatures causing them to become susceptible to brittle fracture.

Hatch Unit 2 was shut down on January 13, 1984 for an extended outage to replace recirculation piping. On February 3, 1984, during a routine visual inspection of the torus interior, the licensee discovered a circumferential crack in the 54-inch diameter torus vent header. The ends of the pipe on either side of the crack were displaced about ½ inch. Further inspection showed that the through wall crack extended about 330 degrees around the header. The vent header has a wall thickness of 0.25 inch.

The containment system is designed such that in the event of a LOCA, pressurized steam and water is released

into the drywell. Drywell pressure quickly increases and forces the steam flow through the vents into the vent header. The vent header directs the steam through the downcomer pipes into the torus water resulting in condensation of the steam. The condensation of steam serves to limit the maximum pressure the containment structure will experience. However, as a result of the large through wall crack in the vent header, the amount of steam condensed by the torus would be reduced because some steam would bypass the vent header and reduce the differential pressure used to drive the steam into the water. This increases the possibility of overpressurizing the primary containment, allowing for a release into the secondary containment. This condition has not been specifically analyzed in the plant's final safety analysis report (FSAR), thus leading to a serious safety concern.

Cause of Causes

The location of the crack was directly below a nitrogen discharge outlet to the torus. The nitrogen line is 20 inches in diameter with the outlet about seven feet above the vent header. The licensee stated that there have been problems with operation of the nitrogen evaporators and heaters, and that the low temperature isolation provisions had also malfunctioned. The licensee reported that the nitrogen inerting system had recently (at least) been used without the gas pre-warmer equipment working because of failure of the site auxiliary boiler. In addition, several nitrogen system valves were reported to have failed because of frost/ice buildup. Component failures, combined with deficient management/procedural controls pertaining to containment inerting evolutions, are believed to be the principal causes of the cracking problem.

The crack was determined to be a brittle-fracture type of failure. The primary contributor to the cracking was attributed to impingement of low temperature nitrogen onto the vent header. Apparently, the vent header temperature dropped below the nil ductility temperature when the nitrogen evaporator and heater and/or isolation system were not functioning properly. The thermal stresses generated by this cooling contributed to crack initiation and propagation. The vent header material for Hatch Unit 2 is SA 516 Grade 70 carbon steel with the nil ductility transition temperature below 40°F.

Actions Taken To Prevent Recurrence

Georgia Power Company

The licensee performed operational testing of the vent header on February 3, 1984 on its operating reactor, Hatch Unit 1, and shutdown the unit on February 4, 1984, to further verify that the same condition did not exist. Visual inspections of the vent header were made and no cracks were found. Unit 1 was then restarted. It was also determined that the Unit 1 nitrogen line discharge was not located directly above the vent header. For Unit 2, repairs to the vent header have commenced. Long range actions, similar to those described below, will also be required.

The licensee removed samples from the vent header for failure analysis examination by General Electric (GE). This analysis confirmed that the material met all physical and chemical requirements for SA 516 Grade 70 carbon steel and that the failure mode was transcrystalline brittle fracture characteristic of crack propagation at temperatures below the nil ductility transition temperature.

Vendor/Other Licensees

In response to the NRC Bulletin described below, the licensees for Pilgrim, Oyster Creek, Dresden Unit 3, Quad Cities Unit 2, and Brown's Ferry Unit 3 visually inspected their vent headers for cracking. No indications of cracking were found. In addition, the licensee for Monticello, which had shut down after the Bulletin was issued, voluntarily performed visual inspections; again, no indications were found.

The BWR Regulatory Response Group (RRG) was activated. This group, together with the vendor (General Electric) representatives met with the NRC on February 6 and 23, 1984 to discuss actions to be taken to assume the integrity of the containment and associated systems, and to determine whether any design and/or procedure changes are necessary. This work is continuing.

General Electric issued a service information letter (SIL) which contains recommended actions to be taken by all BWR owners with Mark I or Mark II containment systems. The actions involve evaluation of inerting system design and operation, performance of a leakage test to confirm the integrity of the vent system, inspection of the nitrogen injection line, and inspection of containment components and equipment. The owners' group letter transmitting the SIL requested that the licensees and applicants report their findings to the NRC.

NRC

An NRC team was dispatched to the site on February 4, 1984, to participate in the investigation of the event. As part of the investigation, sample material from the failed vent header was obtained by NRC Region II for independent failure analysis by Brookhaven National Laboratory. The work done by Brookhaven confirmed that the material met SA 516 Grade 70 physical and chemical requirements and that the failure mode was characteristic of crack propagation at temperatures below the nil ductility transition temperature; these results are consistent to those obtained by the licensee's vendor, GE.

On March 14, 1984, NRC Region II forwarded to the licensee a notice of violations based on inspections performed at Hatch Units 1 and 2 between January 21 and February 20, 1984. The violation germane to the vent header problem pertained to procedural inadequacies in not properly implementing procedure HNP-2-1500, Primary Containment Atmospheric Control Systems. The violation noted that between July 2, 1983 and February 3, 1984, during periods of Unit 2 containment inerting evolutions, no procedural provision existed to prevent nitrogen being admitted to the torus at temperatures below the specified band of 100-250°F.

Inspection and Enforcement (IE) Bulletin No. 84-01, dated February 3, 1984, was issued to all BWRs with operating licenses or construction permits. The IE Bulletin requested that facilities with operating licenses in cold shutdown and with primary containments similar to the Hatch containment (Mark I) perform inspections as to the condition of their vent headers and report the results to NRC. It was also recommended that, for BWRs with Mark I containments that were in operation, the licensee review plant data on differential pressure between the drywell and the torus for anomalies that could be indicative of cracks. The results of these initiatives are under review.

On March 5, 1983, IE Information Notice No. 84-17 was sent to all reactor facilities with operating licenses or construction permits to alert them to possible problems associated with cooling components to below their nil ductility temperatures with liquid nitrogen. The Notice also advised licensees and applicants of potentially similar problems associated with the use of other very cold fluids where the fluid

could come in contact with safety-related components subject to brittle fracture.

The NRC has met with the vendor and the BWR RRG to determine whether the problem is unique to Hatch Unit 2, and whether other actions need to be taken to prevent recurrence of the problem. All aspects relevant to the failure will be reviewed in addition to the repairs made to Hatch Unit 2.

The NRC staff will review the licensees' responses to the recommendations in the General Electric SIL, and determine if there is a need for further actions.

Dated in Washington, D.C. this 4th day of May 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-12657 Filed 5-9-84; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2129]

Oklahoma; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Creek, Okmulgee, Osage, Pawnee, Tulsa and Wagoner in the State of Oklahoma constitute a disaster loan area because of damage from tornadoes beginning on or about April 26, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 2, 1984, and for economic injury until February 4, 1985, at: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, or other locally announced locations.

Interest rates are:

Homeowners with credit available elsewhere—8.000%

Homeowners without credit available elsewhere—4.000%

Businesses with credit available elsewhere—8.000%

Businesses without credit available elsewhere—4.000%

Businesses (EIDL) without credit available elsewhere—4.000%

Other (non-profit organizations including charitable and religious organizations)—10.500%

The number assigned to this disaster is 212912 for physical damage and for economic injury the number is 616400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 7, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-12696 Filed 5-9-84; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council Meeting; Public Meeting

The Small Business Administration, Region V Advisory Council, located in the geographical area of Columbus, Ohio, will hold a public meeting at 9:30 p.m., on Wednesday, June 6, 1984, at the U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio, Conference Room 426 (fourth floor), to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Frank D. Ray, District Director, U.S. Small Business Administration, 85 Marconi Boulevard, Fifth Floor, Columbus, Ohio 43215, (614) 469-7310.

Dated: May 2, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-12694 Filed 5-9-84; 8:45 am]

BILLING CODE 8025-01-M

[Designation of Disaster Loan Area No. 6163]

Texas; Designation of Disaster Loan Area

Dallas County in the State of Texas constitutes a disaster area because of a freeze which occurred during December 1983. Eligible small businesses may file applications for economic injury assistance until the close of business on February 4, 1985, at the address listed below: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, 214-767-7571, or other locally announced locations. The interest rate for eligible applicants is 4%.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 3, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84-12695 Filed 5-9-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice No. 84-6]

Consolidated Rail Corporation; Termination Date for Submission of Purchase Offers

AGENCY: Department of Transportation (DOT).

ACTION: Notice of establishment of termination date for submission of purchase offers.

SUMMARY: The DOT has announced a termination date of June 18, 1984, for the submission of offers to purchase the Government's interest in the Consolidated Rail Corporation (Conrail).

FOR FURTHER INFORMATION CONTACT: John Riley, Federal Railroad Administrator, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone: (202)-426-0710.

SUPPLEMENTARY INFORMATION: The DOT has received two offers to purchase the Government's interest in Conrail that merit serious consideration. The first was received in June 1983 from the Railway Labor Executives' Association on behalf of Conrail's employees. On April 10, 1984, the DOT also received an offer from Alleghany Corporation. Having received these two offers, the DOT has now establised a termination date of June 18, 1984, for the submission of further purchase offers. (Establishment of this termination date does not obligate the DOT to accept any of the offers submitted by that date). After June 18, 1984, the DOT will review those offers that have been submitted to determine which would leave Conrail in the strongest financial condition after a sale, best preserve service to the states and shippers Conrail serves, and, consistent with these criteria, provide the maximum return to the United States.

Offers for the Government's interest in Conrail should be submitted in writing to the Secretary of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

The Government's interest in Conrail is being sold pursuant to Title IV of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 761, et seq.).

Issued in Washington, D.C. on April 26, 1984.

Elizabeth Hanford Dole,

Secretary.

[FR Doc. 84-12703 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 152—Digital Avionics Software; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 152 on Digital Avionics Software to be held on June 5–7, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Third Meeting Held on February 14–16, 1984; (3) Review First Draft of Committee Report on Software Considerations in Airborne Systems and Equipment Certification; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on April 30, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84–12599 Filed 5–9–84; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Material Transportation Bureau, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closed June 12, 1984.

ADDRESSES: Comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9248–N	Kross Inc., San Fernando, CA	49 CFR Part 172, Subpart C, E	To authorize shipment of fusees (highway), classed as a flammable solid, without labeling and shipping papers, when packaged in specially designed containers. (Mode 1).
9249–N	Corbin Sales Corp., Cinnaminson, NJ	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3	To manufacture, mark and sell non-DOT specification filament wound reinforced plastic aluminum lined cylinder for shipment of various nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5).
9250–N	FMC Corp., South Charleston, WV	49 CFR 178.191–4	To authorize shipment of hydrogen peroxide with concentrations above 52%, classed as an oxidizer overpacked in wooden boxes complying with DOT Specification 19B except the box will be secured with cement coated staplers rather than nails. (Modes 1, 2, and 3).
9251–N	Orchard Supply Co. of Sacramento, Sacrament, CA.	49 CFR 173.121	To authorize shipment of carbon disulfide, classed as a flammable liquid, in seven non-DOT specification cargo tanks (pressurized vessels) of 1,000 or 5,000 gallon capacity (Mode 1).
9252–N	Harcostar Limited, Huntingdon, England	49 CFR 173.119, 173.125, 173.256, 173.266(b), Part 173, Subpart F.	To manufacture, mark and sell non-DOT specification reusable polyethylene drums of 55-gallon capacity for shipment of certain flammable or corrosive liquids and hydrogen peroxide of 52% or less. (Modes 1, 2, and 3).
9253–N	Wiva Verpakkingen B.V., Oosterhout, Netherlands.	49 CFR 173.119, 173.125, 173.256, 173.266(b), Part 173, Subpart F.	To manufacture, mark and sell non-DOT specification reusable polyethylene drums of 55-gallon capacity for shipment of certain flammable or corrosive liquids and hydrogen peroxide of 52% or less. (Mode 1, 2, and 3).
9254–N	Speer Products Inc., Memphis, TN	49 CFR 173.304, 173.34(d), 175.3	To authorize shipment of insecticide, liquefied gas and/or compressed gas, n.o.s., classed as flammable or nonflammable gas in DOT Specification 39 aluminum cylinders. (Modes 1, 2, 3, and 4).
9255–N	Stauffer Chemical Co., Westport, CT	49 CFR 172.203(c)	To authorize shipment of weed killing compound liquid containing a hazardous substance without listing that substance on the shipping papers when transported by tank cars and cargo tanks. (Modes 1 and 2).
9256–N	U.S. Department of Defense, Washington, DC	49 CFR 173.86	To ship new explosives under a tentative hazard classification to test facilities without marking them as laboratory samples and without being accompanied by a qualified explosives handler. (Modes 1, 2, and 4).
9257–N	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 173.315	To manufacture, mark and sell non-DOT specification cargo tanks for shipment of liquid nitrogen, oxygen or argon, classified as nonflammable gases. (Mode 3).

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 2, 1984.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84–12537 Filed 5–9–84; 8:45 am]

BILLING CODE 4910–60–M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes May 29, 1984.

ADDRESSES: Comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW, Washington, D.C.

Application No.	Applicant	Renewal of exemption.
2136-X	U. S. Department of Defense, Washington, DC.	2136
2787-X	Raytheon Co., Andover, MA	2787
3004-X	Airco Industrial Gases, Murray Hill, NJ.	3004
3004-X	Air Products and Chemicals, Inc., Allentown, PA.	3004
3330-X	Teledyne Wah Chang, Albany Corp., Albany, OR (see footnote 1).	3330
3941-X	Kerr-McGee Chemical Corp., Oklahoma City, OK.	3941
4108-X	Messer Griesheim Industries, Inc., Valley Forge, PA.	4108
4453-X	Strawn Explosives, Inc., Dallas, TX.	4453
4588-X	U. S. Department of Energy, Washington, DC.	4588
4850-X	Ensign Bickford Co., Simsbury, CT.	4850
5792-X	Northern Petrochemical Co.,	5792 Morris Ill.
5951-X	Ashland Chemical Co., Columbus. OH.	5951
6016-X	Acety-Arc, Inc., Paducah, KY	6016
6016-X	Magnolia Welding Supply Co., Houston, TX.	6016
6232-X	U.S. Department of Defense, Washington, DC (see footnote 2).	6232
6309-X	Freeman Chemical Corp., Port Washington, WI.	6309
6309-X	General Latex and Chemical Corp. of GA, Dalton, GA.	6309
6334-X	U.S. Department of Defense, Washington, DC.	6334
6392-X	Northern Petrochemical Co., Morris, IL.	6392
6497-X	FMC Corp., Middleport, NY	6497
6530-X	The Great Plains Welding Supply Co., Cheyenne, WY.	6530
6763-X	Purex Corp., Carson, CA	6763
6902-X	Great Lakes Chemical Corp., West Lafayette, IN (see footnote 3).	6902
6929-X	U.S. Department of Energy, Washington, DC.	6929
6962-X	U.S. Department of Energy, Washington, DC.	6962
6984-X	Hercules, Inc., Wilmington, DE	6984
7052-X	TNR Technical, Farmingdale, NY.	7052
7052-X	AVCO, Wilmington, MA	7052
7052-X	General Motors Corp., Warren, MI.	7052
7060-X	Atlantic Airways, Inc., Hanover, MD.	7060
7409-X	Sea-Land Service, Inc., Elizabeth, NJ.	7409
7498-X	Allied Chemical, Morristown, NJ.	7498
7544-X	Eastman Kodak Co., Rochester, NY.	7544
7594-X	Bromine Compounds, Ltd., Beersheva, Isreal.	7594
7654-X	Mallinckrodt, Inc., Paris, KY	7654
7770-X	Parlefer, Paris, France	7770
7788-X	Southern Chemical Products Co., Macon, GA.	7788
7876-X	J. T. Baker Chemical Co., Phillipsburg, NJ.	7876
7876-X	Ashland Oil, Inc., Dublin, OH	7876
7885-X	The Mercoid Corp., Chicago, IL.	7885
7887-X	Vulcan Systems Inc., Rantoul, IL.	7887
7888-X	Rheem Manufacturing Co., Linden, NJ.	7888
7907-X	Hercules, Inc., Wilmington, DE (see footnote 4).	7907
8006-X	Bland Brothers, Inc., Miami, FL	8006
8009-X	Natural Gas Transmission, Inc., Oklahoma City OK.	8009
8009-X	Tri-Energy, Inc., Prairie Village, KS.	8009
8009-X	FIBA Leasing Co. Inc., Westborough, MA.	8009
8009-X	Consolidated Petroleum Explorations, Inc., Greenwood, IN.	8009
8074-X	Matheson Gas Products, Inc., Secaucus, NJ.	8074
8387-X	FMC Corp., Philadelphia, PA	8387
8388-X	B. W. Norton Manufacturing Co., Inc., Oakland, CA.	8388
8390-X	J. T. Baker Chemical Co., Phillipsburg, NJ.	8390
8390-X	Mallinckrodt, Inc., Paris, KY	8390
8390-X	Ashland Oil, Inc., Columbus, OH.	8390
8391-X	Acurex Corp., Mountain View, CA.	8391
8409-X	EM Science, A Division of EM Industries, Inc., Cincinnati, OH.	8409
8568-X	Lely Tractor, Inc., Temple, TX	8468
8582-X	The Western Maryland Railway Co., Baltimore, MD.	8582
8582-X	The Baltimore and Ohio Railroad Co., Baltimore, MD.	8582
8582-X	The Chesapeake and Ohio Railway Co., Cleveland, OH.	8582
8644-X	Richmond Lox Equipment Co., Livermore, CA (see footnote 5).	8644
8732-X	Ashland Services Co., Columbus, OH.	8732
8795-X	The Marison Co., South Elgin, IL (see footnote 6).	8795
8822-X	Certified Tank Manufacturing, Inc., Wilmington, CA.	8822
8838-X	FMC Corp., Philadelphia, PA	8838
8839-X	Poly Processing Co., Inc., Monroe, LA.	8839
8839-X	Poly Cal Plastics, Inc., French Camp, CA.	8839
8840-X	Walter Kidde & Co. Inc., Belleville, NJ.	8840
8842-X	HTL Industries, Inc., Duarte, CA.	8842
8843-X	Owen Oil Tools, Inc. (formerly Chem Cut, Co.), Fort Worth, TX.	8843
8886-X	Amerex Corp., Trussville, AL	8886
8938-X	Cryogenic Services Inc., Canton, GA (see footnote 7).	8938
8976-X	Diamond Shamrock Corp., Irving, TX.	8976
8988-X	Schlumberger Well Services, Houston, TX (see footnote 8).	8988
9222-X	Seaboard Chemical Corp., Jamestown, NC.	9222

[1] To authorize hafnium metal powder as an additional commodity.

[2] To authorize a magnesium fire starter to replace butane lighter to be containedin a survival vest.

[3] To authorize a different type of safety relief device on tank cars for shipment of a nonflammable gas.

[4] To add cargo vessel as an additional mode of transportation and to authorize use of 18.5 and 35 gallon capacity fiberboard drums, for shipment of nitrocellulose.

[5] To authorize an additional model cargo tank of 5510 gallon capacity for shipment of liquid oxygen.

[6] Request modification of technical requirements, such as retest criteria, openings in cylinders, use of fire suppressant materials and use of additional threading specification.

[7] To authorize two new models of cylinders identical to those authorized ecept for volume and material thickness for shipment of carbon dioxide, liquefied and nitrous oxide.

[8] To authorize cargo-only aircraft as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
5206-P	Kesco, Inc., Kittanning, PA	5206
5243-P	Aappalachian Explosives, Inc., Romney, WV.	5243
6080-P	Airco Industrial Gases, Murray Hill, NJ.	6080
6305-P	Aappalachian Explosives, Inc., Romney, WV.	6305
6484-P	W. R. Grace & Co., Lexington, MA.	6484
6614-P	Georgia-Pacific Corp., Montebello, CA.	6614
6759-P	Controlled Blasting, Inc., Zelienople, PA.	6759
6759-P	Kesco, Inc., Kittanning, PA	6759
6762-P	Jamestown Chemical Co., Inc. West Haven, CT.	6762
6762-P	H. C. Harrington Co., Inc., Pittsburgh, PA.	6762
6984-P	Aappalachian Explosives, Inc., Romney, WV.	6984

Application No.	Applicant	Parties to exemption
6984-P	Controlled Blasting, Inc., Zelienople, PA.	6984
6984-P	Kesco, Inc., Kittanning, PA	6984
7052-P	ENMET Corp., Ann Arbor, MI	7052
7835-P	Landeen Welding Supplies, Inc., Oregon City, OR.	7835
8129-P	Teledyne Battery Products, Redlands, CA.	8129
8129-P	The Johns Hopkins Hospital, Baltimore, MD.	8129
8129-P	The Johns Hopkins University Baltimore, MD.	8129
8129-P	Bay Area Environmental, San Pablo, CA.	8129
8156-P	Spectra Gases, Inc., Newark, NJ.	8156
8445-P	Bay Area Environmental San Pablo, CA.	8445
8453-P	Nelson Brothers, Inc., Parrish, AL.	8453
8815-P	Nelson Brothers, Inc., Parrish, AL.	8815
9081-P	M&T Chemicals Inc., Baltimore, MD (see footnote 1).	9081
9108-P	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	9108
9184-P	Airco Carbide, Louisville, KY	9184

[1] Request party status and to authorize chronic acid mixtures, dry as an additional commodity.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 3, 1984.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-12536 Filed 5-9-84; 8:45 am]

BILLING CODE 4910-60-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Early German Drawings From a Private Collection" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. The objects are imported pursuant to a loan agreement between the National Gallery of Art, Washington, D.C. and the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about May 27, 1984, to on or about July 8, 1984, is in the national interest.

Public notice of this determination is order to be published in the **Federal Register.**

Dated: May 7, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-12672 Filed 4-9-84; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 49, No. 92
Thursday, May 10, 1984

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

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 40 FR 18669.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, May 21, 1984.

CHANGES IN THE MEETING: This meeting has been rescheduled for Wednesday, May 30, 1984 at 10:00 a.m.

Jean A. Webb,

Deputy Secretary of the Commissioner.

[FR Doc. 84-12720 Filed 5-8-84; 11:09 am]

BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, May 14, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Servco Financial Corp., an operating noninsured industrial bank located at 91 South King Street, Honolulu, Hawaii.

State Savings Company of Schuyler, an operating noninsured industrial bank located at 1605 Denver Street, Schuyler, Nebraska.

Application for consent to acquire assets and assume liabilities and establish one branch:

Key Bank of Central New York, Syracuse, New York, and insured State nonmember bank, for consent to acquire certain assets of and assume the liability to pay deposits made in the Skaneateles Branch of The Bank of Auburn, Auburn, New York (now Security Trust Company, Rochester, New York), and for consent to establish the Skaneateles Branch as a branch of Key Bank of Central New York.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: First National Bank of Oak Lawn, Oak Lawn, Illinois

Memorandum and Resolution re: National Bank and Trust Company of Traverse City, Traverse City, Michigan

Memorandum and Resolution re: Western National Bank of Lovell, Lovell, Wyoming

Memorandum and Resolution re: Delegations of Authority—Liquidation Activities.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

- Audit Report re: Contract and Procurement Controls (Dated December 16, 1983)
- Audit Report re: Accounts Receivable System Development Project (Dated April 10, 1984)
- Audit Report re: Summary of Three Liquidation Site Audits (Dated April 12, 1984)

Discussion Agenda: No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: May 7, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-12683 Filed 5-8-84; 8:46 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that a 2:30 p.m. on Monday, May 14, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed sesson, by vote of the Board of Directors, pursuant to sections 552 (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Applications pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of a trust as a director, officer, or employee of an insured bank:

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendation with respect to the initiation, termination, or conduct of administrative enforcement proceeding (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within these categories may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Report of the Director, Office of Corporate Audits and Internal Investigations:

Memorandum re: Review of an assistance agreement between the Corporation and an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(8).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: May 7, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–12684 Filed 5–8–84; 8:46 am]

BILLING CODE 6714-01-M

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FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 15, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, May 17, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion #1984–13—Gary D. Lipkin, Asst GC National Association of Manufacturers
Draft Advisory Opinion #1984–14—Frank M. Northam on behalf of United States Defense Committee
Proposed amendments to FOIA and public disclosure: 11 CFR Parts 4 and 5
Finance Committee report
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84–12706 Filed 5–8–84; 10:12 am]

BILLING CODE 6715-01-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 16, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System and employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: April 8, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–12772 Filed 5–8–84; 4:00 pm]

BILLING CODE 6210-01-M

6

LEGAL SERVICES CORPORATION

TIME AND DATE: It will commence at 9:00 a.m. and continue until all official business is completed; Saturday, May 19, 1984.

PLACE: Key Bridge Marriott, 1401 Lee Highway, Potomac Ballroom, Arlington, Virginia 22209.

STATUS OF MEETING: Open [A portion of the meeting is to be closed to discuss personnel, personal, criminal, litigation, and investigatory matters under 45 CFR 1622.5 (a), (d), (e), (f), (g), and (h)].

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes—April 28, 1984
3. Report from the President
4. Report from the Operations and Regulations Committee
5. Report from the Office of General Counsel—Proposed Final Regulations 1601 By-laws
6. Board Resolution on Board Member Disclosures
7. Report from the Office of Government Relations
8. Board Resolution on Principles for Reauthorization
9. Report from the Office of Program Development

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

DATE ISSUED: May 8, 1984.

LeaAnne Bernstein,

Secretary.

[FR Doc. 84–12771 Filed 8–8–84; 4:00 pm]

BILLING CODE 6820-35-M

7

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 2:00 p.m., Monday, May 21, 1984.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Margaret Cheeseman* and *Marie Zagorny* v. *OPM*, MSPB Docket Nos. PH08318310675 and DC08318310909.
2. *Lillian Timbers* v. *OPM*, MSPB Docket No. DC08318410124.
3. *Harold Snyder* v. *OPM*, MSPB Docket No. SF08318410100.
4. *Robert Smallwood* v. *OPM* MSPB Docket No DA831L8210331.
5. *Certain Former Community Services Administration Employees* v. *Lanphear Department of Health and Human Services*, MSPB Docket No. HQ12008110063.
6. *John Henry* v. *TVA*, MSPB Docket No. AT07528311021.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Secretary, (202) 653–7200.

Dated: May 7, 1984, Washington, D.C.

For the Board.

Robert E. Taylor,

Secretary.

[FR Doc 84–12738 Filed 5–8–84; 12:35 am]

BILLING CODE 7400-01-M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

AGENCY HOLDING THE MEETING: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATE: May 15, 1984 at 1:00 p.m., May 16 and 17, 1984 at 9:00 a.m.

PLACE: Coach House East, 2101 Eleventh Avenue, Helena, Montana.

MATTERS TO BE CONSIDERED:

1. Preliminary Council Decisions on Draft Amendments of the Columbia River Basin Fish and Wildlife Program
   - Resident fish
   - Resident fish goals
   - Capital construction
   - Harvest controls
   - Offsite enhancement
   - Subbasin planning
   - Anadromous fish research
   - Amendment scheduling
   - Program scheduling
2. Council Decision on Site Ranking and Protected Areas Studies (River Assessment Study)
3. Model Conservation Standards Surcharge (Action Item 25 and Appendix D)
4. Council Business

Public comment will follow each agenda item.

Council Draft Budget

The Council will seek public comment on its revised FY 1985 and FY 1986 budget. Copies of the draft budget will be available on May 18, 1984 and the Council will seek public comment at its June 6–7 meeting. Written comments for those unable to attend the June 6–7 meeting should be received at the Council's central office by June 4. To receive a copy of the draft budget, please call Beata Teberg at (503) 222–5161.

Spokane Meeting

In advance of the Council meeting in Spokane on July 18–19, 1984, the Washington Water Power Company is planning a tour of its Kettle Falls Generation Station and a briefing on the Creston Generating Station on Tuesday July 17. Members of the public interested in the tour or briefing must contact Bess Wong at the Council central office (503–222–5161) by June 12, 1984. No one will be allowed on the tour if they are not signed up by June 12 in order to provide time to prepare for the tour. Because it is a restricted area, appropriate clothing, such as close-toed shoes and pants, is required. Interested persons must provide for their own transportation to Kettle Falls. The tour will start at 11:00 a.m. At 3:00 p.m., a status report on the Creston Generating Station will be given to Council members at Washington Water Power's headquarters, E. 1411 Mission, in Spokane.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–12744 Filed 5–8–84; 12:51 pm]

BILLING CODE 0000–00–M

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SYNTHETIC FUELS CORPORATION

Joint Meeting of the Board of Directors and the Advisory Committee.

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are invited to attend and observe a joint meeting of the Board of Directors of the United States Synthetic Fuels Corporation and the Advisory Committee to the Board of Directors to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Policy on Public Access to Board Meetings.

MATTERS TO BE CONSIDERED:

I. Chairman's Opening Remarks
II. Joint Meeting with the Advisory Committee to the Board of Directors
(A) Briefing on Recommended Comprehensive Strategy

TIME AND DATE: 9:45 a.m. (EST), May 17, 1984.

PLACE: Washington Marriott Hotel, 22nd and M Streets, NW., Washington, D.C.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, at (202) 822–6372.

Dated: May 8, 1984.

United States Synthetic Fuels Corporation.

Robert W. Gambino,

Group Vice President-Corporate.

[FR Doc. 84–12770 Filed 5–8–84; 3:56 pm]

BILLING CODE 0000–00–M

federal register

Thursday
May 10, 1984

Part II

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2488-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today amending its regulations under the Resource Conservation and Recovery Act to change the hazard class under which commercial chemical products containing low concentrations of warfarin and zinc phosphide are listed. Waste products containing either warfarin at concentrations of 0.3% or less, or zinc phosphide at concentrations of 10% or less, are now listed as hazardous wastes when discarded, instead of acutely hazardous wastes. This change has been made because these lower concentration formulations of warfarin and zinc phosphide do not meet the criteria for classification as acutely hazardous waste.

EFFECTIVE DATE: November 12, 1984.

ADDRESSES: The public docket for this regulation is located in Room S-212A, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 am to 4:00 pm Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of Section 3001 of the Resources Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated, as 40 CFR 261.33 of the regulations, a list of commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. 40 CFR 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers, or the residues remaining in the containers, or the inner liners removed from the containers that have held those chemicals listed in § 261.33(e), if discarded or intended to be discarded, unless the containers or inner liners have been triple-rinsed with an appropriate solvent, or have been decontaminated in an equivalent manner, or the inner liners have been removed. A chemical substance is listed in 40 CFR 261.33(e), and is subject to a small quantity generator exclusion limit of 1 kilogram per month, if it meets the criteria of § 261.11(a)(2); that is, it is acutely hazardous because it has been shown in animal studies to have an oral LD_{50} (rat) toxicity value of less than 50 milligrams per kilogram, a dermal LD_{50} (rabbit) toxicity value of less than 200 milligrams per kilogram, an inhalation LD_{50} (rat) toxicity value of less than 2 mg/l, or is otherwise capable of causing or otherwise significantly contributing to serious illness.

Chemical substances are listed in § 261.33(f), and are subject to the small quantity generator exclusion limit of 1000 kilograms per month,[1] if they satisfy § 261.11(a)(1), exhibiting identified characteristics of EP toxicity, reactivity, corrosivity, or ignitability; or § 261.11(a)(3), satisfying the criteria for listing as toxic, *i.e.*, they have been shown in scientific studies to be toxic, mutagenic, teratogenic, or carcinogenic to humans, other mammals or aquatic animals, or to be phytotoxic.

The National Pest Control Association (NPCA), Vienna, VA had petitioned the Agency to exclude warfarin- and zinc phosphide-containing commercial chemical products used for pest control from the list of acutely hazardous wastes. Petitions had also been received from Sterling Drug Company, New York, NY and the Ralston Purina Company, St. Louis, MO, requesting that certain warfarin-containing products be excluded.

[1] EPA publicly committed to reexamine the small quantity generator exclusion limit, and these products may be subject to a revised small quantity generator exclusion limit at a later date. In fact, there are bills in the Congress at this time which, if passed, will decrease the small quantity generator exclusion limit to less than 1000 kilograms per month.

II. Petitions for Rulemaking and Proposed Rule

In light of the data submitted by the Sterling Drug Company in their petition, EPA tentatively concluded that commercial chemical products or manufacturing chemical intermediates or any off-specification chemical product containing warfarin at concentrations of 0.3% or less, or containing zinc phosphide at concentrations of 10% or less do not meet the criteria for listing as an acutely hazardous waste since the acute oral LD_{50} (rat) value exceeds 50 mg/kg. EPA therefore proposed on February 23, 1983, that commercial chemical products or manufacturing chemical intermediates or any off-specification chemical product containing warfarin at concentrations of 0.3% or less, or zinc phosphide at concentrations of 10% or less, are not acutely hazardous and should not be listed in § 261.33(e).

However, the Agency further proposed that formulations containing 0.3% or less warfarin should be listed under § 261.33(f) because of their chronic toxicity. In addition, the petitioner's data showed that formulations containing zinc phosphide at concentrations of 10% or less are somewhat toxic, and should not be completely removed from regulation under § 261.33. Rather, the Agency therefore proposed that formulations containing zinc phosphide at concentrations of 10% or less should be listed under § 261.33(f) because of their toxicity (48 FR 7714-7716).

III. Comments Received and Final Rule

The Agency received only two comments on the proposed rule: one from the State of New Jersey Department of Environmental Protection, and one from the State of Texas Department of Health. Both comments supported the Agency's proposal. Both commenters agreed with the Agency's proposed action.

Accordingly, EPA is today amending 40 CFR 261.33(e) to revise the listing for warfarin to include only those products which contain more than 0.3% warfarin, and is also amending § 261.33(f) to add warfarin when present at concentrations of 0.3% or less as EPA Hazardous Waste No. U248. EPA is also amending both § 261.33(e) to revise the listing for zinc phosphide to include only those products which contain more than 10% of the active substance, and § 261.33(f) to add commercial chemical products, manufacturing chemical intermediates or spill residues containing zinc

phosphide at concentrations of 10% or less as EPA Hazardous Waste No. U249.

As a result of today's action, the concentration of warfarin or zinc phosphide in a discarded commercial chemical product becomes critical in determining whether the waste is regulated under § 261.33 (e) or (f). In interpreting today's regulation, EPA intends that the generator shall measure the concentration in the waste resulting from the intended use (*e.g.*, application strength pesticide solutions remaining in the application tank) rather than the initial concentration in the purchased product (unless, of course, the product itself is discarded). Any dilution or other adulteration of discarded products for the purpose of reducing the concentration of warfarin or zinc phosphide, however, is hazardous waste treatment (it is "designed to change the * * * chemical character * * * of * * * the hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous * * * (see RCRA Section 1004(34))) and is subject to the permit requirements of Subtitle C.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions to the regulations take effect six months after promulgation. Therefore, this amendment will take effect November 12, 1984.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There will be no adverse impact on the ability of United States-based enterprises to compete with the foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Room S-212A at EPA.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities (as defined in the Regulatory Flexibility Act). Rather, since small pesticide applicators will now not have to dispose of small quantities of certain waste zinc phosphide or warfarin pesticides as hazardous wastes, today's action will result in a savings to small business. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

VIII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: May 3, 1984.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 and 6922).

2. Section 261.33(e) is amended by revising the listings for warfarin, 3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and salts, and zinc phosphide to read as follows:

Hazardous waste No.	Substance
* * * * *	
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3%.
* * * * *	
P001	Warfarin, when present at concentrations greater than 0.3%.
P122	Zinc phosphide, when present at concentrations greater than 10%.

3. Section 261.33(f) is amended by adding the following substances:

Hazardous waste No.	Substance
* * * * *	
U248	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations of 0.3% or less.
* * * * *	
U248	Warfarin, when present at concentrations of 0.3% or less.
U249	Zinc phosphide, when present at concentrations of 10% or less.

[FR Doc. 84-12507 Filed 5-9-84; 8:45 am]

BILLING CODE 6560-50-M

federal register

Thursday
May 10, 1984

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 800, 813, 880, 881, 882, 883, 884, 886, and 889

Definition of Income, Income Limits, Rent and Reexamination of Family Income for the Section 8 Housing Assistance Payments Programs; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 800, 813, 880, 881, 882, 883, 884, 886, and 889

[Docket No. R-84-981; FR-1599]

Definition of Income, Income Limits, Rent and Reexamination of Family Income for the Section 8 Housing Assistance Payments Programs

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

ACTION: Final rule.

SUMMARY: This final rule implements changes made by the Housing and Urban-Rural Recovery Act of 1983 and the Housing and Community Development Amendments of 1981 relating to the establishment of income limits for eligibility, definition of income, calculation of rent, and reexamination of income in the Section 8 Housing Assistance Payments Programs and related programs. It does not include the corresponding provisions for the Public and Indian Housing Programs, which were included in the proposed rule on this subject, because a separate and analogous rule for those programs is being published separately.

EFFECTIVE DATE: July 1, 1984.

FOR FURTHER INFORMATION CONTACT: For Section 8 Programs administered under 24 CFR Parts 880, 881, and 883–886, James J. Tahash, Director, Program Planning Division, Office of Multifamily Management, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–5654, or for Section 8 Programs administered under 24 CFR Part 882 (Existing Housing and Moderate Rehabilitation), Madeline Hastings, Director, Existing Housing Division, Office of Elderly and Assisted Housing (202) 755–5597, at the same address. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1981 ("1981 Amendments") contained in Title III, Subtitle A, of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) made several changes in provisions of the United States Housing Act of 1937 ("1937 Act") relating to rents, income limits, definition of income, and reexamination of income and family composition that apply to both the Public and Indian Housing and to the Section 8 Housing Assistance Payments Programs. The principal effects of the 1981 Amendments were to (1) require HUD to increase the amount of rent payable by assisted families from 25% to 30% of adjusted income, (2) restrict the number of families participating in the programs whose annual incomes are between 50% and 80% of area median income, and (3) make the revised income eligibility and rent computation requirements applicable to the Public Housing Program as well as to the Section 8 Programs. The 1981 Amendments also eliminated different statutory provisions governing the calculation of "income" under the Public Housing and Section 8 Programs in favor of a single uniform definition for all programs under the 1937 Act. Establishment of deductions from income to be used for calculation of "adjusted income" was to be left to the discretion of the Secretary.

On May 4, 1982, separate interim rules were published (47 FR 19120 and 19128) implementing only the change in the income-percentage formula for determining the tenant rental payment required in the Public Housing and Section 8 Programs, effective August 1, 1982 (see 47 FR 30969 and 30971). A separate final rule was also published (47 FR 54296) to implement the income reexamination requirements for those programs, effective April 1, 1983 (48 FR 6961).

On December 29, 1982 (47 FR 57954), the Department published a proposed rule to implement all the statutory changes described above for the Public Housing and Section 8 Programs. Public comment received on the interim rent increase rules was considered in the development of the proposed rule. The major features of the proposed rule was the addition of a new Part 813 to cover all the statutory changes for both the Public Housing and Section 8 Programs. This new Part was to replace both Part 889 (covering the Section 8 Programs) and Subparts A and D of Part 860 (covering the Public Housing Program).

Since publication of the proposed rule, Congress has enacted the Housing and Urban-Rural Recovery Act of 1983 ("1983 Act") Pub. L. 98–181, approved November 30, 1983). Section 206 of the 1983 Act amended some of the provisions of the 1981 Amendments that were the subject of this rulemaking. Major changes included the addition of a statutory definition of adjusted income, specific provisions applying a 10% annual cap on rent increases to certain tenants converted from one program to another, and increase of the percentage of persons with incomes between 50% and 80% of the area median income to be admitted to units that were available for occupancy with assistance under the 1937 Act before October 1, 1981 and are leased thereafter—from 10% to 25%. Since these recent changes are specific and do not provide for the exercise of significant discretion, the Department believes that it is unnecessary to solicit public comment on their implementation.

In addition, delay to permit consideration of public comment would be contrary to the public interest. It would be contrary to the interest of many tenants to postpone further the full implementation of changes such as increased deductions from income to be used in calculating rent. It would be contrary to the interest of public housing agencies (PHAs) and project owners to delay the effectiveness of changes such as the new definition of adjusted income, since owners and PHAs would have to bear the additional administrative burden of making an additional rental computation (including determination of the effect of the 10% annual cap on rent increases) for each tenant admitted to the programs between the effective date of this rule and a later rulemaking to implement the 1983 Act's provisions. Furthermore, it would be contrary to the interest of PHAs that administer both Section 8 and Public Housing Programs to delay the adoption of a uniform definition of income and adjusted income for the two programs.

Immediate implementation is especially appropriate, given the fact that the 1983 Act is clearly responsive to many of the concerns expressed in public comments on the proposed rule published in December 1982. Therefore, this final rule incorporates the changes made by the 1983 Act.

An additional change since publication of the proposed rule is the transfer within HUD of the responsibility for Public and Indian Housing Programs to a new Assistant Secretary for Public and Indian Housing. This final rule contains only the provisions applicable to the Section 8 Programs, and a separate final rule is being issued by the new Assistant Secretary, containing the provisions applicable to the Public and Indian Housing Programs.

Response to Public Comments

More than 1,200 public comments on the proposed rule were received during the comment period. Most of the comments opposed various aspects of the rule, with the proposals concerning elimination of itemized deductions and

imposition of income limits for admission drawing criticism from more than 400 commenters each. Although many comments were received on each major category of issues, some of the comments discussed below represent the views of only a few commenters. The comments are discussed here by categories: uniformity of rules for public housing and Section 8, definition of income, income varification and reexamination, income limits for admission, rental payments, and miscellaneous.

I. Uniformity of Rules

One of HUD's broad objectives in this rulemaking is to achieve uniformity of rules governing the Section 8 and Public Housing (including Indian Housing) Programs, as contemplated by the 1981 Amendments. Despite the decision to issue separate final rules for the two major program categories to reflect the respective Assistant Secretaries' areas of responsibility, uniformity is preserved by including identical provisions in the two rules on the definition of income and rents.

Of the few comments received on the topic of uniformity, most were in favor, but two public housing agencies (PHAs) commented that if income calculations and rent levels are the same in the programs, there will be a shift of tenants from public housing units to Section 8 housing units, since the Section 8 units tend to be newer and sometimes located in better neighborhoods.

We believe that uniformity is a desirable goal because it is more equitable for tenants of the same income in similar HUD programs to pay the same amount for rent. It is also administratively more efficient for PHAs operating both Section 8 and Public Housing Programs, and for HUD, to use uniform rules. Most importantly, however, uniformity is required by statute, since the same section of the 1937 Act defining income and prescribing rent payments applies to both programs.

Furthermore, the Department doubts that public housing units in satisfactory condition will go begging for tenants. Most PHAs have substantial waiting lists of eligible applicants for public housing. In addition, tenants now residing in public housing who are receiving the benefit of rents phased in from 25% of income to 30% will lose the benefit of the phase-in under § 813.107(c)(1) of the final rule if they transfer voluntarily to Section 8 units. This policy will discourage such transfers.

II. Definition of Income

The 1983 Act preserved the Secretary's discretion to define "income" for both the Public Housing and Section 8 Programs, but prescribed the deductions from income to be used to determine "adjusted income"—the element used in rent computation for both programs under Section 3(a)(1) of the 1937 Act. (Section 206(c) of the 1983 Act, amending Section 3(b)(5) of the 1937 Act.) The proposed and final rules use the term "annual income" as the equivalent of the statutory term "income", and the final rule uses the definition of "adjusted income" contained in the 1937 Act, as amended by the 1983 Act.

A. Annual Income

1. *Net assets.* The definition of annual income used for determining rent in the proposed rule departed from the one found in the current Section 8 definition (24 CFR 889.104) in the treatment of net assets. If a family had net assets exceeding $5,000, the proposed rule would have included the greater of actual income from net assets or 10% of the value of the assets in income for determination of rent, as well as for eligibility (§ 813.107(b)(3)). This measure is currently used in the Section 8 rule in the determination of income level for eligibility purposes (see 24 CFR 889.103), but only actual income from assets is used for calculation of rent.

Objections to this net assets provision were of four types. The first type objected to the inclusion of any unrealized income in the definition of net assets (§ 813.102), especially since if the value of net assets exceeds $5,000, imputed income would be included in income for purposes of calculating rental payments, as well as eligibility. The second type of comment objected to the inclusion of such assets as non-income producing land and any interest in Indian trust lands. The third type objected to the $5,000 threshold amount or to the 10% imputed earnings rate to be used in calculating income under § 813.104(b)(3) of the proposed rule. The fourth type objected to the specific inclusion of the value of property disposed of for less than fair market value within two years before application or income reexamination, to the extent the value of the property exceeds the consideration received for it (§ 813.102).

In response to the first type of objection, the Department agrees with several commenters favoring the rule that expecting tenants with significant assets to invest them and to pay rent based on this expectation, is the best way to assure that the resources available for assisted housing programs are used in the most equitable manner—providing the most assistance to the neediest.

The objections to inclusion of non-income producing land and any interest in Indian trust land are separable. The Department agrees with one commenter favoring the rule who stated that it is reasonable to expect "near exhaustion" of other resources before being eligible for HUD-assisted housing. Even non-income producting land can be sold and the proceeds invested or used to pay for everyday expenses, including housing. Therefore, there is no change in the final rule as to non-income producing land in general. However, the Department does agree with a number of comments from Indians and Indian Tribal organizations that the nature of Indian trust land makes unrealistic a determination of an individual's interest, or the value of the individual's investment. Therefore, we have revised the definition of net family assets in § 813.102 to exclude interests in Indian trust lands. However, *actual* income from Indian trust land will be included in the determination of annual income under § 813.106 of the final rule, subject to the exclusion in § 813.106(c) for temporary, non-recurring or sporadic income, and the exclusion in § 813.106(d)(3) for statutorily exempt income (including certain per capita payments).

Several commenters stated that $5,000 is an unreasonably low threshold amount, because it was introduced in 1975 and has not been adjusted since. We recognize that $5,000 today may represent less value than it did in 1975 because of inflation. We believe, however, that it is appropriate to retain that amount in the rule, since the programs are now being targeted to persons with lower incomes. However, in response to comment that 10% is now an unreasonably high interest rate to assume a tenant or applicant can realize, we have adopted in the final rule the rate earned on passbook savings accounts. This rate of return is clearly attainable by the ordinary citizen and should be imputed where it exceeds actual income derived from net assets. This lowered rate should also help mitigate the effects of retaining the $5,000 threshold.

The bases stated for objection to the fair market value provision were that it would be impossible to administer fairly, is contrary to legislative intent, would be disruptive of divorce proceedings in which rights to marital property may be relinquished in exchange for non-monetary

consideration, would unfairly penalize applicants whose property was disposed of for less than full value because of a forced sale or a sale in bankruptcy, and would have retroactive effect.

While not specifically stated in this final rule, the means of administering this provision is expected to be a procedure (described in the appropriate Department handbook) for certification by an applicant or tenant, under penalty of law, whether he or she has made a disposition of property in a transaction other than an arm's length arrangement in the previous two years. If such a disposition was made, the certification will include a statement of the fair market value and the value of consideration received for the property. PHAs and owners will then investigate only those statements that warrant it. The Department believes this approach minimizes the administrative burden on PHAs and owners, while at the same time assuring that tenants are treated fairly and equitably.

The Department does not believe that inclusion of the difference between fair market value and the consideration actually received for property that has been disposed of in the definition of net family assets against which income may be imputed violates Congressional intent. The Conferees on the 1981 Amendments adopted the House-passed provision, which gives HUD broad discretion on how to determine family income. It is true that the Senate-passed provision (which the Conferees rejected) contained a provision similar to that included in the proposed rule. However, giving the clear, unrestricted discretion accorded the Secretary by the statute and the lack of any guidance in the legislative history as to why the Senate provision was rejected, the Department declines to infer that its proposed application of a fair market value test to assets that are disposed of is in any way at odds with Congressional intent. (See generally H. Rep. (Conf. Rep.) No. 208, Book 2, 97th Congress, 1st Sess., 688, *reprinted in* 1981 U.S.C., Cong. & Admin News 1047.)

One commenter also pointed out that the Senate-passed provision had imposed the requirement only if the disposition had been made to qualify the applicant for the program, whereas the proposed rule included no such fraudulent intent requirement—thus penalizing those who give money to relatives for weddings or family emergencies. The Department's intent in preserving the fair market value provision in the final rule is to target limited housing assistance to those most in need. Adding a fraudulent intent requirement would make the provision more difficult to enforce and would require considerable investigative resources, which none of the entities involved—PHAs, owners or HUD—has.

In response to the third and fourth points discussed above on the fair market value part of the net assets provision, two revisions have been made. With respect to the divorce proceedings issue, the definition of net family assets has been revised to treat dispositions in which the applicant or tenant receives important consideration not measurable in dollar terms, as dispositions for fair market value. Foreclosure sales and bankruptcy sales are also treated as sales for full value in the final rule. (See § 813.102.)

The fifth type of comment concerning the fair market value provision suggested that, in the case of families who are currently in assisted housing and are affected by the rule, there would be, in effect, a retroactive application of the requirement. We disagree. The purpose of the redefinition of income included in the rule is to set out an appropriate measure of eligible families' actual capacity to contribute to the cost of their housing. There will be no retroactive application of the rule in the sense that families will be assessed back rent to adjust for the period between a disposition of assets and the time the rule is effective. Charging rent prospectively, based in part on recent dispositions of assets, is a rational means of basing family contributions on actual income.

2. *Definition of Minor.*

The definition of "minor" in § 813.102 of the proposed rule was used to determine the applicability of a deduction for "each minor" in the calculation of adjusted income under § 813.102 and to apply an exclusion from annual income for income they earned under proposed § 813.104(d)(1). The current provisions governing Public Housing (§§ 960.403(f)(6) and 960.403(o)) and Section 8 Housing (§§ 889.102 and 889.104(a)) define "minor" to include full-time students 18 years of age or older. The proposed rule would have excluded these students from the definition of "minor", thus removing their deduction from income and causing their income to be counted in determining annual income.

Public comments generally opposed the exclusion of full-time students from the definition of minor as contrary to a public policy of encouraging people to continue their education to enable them to earn enough money to support themselves without Government assistance. In its revision of the term "adjusted income", the 1983 Act provides that full-time students are to be treated the same as persons under 18 for purposes of the dependent deduction from annual income, and § 813.102 has been revised accordingly. The 1983 Act is silent, however, on whether the earnings of full-time students at least 18 years old should be excluded from annual income. In light of this silence, the need to preserve scarce subsidy dollars, and the significant increase in the amount of this deduction—from $300 in the existing regulations to $480 in the final rule—we see no reason to exclude the earnings of full-time students age 18 and older from the determination of annual income. Because the 1983 Act broadened the "minor" deduction to include disabled or handicapped persons age 18 and older, the term "minor" in the proposed rule has been replaced with the broader term "dependent." In addition, the final rule incorporates the definition of "full-time student" contained in § 960.403(g), with the clarification that an educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

3. *Welfare Rent Income Component.* There were two major criticisms of the proposed rule's § 813.104(b)(6)(ii). This provision states that when a welfare agency pays a family an amount designated for shelter that is adjusted in accordance with the family's actual housing costs, HUD will include in income the maximum allowance, ratably reduced once, if State law provides for welfare benefits that are a percentage of the established standard of need.

One objection was that recognizing only one application of the ratable reduction was inconsistent with the statute, since a welfare agency might apply the reduction again after the rent was established and the rule would provide that any such reduction be ignored; thus, an amount exceeding the amount paid by the welfare agency for shelter would be included in income. The commenter cited *Smith* v. *Pierce* (D. Vt., June 30, 1982) as holding that HUD's policy was a violation of the statute. In fact, that decision upheld HUD's broad discretion to define income in this manner.

The second major objection was that by using the maximum a welfare agency could pay in computing income and establishing rent, HUD causes the welfare payments to be higher in States that designate shelter allowances, and since welfare benefits are taken into consideration in computing food stamp benefits, the higher welfare benefits

reduce the family's food stamp benefits. The Department believes that despite this unfortunate consequence, it is obligated to seek the maximum, since government funds for housing benefits are limited and the welfare rent (now found in Section 3(a)(3) of the 1937 Act) was originally established to require welfare tenants to pay equitable housing costs. See H. Rep. 93–1114, 93rd Cong., 2d Sess. 24, 190–191 (1974). See also Conf. Rep. No. 740, 91st Cong., 1st Sess., *reprinted in* 1969 U.S. Code, Cong. & Admin. News 1582–83.

4. *Food Stamps.* Several PHAs commented that HUD should include the unreimbursed value of food stamps in the income of participating families, arguing that food stamps represent disposable income. A statutory prohibition—7 U.S.C. 2017(b)—currently exists against including the value of food stamps in income for any purpose under any Federal, State or local program. This prohibition is contained in § 813.106(d)(3)(ii).

5. *Armed Forces Pay.* Similar to the current Section 8 rule (§ 889.104(a)(8)), the proposed rule would have provided that all regular pay, special pay and allowances of a member of the Armed Forces who is the head of household or spouse be included in annual income, whether or not the individual lives in the dwelling. One commenter stated that if the service member was not residing in the houshold, only the income actually received by the household should be included. To exclude income from such an absent head of household or spouse based on what that person chose to send home would permit the absent member to reduce his or her contribution to the resident family members to zero without penalty, while HUD would be required to increase its Section 8 payment.

The commenter cited a 1972 response by the HUD Dallas Area Office to an administrative complaint and a 1979 consent order in a case against the Alma, Georgia Housing Authority in support for that position. Since the Department no longer has records on the Texas administrative complaint, we cannot evaluate its contents or its relevance to this discussion. However, the consent order in the Georgia case (*Clark* v. *Housing Authority of Alma, Georgia*, C.A. No. 578–55 (S.D. Ga., March 30, 1979)) is not on point, since it did address the issue of inclusion of income of an absent head of household or spouse serving in the Armed Forces. It was primarily a case about the procedural rights of tenants threatened with eviction, and the only issue with respect to income was whether adjustments to rent would be made following a reported decrease in income (they would). For these reasons, the final rule retains without change the proposed rule's general provision on inclusion of armed forces pay of an absent family member.

However, the exclusion of the special pay to a "serviceman head of family away from home and exposed to hostile fire" found in the current Section 8 regulations (§ 889.104(d)(5)) has been included in this final rule (§ 813.106(c)(5)) and broadened to include any member of the family receiving such pay.

6. *Earned Income Tax Credit.* The list contained in proposed § 813.104(b) of examples of types of income included in annual income has been expanded to include the earned income tax credit, to the extent it exceeds income tax liability. This revision of the rule is intended to clarify the existing practice of counting in annual income all sources of income.

7. *Indian Per Capita Payments.* The list in proposed § 813.104(d)(3) of exclusions from income prescribed by statute has been expanded to include an exclusion required by two statutes (25 U.S.C. 117 and 25 U.S.C. 1407–1408)—the first $2,000 of per capita shares from judgment funds awarded by the Indian Claims Commission or the Court of Claims or from funds held in trust for an Indian Tribe by the Secretary of Interior. The precise interpretation of this exclusion, as well as the others dealing with income or resources of Indians listed in § 813.106(d)(3) of the final rule, is currently the subject of interagency discussions, and additional guidance on them will be provided in HUD Handbooks or directives.

B. Income Levels

Section 206(b) of the 1983 Act made a technical change to Section 3(b) of the 1937 Act to permit the Secretary, based on certain findings, to establish income ceilings higher or lower than 50% of the median income for the area for families to be classified as "very low-income". A similar provision had long existed authorizing the Secretary to so modify the income level at which a family qualifies as "lower income"—not over 80 percent of the area median. Since most families served by the program must now qualify as very low-income (see Section 16 of the 1937 Act and §§ 813.104 and 813.105 of the final rule), it is more important than ever that the Secretary have flexibility to modify the ceiling used to determine who qualifies as very low-income. The statute requires that any such modification be supported by a finding that the modification is "necessary because of unusually high or low family incomes". This change is reflected in the definition of "very low-income family" found in § 813.102.

C. Definition of Adjusted Income

The proposed rule (§ 813.102) departed from the current Public Housing rule (§ 960.403(f)) and the Section 8 rule (§ 889.102) by eliminating all deductions from income in favor of two standard deductions: $400 for each minor in a family and $300 for an elderly, disabled or handicapped head of household. Comments on the proposed rule evidenced strong opposition to elimination of the 10% deduction for elderly public housing tenants and the institution of a $300 deduction for each elderly head of household.

Section 206(c) of the 1983 Act amended Section 3(b)(5) of the 1937 Act to define "adjusted income" as income that remains after excluding:

1. $480 for each member of the family residing in the household (other than the head of the household or spouse) who is under 18 years of age or who is 18 years of age or older and is disabled or handicapped or a full-time student;
2. $400 for any elderly family;
3. Medical expenses in excess of 3 percent of annual family income for any elderly family; and
4. Child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education.

This listing of adjustments is all-inclusive and mandatory, and is incorporated in § 813.102 of the final rule.

In addition to increasing the amount of the deduction for dependent members of the household from $400 to $480, the new definition has expanded the category of persons qualifying for the deduction to include persons (other than the head of household or spouse) who are over 18 years old and are disabled, handicapped, or (as discussed above) full-time students. The deduction for elderly families (which includes families whose head or spouse (or sole member) is disabled or handicapped) is increased by the new definition from $300 to $400.

Other changes in the definition of adjusted income in this final rule include the statutorily mandated deductions for medical expenses and child care expenses. These differ from comparable deductions in the current Section 8 (§ 889.102) and Public Housing (§ 960.403) regulations, in that the medical deduction is available only to "elderly families" and the child care deduction (available only for expenses

for dependents who are under 13 years of age) has been broadened to apply where child care is necessary to further the education of a family member, as well as where such care is necessary for the employment of a family member (the condition required in current regulations).

Since income and deductions are based on anticipated events, major changes in expectations may render the income or expense projections inaccurate. The final rule provides for adjustments to reflect these changes. The family is required by its lease (or regulations in the case of the Section 8 Existing Housing Program) to report some of these changes. Similarly, if significant changes occur that are not required to be reported, such as large, unanticipated medical expenses for an elderly family, the family may request a reexamination of its income and have its adjusted income recomputed and its rental payment revised, as appropriate. (See § 880.603(c)(2) and comparable provisions.)

III. Income Verification and Reexamination

A. Verification

Section 813.107(b) of the proposed rule would have authorized PHAs and Section 8 project owners to examine a family's Federal income tax return and to require access to other financial documents and third party information to verify statements provided by applicants and tenants regarding eligibility for and amounts of housing assistance. After considering the comments, we have decided not to include the provision concerning the family's Federal income tax return, since uncertified returns can be falsified easily, and they provide little assurance of the accuracy of the data. However, we recognize that income tax returns will be used in some cases, such as that of self-employed persons, for whom tax returns may be the only available income information.

The use of third-party verification, such as contact with employers, does not represent a change in HUD policy as reflected in current HUD handbooks. However, a few commenters objected to third-party verification as an invasion of privacy, as violative of a statutory directive on verification, or as an administrative burden on PHAs. A few PHAs objected to the use of a prescribed form for submission of the data to HUD. The final rule preserves the use of third-party verification, as well as explicitly stating that the family can be required to provide documentation directly, as is also current practice.

Although independent, third-party verification may require applicants and tenants to provide more information than a self-certification process, it is the most accurate, objective way to verify information provided by applicants and tenants. We believe that it does not violate the Privacy Act of 1974, 5 U.S.C. 522a, and we have had virtually no complaints about abuse of verification authority, which, as noted above, has been HUD policy.

Perhaps the real thrust of the concern about invasion of privacy is that individual tenant income data will be reported by each PHA or owner to HUD, a practice that is required by HUD now, although not universally observed. This reporting is necessary to enable HUD to monitor progress toward meeting the statutory 25% and 5% limits on admissions of families with income between 50% and 80% of the area median. In addition, the data will permit the Department to carry out its responsibility to assure that income information provided by families is complete and accurate, to verify that eligibility and rental payment determinations have been made properly, to monitor compliance with equal opportunity requirements, and to analyze the effect of these programs. The data collected by HUD will be used only for purposes directly connected with administration of HUD programs.

Section 8(k) of the 1937 Act, 42 U.S.C. 1437f(k), requires the Secretary to:

> establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate.

One commenter argued that the statute goes on to mandate taking a sample to verify income, and that this rule violates the sampling provision by requiring verification of income for all applicants and tenants. The Secretary has determined that verification of income for all families is necessary and appropriate for the reasons stated above. Therefore, the rule goes beyond a required sample in an effort to carry out the more encompassing mandate.

HUD requires use of a prescribed HUD form to assure that it has sufficient data to verify that HUD requirements are being followed. The PHA or owner may use whatever form it chooses to collect the information sought on the HUD 50059 form. To simplify a PHA or owner's task in submitting the data, HUD has issued procedures for accepting the information contained on the prescribed Form 50059 from PHAs and owners in the form of a computer-generated form in lieu of the HUD form, and we intend to issue procedures for accepting computer magnetic tapes, so that there will be no additional burden placed on owners or PHAs by the use of the HUD form.

Section 205 of the 1983 Act prohibits the Secretary from imposing "any unnecessarily duplicative or burdensome reporting requirements on tenants or public housing agencies." The verification requirement is consistent with the duty to minimize burden because it does not require tenants to prepare any new documents or PHAs or owners to submit any information not necessary to assure compliance with statutory requirements. This rule and the form that must be completed are subject to review by the Office of Management and Budget to assure that such burdens are minimized, as required by the Paperwork Reduction Act of 1980.

B. Reexamination

The requirement that *all* tenants' incomes be reexamined at least annually was established by the 1981 Amendments' revision of Sections 6(c)(2) and 8(c)(3) of the 1937 Act, and by the 1983 Act's revision of Section 3 of the 1937 Act. This requirement was implemented by a final rule (47 FR 54296), effective April 1, 1983 (48 FR 6961). Section 813.107 of the proposed rule would have required annual reexamination of family income and composition, as prescribed in individual program regulations. The proposed amendment to those individual regulations tracked the statutory language, requiring the PHA or owner to reexamine income at least annually. In addition, the amendment expressly would have permitted a PHA or owner to conduct reexaminations more frequently than annually and preserved reference to tenant-initiated reexaminations. See, e.g., § 880.603(c).

A few commenters suggested that the authority to conduct more frequent than annual reexaminations could be used to harass tenants who somehow offend management. Although more frequent than annual reexaminations have been permitted in the past, we have not received complaints of actual harassment. We believe that some owners and PHAs need the flexibility to conduct reexaminations more frequently than annually under procedures now provided in HUD Handbooks. For example, earlier recertifications are appropriate if the owner has performed a tenant-requested reexamination for a change in circumstances that is found to have been temporary. In light of the lack of evidence of abuse, we have chosen to

preserve this discretion in the final rule, but have deemphasized it by eliminating the sentence explicitly authorizing owners to initiate the reexaminations more frequently than annually.

One commenter requested that the rule make clear that annual reexaminations are contingent on lease provisions. We agree that such reexaminations are contingent on lease provisions, and PHAs and owners who have a lease prescribing a reexamination interval greater than one year should amend the lease so that annual or more frequent reexaminations can occur. We have not included language to this effect in the rule, since it is a problem that arose only once—when the PHA or owner first implemented the annual requirement after the April 1, 1983 effective date of the rule requiring annual reexaminations for all tenants.

We have added a provision to the individual program regulations contained in the final rule requiring tenants to comply with any lease provisions (or regulatory provisions) regarding interim reporting of specified changes in income. This simply states current policy, as reflected in Handbook and model lease provisions.

Several commenters suggested that elderly tenants who are converted from the Rent Supplement program to the Section 8 Program will have their rents increased significantly unless the 10% statutory cap on annual rent increases is applied to them. This may be a problem in some cases, since the Rent Supplement Program did not provide for any reexamination of elderly tenants' incomes. The commenters argue that the cap should be applied, since the annual reexamination is required by Section 322 of the 1981 Amendments, and the cap applies to changes made by that section of the 1981 Amendments.

Section 206(d) of the 1983 Act contains provisions responsive to these and related concerns. Section 206(d)(3) applies the 10% cap to all tenants converted from the Farmers Home Administration's rental assistance program to the Section 8 Program. These provisions are contained in § 813.107(c)(4) of the final rule. Section 206(d)(4)(A) applies the 10% cap to elderly tenants (62 years of age or older) converted to the Section 8 Program at any time from the Rent Supplement Program, as well as from the Section 236 Rental Assistance Program and the Section 23 Program. In addition, Section 206(d)(4)(B) of the 1983 Act provides that, for elderly tenants converted from the Rent Supplement, Section 236 Rental Assistance or Section 23 Program on or after October 1, 1981 and before November 30, 1983, rental payments after November 30, 1983 will be computed as if the tenant's rental payment on the date of conversion had been the lesser of the actual rent required or 25% of the tenant's income. This provision will result in a more gradual phase-in of rent requirements for those elderly tenants with low rents at the time of conversion. The implementation of the various protective provisions of Sections 206(d) (3) and (4) of the 1983 Act are found in § 813.107(c) (2) through (6) of the final rule. (Because full implementation of Section 206(d)(4)(A) will occur on October 1, 1984, the rule extends the protection of Section 206(d)(4)(A) to conversions occurring after November 30, 1983, and before October 1, 1984.)

IV. Income Limits for Admission

Well over one-third of the public comments received addressed the restrictions in proposed § 813.103 on admission of lower income families that are not very low-income families: i.e., those families with incomes between 50% and 80% of the area median. This provision was designed to implement Section 16 of the 1937 Act, which limits the number of units that may be leased to these families to (1) not more than 25% (10% before Section 213 of the 1983 Act raised the ceiling) of the units that were available for occupancy before October 1, 1981 and are leased thereafter, and (2) not more than 5% of the units that first become available for occupancy after that date. The commenters almost unanimously opposed these percentage restrictions.

From the tenant perspective, commenters insisted that there should be no evictions of families with incomes above 50% of median. Comments on behalf of applicants with incomes above 50% of median who are on waiting lists claimed the rule unfairly deprived them of a benefit. PHAs, Section 8 owners and managers had other concerns. The requirements, they asserted, would (1) violate existing contracts with owners; (2) jeopardize the financial viability of recently approved Section 8 projects, for which marketability analyses were based on 30% occupancy by very low-income families; (3) cost government millions of dollars in additional subsidies; and (4) effectively exclude working families from assisting housing—leading to greater vandalism and property deterioration, as well as damaging the image of such housing in the community.

In addition to these objections, there were a number of questions about how the priorities for exceptions would be administered. What entity will grant the exceptions? Are some of the priorities given greater weight than others? Could a project qualify for approval of more than 5% of its units for families above 50% of median? What is the meaning of the phrase "local commitment to attaining occupancy by families with a broad range of incomes" in proposed § 813.103(d)(4)?

A. Evictions and Waiting Lists

Answering the tenant-perspective comments first, the Department from the outset intended that implementation of the income limit provision should not result in eviction of current residents of assisted housing. The income limit provision only prescribes the level of income *at admission* and does not affect any tenant's right to continued occupancy. Applicants who are on the waiting list when the rule goes into effect, however, are affected by these restrictions on admissions. The statute clearly imposes restrictions on income level at first occupancy—not at first inclusion on a waiting list.

B. Violation of Contracts

The argument that the proposed rule would violate existing contracts is primarily made by State agencies, and it focuses on units under Housing Assistance Payments (HAP) Contracts and Agreements to Enter into HAP Contracts executed under Parts 880, 881, and 883–885, for which initial occupancy did not occur until on or after October 1, 1981, and which are thus covered by § 813.105 of the rule.

The commenters argue that the rule's restriction on the percentage of lower income families who are not very low-income (i.e., none without HUD approval, and only 5% of all units nationwide) is in conflict with the percentage of very low-income families required by their Contracts (i.e., *at least 30%*). They also argue that both the Agreement and the HAP Contract prohibit changes in their terms, including this percentage change. The substitution of the new requirement for the existing one is argued to impair their contract rights (and therefore, presumably, to violate their constitutional right to due process).

HUD has determined that the effect of the proposed rule, as clarified in §§ 813.103 through 813.105 of the final rule, does not impair rights of owners or State agencies under existing contracts in violation of the Constitution. With respect to one version of the Form HAP Contract referred to by a commenter, the same provision that was cited by the commenter as prohibiting changes in that contract (section 1.1(f)), actually

binds the parties to applicable regulations. Part 813 of this rule is such a regulation, duly issued to implement a statutory mandate. Morever, the fact that such owners have heretofore been required (by statute, regulation and contract) to attain *at least* 30% occupancy by very low-income families at initial occupancy and to use "best efforts" to maintain at least thirty percent did not guarantee them that they were forever assured that they could maintain *no more than* 30% occupancy by very low-income families—especially in an undertaking such as the provision of federally assisted housing, known to be subject to legislative and regulatory direction. In this case, the Congress has chosen to restrict the degree of discretion an owner had to choose a percentage above 30%, by mandating a national requirement of 95%.

Even if the statute and regulation could be construed to constitute an impairment, they do not violate the rights of owners and State agencies to due process, because there is a rational basis both for the congressional action and the Department's implementing action. Congress acted rationally because it was deciding to distribute limited funds by targeting them to the neediest. (See, S. Rep. (Budget Committee) No. 139, 97th Cong., 1st Sess., 5, *reprinted in* 1981 U.S. Code, Cong. & Admin. News, 1054.) Information available to Congress was that at least 90% of assisted units were then occupied by very low-income families. By requiring at least 90% (changed to 75% by the 1983 Act) occupancy by very low-income families for occupied projects and raising the percentage to 95% for future projects (a compromise between proposals for 90% and 100%), Congress implicitly rejected the contention that restricting the income mix in this small way would change the living environment for tenants (see Housing and Community Development Amendments of 1981: Hearings on S. 1022 and S. 1074 before the Subcommittee on Housing and Urban Affairs, 97th Cong., 1st Sess. 676 (1981)).

HUD acted rationally by requiring the 95% limitation to apply to units first rented under agreements and HAP contracts effective on or after October 1, 1981, even if the contracts were executed before that date. The statute states that the 95% requirement applies to "units which become available for occupancy under [Contracts] under this Act on or after the effective date of [the 1981 Amendments]." Despite the date of execution of the contract, the statute clearly focuses on availability for occupancy. To have focused on the execution date of the contract and to have disregarded the date of initial occupancy (as urged by some commenters) would not have been in accord with the statute.

The provision of § 813.105 that any admission of lower income families who are not very low-income families must be approved by the Department is also a reasonable exercise of discretion. The statutory 95% requirement was intended to be achieved on a nationwide basis. See H. Rep. (Conf. Rep.) No. 208 (Book 2), 97th Cong., 1st Sess., 689, *reprinted in* 1981 U.S. Code, Cong. & Admin. News, 1048. If the Department is to consider permitting some projects to have less than 95% occupancy by very low-income families—as many commenters stated was necessary—then other projects must have greater than 95%. The limitation on admission of lower income families that are not very low-income will permit apportioning any exceptions to the overall limitation in a manner consistent with national housing goals and conservation of scarce Federal housing funds.

C. Financial Viability

The financial viability of recently approved Section 8 projects for which marketability analyses were based on 30% occupancy by very low-income families is not a problem unless the number of very low-income families in the market area interested in living in those projects is insufficient to fill units vacated by families with higher incomes. Since the 5% limit on families with incomes above 50% of median is a nationwide limit, a higher percentage of such families may be approved by HUD to lease units in individual projects that would otherwise be in serious financial trouble. Financial viability of a project is one basis for exception listed in § 813.105(c)(1) to be considered in HUD's determination of whether and how many families with incomes above 50% of median may be admitted.

In addition, no families with higher incomes will be evicted to reach the 5% limit, so projects that are occupied before the effective date of this rule will only feel the impact upon turnover.

D. Increased Subsidy Outlay

On a nationwide basis, more than 90% of assisted housing residents have incomes below 50% of median. Therefore, application of the rule's limitation is not expected to cause a dramatic shift in the income group served by the programs as a whole, or in the amount of Federal subsidy paid. In any event, the statute requires the limitation on families with incomes above 50% of median that are admitted to the programs. The Senate Banking Committee recognized that the change would result in increased subsidy: "Although this lower eligibility limit will tend to increase housing program costs, the Committee rejects the argument that for cost reasons moderate-income people should get housing while the poor wait in line. It will always be less expensive to house only those who can afford to pay more of the rent themselves. The Government's purpose in lower-income housing programs though should be to help those who most need assistance." S. Rep. No. 87, 97th Cong., 1st Sess. 5 (1981).

E. Effect on Working Families and Deterioration of Living Conditions

The effect of the income limits provision on participation by working families is uncertain. Some working families (as opposed to families supported solely by welfare) may well earn less than 50% of median income for their area. For working families that are eligible fund the income limits, the child care deduction will provide an additional incentive to participate. Congress implicitly rejected the contention that imposing these income limits would cause serious deterioration in living conditions. (See Housing and Community Development Amendments of 1981: Hearings on S. 1022 and S. 1074 before the Subcommittee on Housing and Urban Affairs, 97th Cong., 1st Sess. 676 (1981)).

F. Administration of New Provision

Changes have been made in the rule in response to the numerous questions about how the exceptions to the limitations on admission of families with incomes above 50% of median will be administered. The proposed § 813.103 has been divided into three sections in this final rule: § 813.103 for the overall restriction limiting admission to families with incomes not exceeding 80% of the area median, § 813.104 for units first available before October 1, 1981, and § 813.105 for units first available on or after that date.

A provision has been included in both §§ 813.104 and 813.105 requiring PHAs and owners to comply with reporting requirements, and stating what units will be counted, (1) for purposes of monitoring the 25% requirement and (2) for determining how HUD will calculate the 5% of units for which permission can be granted to admit lower income families who are not very low-income families. Consistent with Section 205 of the 1983 Act, these reporting requirements are being kept to the

minimum necessary to permit HUD to track the units covered by Section 16 of the 1937 Act to assure compliance with that provision. The reporting required by both §§ 813.104(b) and 813.105(e) is expected to be accomplished by completion of one form (HUD 50059) for each family, which is submitted at the time of annual and interim reexaminations.

The following is noted for determining what units fell within the 25%/5% limitations. For programs involving "project-based" subsidies such as the Section 8 New Construction program, where all assisted units in a project become available for initial occupancy under a Housing Assistance Payments (HAP) Contract at one time, the units are classified in either the 25% or 5% universe and thereafter retain that character. However, for the Section 8 Existing Housing (Finders-Keepers) Program where units in a PHA's program become available for initial occupancy under HAP contracts as each family approved for participation finds a unit, one "unit" may be counted as within the 25% universe but then shift to the 5% one. This occurs when the original HAP contract was executed before October 1, 1981, and a later one (for the same family when it moves or for a family new to the program) is executed after that date under the same annual contributions contract (ACC).

Similarly, a unit could shift from one universe to another if it were first assisted under the Section 23 Program (and categorized as within the 25% universe since all such units were available for initial occupancy before October 1, 1981), and then the family was converted to assistance under the Section 8 Finders-Keepers Program (under § 882.123). It would not shift, however, until "the unit" first became available for occupancy under a HAP Contract, as required by Section 16 of the 1937 Act: i.e., when a later HAP Contract is executed under the same ACC for the same family moving to a new unit or for another family admitted to the program. Other units assisted under the 1937 Act may be slow to move into either universe. If a Rent Supplement unit were converted to assistance under the Section 8 Program, it would be included in the 5% universe only when the unit becomes available for a new tenant. In each of these cases, the income level of the tenants converted from another assistance program to Section 8 would not be categorized as below 50% of median or between 50% and 80% of median, since the "unit" is not "available for occupancy", and consequently not subject to the statutory income limit, until the tenant in place moves out.

As described above, all units that meet the statutory test of being available for occupancy under the programs covered by Part 813 and its counterpart for Public and Indian Housing Programs (Part 913) will be counted in either the 25% or 5% universe. However, the income level of tenants who have moved into the units between October 1, 1981 and the effective date of this rule will not be categorized as 50% of median or below, or between 50% and 80% of median. Thus, these tenants will not be counted against the 25% or 5% limitations. This result should cause no problem in meeting the 25% requirement, since HUD data show that from 1974 through 1982, for each of the five years for which we have data, the percentage of families in the 50% to 80% of median income moving into public housing and Section 8 housing was approximately 6%. This consistently low rate of new tenants in that income category is well below the rate of 25% now required by statute. The answer is less clear with respect to the 5% post-October 1981 universe. The Department has determined, however, that not considering the incomes of tenants already in place is the most effective way of achieving our desire to maximize the statutory objective of targeting housing assistance to the neediest families without eviction or otherwise jeopardizing the continued tenancy of existing tenants.

The final rule retains the provisions of proposed § 813.103(c) that reserves HUD's right to limit the admission of families with incomes between 50% and 80% of median to units under contract and first available for occupancy before October 1, 1981. No specific limitation on admission to these units is imposed in this rule (beyond the existing general requirement that income not exceed 80% of area median at admission), since the Department believes that the requirement can be achieved without the imposition of restrictions. HUD will monitor the income levels of families admitted to these units after the effective date of the rule to determine whether at some point in the future it is necessary to impose restrictions on the percentage of admissions of families with incomes in the 50% to 80% range.

The final rule also retains the requirement in proposed § 813.103(d) that admission of families with incomes between 50% and 80% of area median to units subject to the 5% limit generally be permitted only with prior HUD approval. Section 813.105(b) of the final rule specifies how a PHA or project owner applies for permission to admit families of this income range to units covered by the admissions restrictions stated in § 813.105(a). In answer to a question raised in public comments, the list of "priority" categories to be considered for exception to the 5% rule is not in rank order. The final rule does not call these categories "priorities" but identifies them as "bases for exception". The list is not exhaustive, so other bases may be stated in a request for exception. Applications received by HUD under this rule (and under the companion rule for Public and Indian Housing) will be weighed against each other for exceptions that may be available when the decision is made. Since the limitation is a nationwide one, it is conceivable that a project might qualify for permission to admit families with income between 50% and 80% of area median to more than 5% of its units. However, no implication is intended that the Department necessarily will grant exceptions up to the 5% limit, nor shall there be any presumption of entitlement to an exception created by an application's statement of certain grounds for exception.

In § 813.105(b) of the final rule (the paragraph dealing with project-based programs), the category for consideration of exception for projects where there is a local commitment to serving families with a broad range of incomes, has been revised to clarify that this "commitment" must be evidenced by furtherance of the policy throughout the PHA's assisted housing projects in the community. Another category has been added for families with incomes not exceeding 80% of area median that are actually displaced as a result of Rental Rehabilitation or Development activities assisted under Section 17 of the 1937 Act (as added by Section 301 of the 1983 Act) or as a result of activities assisted under the Rental Rehabilitation Demonstration Program.

Section 813.105(c) (the paragraph dealing with the unit-based program) includes a new provision governing a family that (1) participated in the Section 8 Existing Housing (Finders-Keepers) Program before the effective date of this rule, (2) moves to a new unit after that date, and (3) does not qualify as a very low-income family at the time of new lease approval and execution of a new HAP Contract. Such a family will be automatically granted permission to continue participation in the program. The specific categorical exception in § 813.103(a) of the proposed rule for families converted from another federal assistance program to the Section 8 Finders-Keepers Program has been

omitted from the final rule as unnecessary because it has been determined that the units they represent would not be subject to the statutory limit so long as occupancy of the original unit is maintained. (See discussion above.) A PHA may also apply to HUD for an exception to the 5% limit for families participating in the Existing Housing (Finders-Keepers) Program that have incomes between 50% to 80% of median income. One basis for exception explicitly stated in the final rule for this program is for families that would otherwise be displaced as a result of activities assisted in connection with the Rental Rehabilitation or Development Programs under Section 17 of the 1937 Act or as a result of activities assisted under the Rental Rehabilitation Demonstration Program.

Finally, because of the difficulty in keeping the number of lower income families that are not very low-income families below the 5% requirement nationwide, and the complexity of judgments about what projects most merit exceptions to the overall limit on admission of such families, we believe that the Congress committed solely to the Secretary's discretion decisions concerning which projects, if any, may be permitted to admit lower income families that are not very low-income. (See H. Rep. (Conf. Rep.) No. 208 (Book 2), 97th Cong., 1st Sess. 689, *reprinted in* 1981 U.S. Code, Cong. & Admin. News 1048.) Indeed, the statute allows the Secretary to prohibit any such family from being admitted, so there are no statutory standards to apply. In light of this fact, the Department believes that determinations whether to grant exceptions to the otherwise applicable 50% of area median income ceiling on admissions are agency actions committed to agency discretion by law, and accordingly these determinations will not be reviewable in any court.

V. Rental Payments

A. Phased-in Rent Increase and Cap on Increases

We received numerous comments on the phased-in rent increase and the 10% annual cap on rent increases. Most of the comments were critical either because the system—as applied to the changes in definition of income as well as the changes in rental rates—would be difficult to administer, or because the applicability of the phase-in or cap was not regarded as sufficiently broad.

Commenters stated that in order to apply the 10% cap, many calculations would be necessary to determine the effect of the changes in the definition of income, as well as the rent increases. First, it would be necessary to make calculations using the tenant's old circumstances under old and new definitions and formulas, and then using the tenant's new circumstances (including income, medical expenses, number of minors, etc.) under old and new definitions and formulas. Unfortunately, this procedure cannot be avoided. Multiple calculations are necessary to apply the cap. Sections 206(d) (1) through (4) of the 1983 Act clearly require that the cap be applied to a variety of tenants and circumstances.

Another criticism of the proposed rule made by housing managers involved proposed § 813.105(b)(2)'s provision that made eligible for the rent phase-in families that were receiving housing assistance before August 1, 1982 (the effective date of the rent increase rule) and whose assistance has been continuous thereafter, irrespective of whether the family moved from one unit, project or assistance program to another after August 1, 1982. These commenters believed that this provision was too burdensome, since it would require project managers to verify the previous occupancy of a new tenant claiming to have moved from another assisted unit. To eliminate this administrative burden, § 813.107(c)(1)(ii) of the final rule requires that to qualify as an existing tenant in a non-PHA administered program, the tenant must have resided in the same project, or within buildings that are adjacent and managed as one project. In a PHA-administered program, the final rule requires the tenant to remain within the same project or program in order to qualify for the phase-in. However, in the case of an involuntary move, a tenant will qualify if moving within the same PHA's programs.

On the other side of this issue, legal services organizations representing tenants argue the phase-in and cap should apply to new tenants as well as existing tenants, so that all tenants with the same incomes would pay the same rent. Under § 813.107(c)(2) of the final rule, the cap will apply to new and existing tenants to the extent they experience changes as a result of this rule or later changes in law defining which governmental benefits are required to or may be considered as income. The 1983 Act removed the authority of the Secretary to permit a phase-in for new tenants—at least if they are not in occupancy by the effective date of this rule. With respect to other "new tenants", i.e., those whose initial occupancy began after the effective date of the rent increase rule (August 1, 1982) but before the effective date of this rule, the Department has decided not to exercise its discretion under Section 206(d)(1)(A) of the 1983 Act to provide for a rent phase-in. These tenants are already paying the full statutory amount of rent, as provided in the Interim Rent Increase Rule. The Department believes that it would be inappropriate and administratively burdensome to provide what would be, in effect, a rent decrease for these tenants.

One commenter stated that HUD should make it clear that the 10% cap applies to tenants whose income is recertified as a result of the 1981 legislation and to tenants who are involuntarily converted from one program to another. Recertifications conducted in the Section 8 Programs as a result of the 1981 Amendments are believed to be completed, thus rendering language in the rule dealing with this question unnecessary. However, § 813.107(c) of the final rule does apply the cap to tenants who are converted from one program to another, in conformity with Sections 206(d) (3) and (4) of the 1983 Act. Elderly tenants converted from the Rent Supplement Program (who have never had their income reexamined) are given special consideration under § 813.107(c), consistent with Section 206(d)(4)(B) of the Act. (See section on reexaminations, above.)

In the final rule, the cap is not being applied to families receiving welfare payments whose rental payments are based on the housing component of their welfare grant if the housing component is adjusted in accordance with their actual housing costs (Section 3(a)(3) of the 1937 Act), without reduction. The reason for this exception is that the failure to apply the cap to these families will not affect them adversely, and application of the cap would, therefore, not serve its purpose of protecting tenants from precipitous rent increases and preserving disposable income for other basic needs. The full cost of such families' rent charges are, in essence, paid by the welfare agency. Since the cap would not serve its purpose in such cases, it is not being applied to them.

B. Utility Reimbursement

Section 813.102 of the proposed rule provided that tenants who pay directly for utilities and whose utility allowances exceed the amount they must pay for rent under the statutory formula, receive a utility reimbursement to cover the difference. A few commenters disapproved of this provision as "paying people to live in assisted housing" and accelerating the decline of housing

projects, because such tenants (the commenters claimed) would not appreciate and respect their accommodations. This provision does not constitute a new policy or practice, as noted in the preamble to the proposed rule (47 FR 57960). Historically, the term "rent" under the 1937 Act has been interpreted to mean gross rent, that is, including utilities. Therefore, when the percentage of income maximum was first imposed by statute in 1969, the Department took the position that a tenant could pay no more than that percentage for housing costs including utilities, and the practice of utility reimbursements was born. The change in the statute from one percentage of income ceiling on rents to a choice of the highest of three figures as the rent does not necessitate a change in that practice, and considering the increase in the applicable percentage of income a tenant is required to pay for rent, the Department chooses not to change its utility reimbursement policy at this time.

The Department's position that any tenant payment of utilities is a payment toward "rent" is further buttressed by Section 221 of the 1983 Act, which provides that for purposes of determining benefits under the Aid to Families with Dependent Children program, any utility payment up to the amount of the utility allowance is to be considered a rental payment. (The Department of Health and Human Services has responsibility for implementation of that provision.)

Another comment on utility reimbursements, from the tenants' perspective, was that they should be made payable either jointly to the tenant and the utility company or solely to the utility company. It has been suggested that such a change in the rule would remove the impression that people are being paid to live in assisted housing and would decrease the opportunity for fraud. By permitting a PHA or owner to make a utility reimbursement in the form of an in-kind benefit, the revision would also clarify that utility reimbursements are a part of the program's subsidy of total shelter costs, reducing the likelihood that other government agencies would count the utility reimbursements as income for purposes of determining eligibility and levels of assistance for other assistance programs, while not counting the value of the rest of the housing benefit (a practice which effectively discriminates against tenants who pay their own utilities directly). The HUD Handbook now applicable to management of Section 8 projects already suggests direct payments of utility reimbursements to the utility or jointly to the family and the utility. Consistent with current policy, we have added a sentence to § 813.108 of the final rule, and to operative provisions of the individual program regulations (§§ 880.501(e), 881.501(e), 882.105(a), 882.210(c), 883.602(e), 884.106(a), 886.109(a), and 886.309(a)), permitting PHAs or project owners to follow such a practice, if all parties consent.

VI. Transition Provisions

The 1983 Act became law on November 30, 1983. Congress did not provide a specific effective date for the amendments contained in Section 206 of the 1983 Act. However, by referring in Section 206(d)(1) to "the effective date of regulations implementing this section," Congress evidenced a contemplation that changes in tenant rental payments would become effective upon administrative implementation of the amendments through rulemaking procedures. Such an understanding is consistent with prior practice. For example, while the 1981 Act became effective October 1, 1981, no tenant rents were increased as a result of those amendments before the effective date of the interim rules referred to at the beginning of this preamble (August 1 1982, in the case of Public Housing and Section 8).

The effective date of this final rule is July 1, 1984. However, the Secretary has determined, pursuant to Section 206(d)(1)(A) of the 1983 Act, that immediate applicability of the definition of Annual Income and Adjusted Income would not be practicable. Implementation by PHAs and Owners of the extensive changes in current procedures required by this rule will require receipt of detailed instructions (principally in the form of HUD handbooks) and forms and staff training. In many cases, reprogramming of automated systems also will be required. Handbook and form revisions could not be completed before publication of this final rule, and full capability to implement the changes made by this rule may not be achieved for several months. Accordingly, utilization of the new definitions of Annual Income and Adjusted Income will not commence until examinations or reexaminations conducted on or after October 1, 1984.

Although applicability of the new definitions will be effective on October 1, 1984, it would not be possible for PHAs and Owners to conform the rent computations for all tenants to the new definitions immediately. Actual application will occur as reexaminations are conducted during the following 12 months in accordance with regular schedules. However, in order that the benefits, if any, of the revised definitions will be realized by tenants for the full period commencing October 1, 1984, Section 813.110 of the rule requires a retroactive calculation to October 1, 1984, to be made at the time of the first reexamination occurring thereafter. This recalculation will apply the revised deductions to the Annual Income actually certified for that period. If the recalculation produces a lower tenant contribution than that actually paid, the "overcharge" will be credited to the tenant. If the recalculation results in a higher contribution than that actually paid, no adjustment will be made.

VII. Miscellaneous

Comments submitted on the proposed rule concerning tenants' rights to a hearing in the Public Housing Program or establishment of utility allowances are not discussed here since those topics deal with public housing and are addressed in separate rulemakings, Docket No. R-82-1020 (47 FR 55689) and Docket No. R-82-853 (47 FR 35249), respectively. The portion of the proposed rule that dealt with hearings in the Public Housing Program, § 860.211, has been dropped from the final rule, since it is the subject of a separate rulemaking.

One commenter stated that a public hearing should be held before issuance of a final rule. He stated that the impact on rural areas of proposed § 813.103, limiting the number of families that could be admitted to the Public Housing and Section 8 Programs, had not been considered sufficiently. The Department has considered the effect of that provision on non-urban areas and on projects within a submarket in an urban area that might not attract families in the required income category. Although permitting families with incomes above 50% of area median to occupy 5% of the units might pose a marketability problem for a few projects, the 5% limit is a nationwide one, permitting HUD to approve a greater number of units for such occupancy in some projects, where demonstrably necessary. In fact, one possible basis for permitting admission of a family with an income between 50% and 80% of median stated in § 813.105(b)(3) is just such a marketability problem. In any event, the data presented by commenters on many topics, combined with data compiled by the Department, provide an ample record on which to base a final rule, and HUD does not find it appropriate, under

24 CFR 10.11, to provide for oral presentation of views before issuing this final rule.

Other Matters

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR Part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, D.C.

The Department has determined that this rule does not constitute a "major rule" as defined in Executive Order 12291. Analysis of the rule indicates that it does not (1) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (2) have a significant adverse effect 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. While its economic impact, when considered together with the Interim Rent Increase Rules published on May 4, 1982 (47 FR 19120 and 19128) and effective on August 1, 1982 (47 FR 30969 and 30971), and the companion final rule published today for the Public and Indian Housing Programs, may exceed $100 million annually, such impact results to the greatest degree from the legislative enactment and only to a substantially lesser degree from its administrative implementation.

The undersigned hereby certifies, under Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule does not have a significant economic impact on a substantial number of small entities because the administrative burden will not increase substantially. Small public housing agencies are simply being required to use, in both HUD programs they administer, the same procedures they already use in one HUD program. Small Section 8 project owners will use procedures similar to their current ones, for the most part.

This rule was listed as item H-79-82, RIN 2502-AA05, under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47441), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower Income Housing Assistance Program (Section 8).

Information collection requirements contained in §§ 813.104(b), 813.105(e), 813.107 and 813.109(b) of this rule have been approved by the Office of Management and Budget and the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) and have been assigned OMB control number 2502-0204. The information collection requirements contained in § 813.105(b) and § 813.105(c)(2) of this rule have been approved by OMB and been assigned OMB control number 2402-0315. Please send any comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD.

List of Subjects

24 CFR Part 800

Grant programs—housing and community development, Rent subsidies.

24 CFR Part 813

Lower income housing, Loan programs—housing and community development, Utilities.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing, New construction.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing, Substantial rehabilitation.

24 CFR Part 882

Grant programs—housing and community development, Housing, Mobile homes, Rent subsidies.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Rural area, Low and moderate income housing.

24 CFR Part 886 and 889

Grant programs—housing and community development, Low and moderate income housing, Rent subsidies.

Accordingly, the Department amends 24 CFR Chapter VIII as follows:

1. A new Part 813 is added to read as follows:

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS AND RELATED PROGRAMS

Authority: Sections 3, 8 and 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437f, 1437n); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 813.101 Purpose and applicability.

This Part establishes definitions, policies and procedures related to income limits and the determination of eligibility, income and rent for applicants and tenants in housing assisted under Section 8 of the United States Act of 1937 ("the 1937 Act"), including those for which loans are made under Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); and applicants and tenants assisted under Sections 10(c) and 23 of the 1937 Act as in effect before amendment by the Housing and Community Development Act of 1974 (42 U.S.C. 1410 and 1421b (1970 ed.)). (See 24 CFR Part 913 for the analogous rule applicable to the Public Housing and Indian Housing Programs.) However, § 813.107 and the definitions of Tenant Rent, Total Tenant Payment, Utility Allowance and Utility Reimbursement found in § 813.102 shall not apply to families assisted with vouchers under Section 8(o) of the 1937 Act (42 U.S.C. 1437f(o)).

§ 813.102 Definitions.

Adjusted Income.

Annual Income less:

(a) $480 for each Dependent,

(b) $400 for any Elderly Family,

(c) Medical Expenses in excess of three percent of Annual Income for any Elderly family, and

(d) Child Care Expenses.

Annual Income. See § 813.106.

Child Care Expenses. Amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period of which Annual Income is computed, but only where such care is necessary to enable a Family member to be gainfully employed or to further his or her education. The amount deducted shall reflect reasonable charges for child care, and, in the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment.

Contract Rent. The total amount of rent specified in the Housing Assistance Payments (HAP) Contract as payable by HUD (or the PHA) and the tenant to the Owner (including a PHA) for an assisted unit. In the case of the rental of only a manufactured home space, Contract Rent is the total rent specified in the HAP Contract as payable by HUD (or the PHA) and the tenant to the Owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home.

Dependent. A member of the Family household (excluding foster children) other than the Family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a Full-time Student.

Disabled Person. A person under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423) or in Section 102 of the Development Disabilities Services Facilities Construction Amendments of 1970 (42 U.S.C. 2691(1)).

Elderly Family. A Family whose head or spouse (or sole member) is a person who is an Elderly, Disabled or Handcapped Person. It may include two or more Elderly, Disabled or Handicapped Persons living together, or one or more such persons living with another person who is determined to be essential to their care or well-being.

Elderly Person. A person who is at least 62 years of age.

Family. See definition in Part 812 of this chapter.

Full-time Student. A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

Gross Rent. The total monthly cost of housing an eligible Family, which is the sum of the Contract Rent and any Utility Allowance for the assisted unit. In the case of rental of only a manufactured home space, Gross Rent also includes the Family's monthly payment to amortize the purchase price of the manufactured home.

Handicapped Person. A person having a physical or mental impairment that (a) is expected to be of a long-continued and indefinite duration, (b) substantially impedes his or her ability to live independently, and (c) is of such a nature that such ability could be improved by more suitable housing conditions.

Lower Income Family. A Family whose Annual Income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

Medical Expenses. Those medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance.

Monthly Adjusted Income. One-twelfth of Adjusted Income.

Monthly Income. One-twelfth of Annual Income.

Net Family Assets. Value of equity in real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land. The value of necessary items of personal property such as furniture and automobiles shall be excluded. (In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the Family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining Annual Income under §813.106.) In determining Net Family Assets, PHAs and Owners shall include the value of any assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollars terms.

Owner. The meaning ascribed to such term in the pertinent program regulations.

Public Housing Agency (PHA). The meaning ascribed to such term in pertinent program regulations. As used in this Part where appropriate, PHA shall also include an Agency as defined in 24 CFR Part 883.

Tenant Rent. The amount payable monthly by the Family as rent to the Owner (including a PHA). Where all utilities (except telephone) and other essential housing services are supplied by the Owner, Tenant Rent equals Total Tenant Payment. Where some or all utilities (except telephone) and other essential housing services are not supplied by the Owner and the cost thereof is not included in the amount paid as rent to the Owner, Tenant Rent equals Total Tenant Payment less the Utility Allowance. In the case of a Family renting only a manufactured home space, Tenant Rent equals the space rental minus the Housing Assistance Payment, as defined in the applicable program regulation.

Total Tenant Payment. The portion of the Gross Rent payable by an eligible Family participating in a program covered by this Part, determined in accordance with §813.107.

Utility Allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the Tenant Rent but is the responsibility of the Family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD under applicable sections of these regulations (see 24 CFR 880, 881, 882, 883, 884, and 886) of the monthly costs of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility Reimbursement. The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the Family occupying the unit.

Very-Low-Income Family. A Lower Income Family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

Welfare Assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments.

§ 813.103 Overall income eligibility for admission.

No Family other than a Lower Income Family shall be eligible for admission to a program covered by this Part.

§ 813.104 Admission to units available before October 1, 1981.

(a) *General.* Section 16(a) of the 1937 Act (42 U.S.C. 1437n) provides that not more than 25 percent of the dwelling units that were available for occupancy under public housing Annual Contributions Contracts and Section 8 HAP Contracts before October 1, 1981 and that are leased on or after that date shall be available for leasing by Lower Income Families other than Very Low-Income Families. HUD reserves the right to limit the admission of Lower Income Families other than Very Low-Income Families to these units.

(b) *Reporting.* PHAs (including State Housing Finance Agencies) and Owners shall comply with HUD-prescribed reporting requirements that will permit HUD to maintain reasonably current data as to (1) the number of dwelling units that are subject to paragraph (a) of this section and are encompassed by the categories specified in paragraph (a) of § 813.105 for which the effective date of the HAP Contract is before October 1, 1981, as well as dwelling units assisted under the Section 10(c) and Section 23 Programs; (2) the number of units that are subject to paragraph (a) of this section and are occupied by Families for whom HAP Contracts were effective under Part 882, Subpart B (Section 8 Housing Assistance Payments Program—Existing Housing (Finders-Keepers)), before October 1, 1981; and (3) the number of Families occupying units described in clause (1) of this paragraph that were admitted to such units on or after June 1, 1984 and were not Very Low-Income Families when admitted.

(Information collection requirements contained in this section have been approved by the Office of Management and Budget under OMB Control Number 2502-0204.)

§ 813.105 Admission to units available on or after October 1, 1981.

(a) *General.* Section 16(b) of the 1937 Act (42 U.S.C. 1437n) provides that not more than five percent of the dwelling units that initially become available for occupancy under public housing Annual Contributions Contracts and Section 8 HAP Contracts on or after October 1, 1981 shall be available for leasing by Lower Income Families other than Very Low-Income Families. Except with the prior approval of HUD, no Lower Income Family other than a Very Low-Income Family shall, after June 1, 1984, be approved for admission to any unit assisted under the following programs for which the effective date of the HAP Contract is October 1, 1981 or later:

(1) Part 880 (Section 8 Housing Assistance Payments Program for New Construction);

(2) Part 881 (Section 8 Housing Assistance Payments Program for Substantial Rehabilitation);

(3) Part 882, Subparts D and E (Section 8 Housing Assistance Payments Program, Moderate Rehabilitation);

(4) Part 883 (Section 8 Housing Assistance Payments Program—State Housing Agencies);

(5) Part 884 (Section 8 Housing Assistance Payments Program, New Construction Set-Aside for Section 515 Rural Rental Housing Projects);

(6) Part 885 (Loans for Housing for the Elderly or Handicapped);

(7) Part 886, Subpart A (Section 8 Housing Assistance Payments Program—Special Allocations (Loan Management Set-Aside)); or

(8) Part 886, Subpart B or C (Section 8 Housing Assistance Payments Program—Special Allocations (Disposition of HUD-Owned Projects)).

(b) *Request for exception.* A request by a PHA or Owner for approval of admission of Lower Income Families other than Very Low-Income Families to units described in paragraph (a) of this section must state the basis for requesting the exception and provide supporting data. Bases for exceptions that may be considered by HUD include the following:

(1) Lower Income Families that would otherwise be displaced from Section 8 Substantial Rehabilitation or Moderate Rehabilitation projects;

(2) Lower Income Families that are displaced as a result of Rental Rehabilitation or Development activities assisted under Section 17 of the 1937 Act, or as a result of activities assisted under the Rental Rehabilitation Demonstration Program;

(3) Need for admission of a broader range of tenants to preserve the financial or management viability of a project because there is an insufficient number of potential applicants who are Very Low-Income Families;

(4) Commitment of an Owner to attaining occupancy by Families with a broad range of incomes, as evidenced in the application for development. An application citing this basis should be supported by evidence that the Owner is pursuing this goal throughout its assisted projects in the community; and

(5) Project supervision by a State Housing Finance Agency having a policy of occupancy by families with a broad range of incomes, supported by evidence that the Agency is pursuing this goal throughout its assisted projects in the community, or a project with financing under Section 11(b) of the 1937 Act or under Section 103 of the Internal Revenue Code.

(c) *Specific limitation on certificates.* (1) Except with the prior approval of HUD, no Certificate of Family Participation shall be granted under Part 882, Subparts A and B or F, of this chapter on or after June 1, 1984 to any Lower Income Family that is not a Very Low-Income Family, except a Family (i) that resided in a unit with assistance under Subparts A and B or F before that date, (ii) whose participation in the Program has been continuous, and (iii) that wants to move to another dwelling unit with continued participation in the Section 8 Existing Housing Program under § 882.209(e).

(2) A request by a PHA for HUD approval to grant a Certificate of Family Participation under Part 882, Subparts A and B or F, of this chapter on or after June 1, 1984 to Lower Income Families other than Very Low-Income Families must state the basis for requesting the exception and provide supporting data. One basis for exception that may be considered by HUD is that Lower Income Families would otherwise be displaced or are actually displaced as a result of Rental Rehabilitation or Development activities assisted under Section 17 of the 1937 Act or as a result of activities assisted under the Rental Rehabilitation Demonstration Program.

(d) *Action on request for exception.* Whether to grant any request for exception is a matter committed by law to HUD's sole discretion, and no implication is intended to be created that the Department will seek to grant approvals up to the maximum limits permitted by statute, nor is any presumption of an entitlement to an exception created by the specification of certain grounds for exception that HUD may consider. HUD will review exceptions granted to Owners or PHAs at regular intervals. HUD may withdraw permission to exercise those exceptions for program applicants at any time that exceptions are not being used or after a periodic review, based on the findings of the review.

(e) *Reporting.* PHAs and Owners shall comply with HUD-prescribed reporting requirements that will permit HUD to

maintain reasonably current data as to (1) the number of dwelling units that are subject to paragraph (a) of this section, (2) the number of units that are subject to paragraph (c) of this section and are occupied by Families who moved, for whom HAP Contracts were first effective under Part 882, Subpart B of this chapter on or after October 1, 1981 (including new HAP Contracts for Families for whom HAP Contracts had been in effect before that date with a different owner), (3) the number of Families occupying units described in clause (1) of this paragraph that were admitted to such units on or after June 1, 1984 and were not Very Low-Income Families when admitted, and (4) the number of Families who moved to units as described in clause (2) of this paragraph on or after June 1, 1984 that were not Very Low-Income Families when such Certificates were granted.

(Information collection requirements contained in paragraphs (b) and (c)(2) approved by the Office of Management and Budget under control number 2402-0315. Information collection requirements contained in paragraph (e) approved by the Office of Management and Budget under control number 2502-0204)

§ 813.106 Annual Income.

(a) Annual Income is the anticipated total income from all sources received by the Family head and spouse (even if temporarily absent) and by each additional member of the Family, including all net income derived from assets, for the 12-month period following the effective date of initial determination or reexamination of income, exclusive of income that is temporary, nonrecurring or sporadic as defined in paragraph (c) of this section, and exclusive of certain other types of income specified in paragraph (d) of this section.

(b) Income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from operation of a business or profession (for this purpose, expenditures for business expansion or amortization of capital indebtedness and an allowance for depreciation of capital assets shall not be deducted to determine the net income from a business);

(3) Interest, dividends, and other net income of any kind from real or personal property (for this purpose, expenditures for amortization of capital indebtedness and an allowance for depreciation of capital assets shall not be deducted to determine the net income from real or personal property). Where the Family has Net Family Assets in excess of $5,000, Annual Income shall include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate as determined by HUD;

(4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see paragraph (c)(3) of this section);

(6) Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus

(ii) The maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage;

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Family, spouse, or other person whose dependents are residing in the unit (but see paragraph (c)(5) of this section); and

(9) Any earned income tax credit to the extent it exceeds income tax liability.

(c) Annual Income does not include such temporary, non-recurring or sporadic income as the following:

(1) Casual, sporadic or irregular gifts;

(2) Amounts that are specifically for or in reimbursement of the cost of Medical Expenses;

(3) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (but see paragraph (b)(5) of this section);

(4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran, for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans, not used for the above purposes that are available for subsistence are to be included in income; and

(5) The hazardous duty pay to a Family member in the Armed Forces away from home and exposed to hostile fire.

(d) Income does not include:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children;

(3) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. The following types of income are subject to such exclusion:

(i) Relocation payments made under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621-4638);

(ii) The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011-2029);

(iii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951-4993);

(iv) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a));

(v) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

(vi) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8621-8629);

(vii) Payments received from the Job Training Partnership Act (29 U.S.C. 1552(b));

(viii) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-2504); and

(ix) The first $2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims

Commission or the Court of Claims (25 U.S.C. 1407–1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117).

(e) If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.

§ 813.107 Total tenant payment.

(a) *Total tenant payment for families whose initial lease is effective on or after August 1, 1982.* Total Tenant Payment shall be the highest of the following, rounded to the nearest dollar:

(1) 30 percent of Monthly Adjusted Income;

(2) 10 percent of Monthly Income; or

(3) If the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (a)(3) shall be the amount resulting from one application of the percentage.

(b) *Total tenant payment for families whose initial lease was effective before August 1, 1982.* Total Tenant Payment shall be calculated in accordance with paragraph (a) of this section, except that instead of 30 percent, the percentage applied to Monthly Adjusted Income shall be in accord with the following table:

Effective date of reexamination	Percentage
Aug. 1, 1982 to Sept. 30, 1982	26
Oct. 1, 1982 to Sept. 30, 1983	27
Oct. 1, 1983 to Sept. 30, 1984	28
Oct. 1, 1984 to Sept. 30, 1985	29
Oct. 1, 1985 and after	30

(c) *Special conditions.* (1) For purposes of this section, a Family is considered to be a Family whose initial lease was effective before August 1, 1982 only if it satisfies one of the following conditions:

(i) The Family resided on July 31, 1982 in a unit under lease with assistance under the Section 8, Section 10(c), Section 23, Public Housing or Indian Housing Program, and its assistance has been continuous thereafter in the same project; or

(ii) The Family resided in a unit under lease in a HUD-owned project paying a below market rent at the time HUD sold the project; received assistance under the Section 8 Program immediately after sale; and the Family's assistance has been continuous thereafter in the same project; or

(iii) The Family resided on April 30, 1983 in a unit under lease with assistance under the Rent Supplement Program (Section 101 of the Housing and Urban Development Act of 1965), or the Section 236 Rental Assistance Program (Section 236(f)(2) of the National Housing Act); continued to receive such assistance until the Family was converted to assistance under the Section 8 Program; and after conversion its assistance has been continuous in the same project; or

(iv) The Family resided in a unit under lease with assistance under the Rent Supplement Program or the Section 236 Rental Assistance Program; was converted to assistance under the Section 8 Program on or after August 1, 1982 and before May 1, 1983; and continued to receive assistance under the Rent Supplement or the Section 236 Rental Assistance Program until the time of conversion, and after conversion its assistance has been continuous in the same project.

(2) So long as a Family whose initial lease was effective prior to August 1, 1982, continues to reside in the same Project, its Total Tenant Payment shall not be increased by more than 10 percent during any 12-month period as a result of: (i) Application of the percentages in subsection (b) of this section, and (ii) application of the changes in the definitions contained in §§ 813.102 and 813.106 from definitions of comparable terms in regulations in effect immediately prior to July 1, 1984.

(3) So long as a Family whose initial lease was effective on or after August 1, 1982, but which was in occupancy on September 30, 1984, continues to reside in the same project, its Total Tenant Payment shall not be increased by more than 10 percent during any 12-month period as a result of application of the changes in the definitions contained in §§ 813.102 and 813.106 from definitions of comparable terms in regulations in effect immediately prior to July 1, 1984.

(4) In the case of a Family receiving rental assistance under Section 521(a) of the Housing Act of 1949 on November 30, 1983, whose assistance is converted to Section 8 assistance on or after such date, the Total Tenant Payment payable by such Family shall not be increased by more than 10 percent during any 12-month period as a result of (i) such conversion, and (ii) if such Family was in occupancy on September 30, 1984, and continues to reside in the same project, application of the changes in the definitions contained in §§ 813.102 and 813.106 from definitions of comparable terms in regulations in effect immediately prior to July 1, 1984.

(5) This paragraph (5) applies to any Family that was converted to Section 8 assistance from assistance under the Rent Supplement Program, the Section 236 Rental Assistance Program, or the Section 23 Program on or after October 1, 1984, whose head of household, spouse or sole member was 62 years of age or older on the date of conversion. So long as such Family continues to reside in the same project, its Total Tenant Payment shall not be increased by more than 10 percent during any 12-month period as a result of such conversion.

(6) This paragraph (6) applies to any Family that was converted to Section 8 assistance from assistance under the Rent Supplement Program, the Section 236 Rental Assistance Program, or the Section 23 Program on or after October 1, 1981, and before October 1, 1984, whose head of household, spouse or sole member was 62 years of age or older on the date of conversion and that continued to reside in the same project on November 30, 1983. At the first regularly scheduled or interim reexamination for such Family conducted on or after October 1, 1984, the PHA or Owner shall recompute the contribution due from such Family for the period from December 1, 1983, or the date of conversion, whichever is later, to the effective date of such reexamination. Such recomputation shall be based on an assumption that the Family's contribution immediately prior to conversion was the lesser of (i) the actual contribution charged to the Family, or (ii) 25% of such Family's Annual Income After Allowances as determined as of the date of conversion or, if no reexamination was conducted as of such date, as determined at the first reexamination thereafter. The contribution of such Family for periods following conversion and prior to the effective date of the first reexamination conducted on or after October 1, 1984, shall be recomputed on a basis which provides that such contribution is not increased by more than 10% during any 12-month period as a result of conversion. If the contribution actually charged to such Family during the period commencing December 1, 1983 (or the date of conversion, if later) exceeds the maximum amount chargeable according to such recomputation, the excess amount collected shall first be offset against any amounts due from the Family to the PHA or Owner and any remaining

balance shall be applied as a credit to the Total Tenant Payment due immediately after the effective date of such reexamination. If the amount of any such credit to a Family exceeds 25 percent of the Total Tenant Payment due from such Family, such credit may be applied in not more than four installments. So long as such Family continues to reside in the same project, its Total Tenant Payment for periods commencing on the effective date of the first reexamination conducted on or after October 1, 1984, shall not be increased by more than 10 percent during any 12-month period as a result of the conversion, and application of the changes in the definitions contained in §§ 813.102 and 813.106 from definitions of comparable terms in regulations in effect immediately prior to July 1, 1984. If a Family to which this paragraph (6) would otherwise apply vacates a unit after November 30, 1983, and before the first reexamination conducted on or after October 1, 1984, the PHA or Owner will notify the Family of the possibility of a rent adjustment for the period commencing December 1, 1983 (or the date of conversion, if later). In order to obtain a refund, such a Family must submit (within 60 days of receiving the notice) a request therefor, including a current address to which any refund can be sent. For any Family making such a timely request, the PHA or Owner will make all calculations necessary to determine whether an adjustment is due to the Family under this paragraph (6) and, if so, the amount of any such adjustment will first be offset against any amounts due from the Family and any balance will be refunded to the Family.

(7) For the purposes of paragraphs (b) (2)–(6) of this section, the "same project" includes—

(i) For the Public Housing, Section 10(c), Section 23, and Section 8 Existing Housing (Finders-Keepers) and Moderate Rehabilitation Programs, units in the same program of a PHA and, in the case of an involuntary move, units in any of a PHA's programs; and

(ii) For all other programs, units in buildings located in adjacent sites that are managed as one project.

(8) The limitations contained in paragraphs (b) (2)–(6) of this section do not apply to portions of increases in Total Tenant Payment which are attributable to increases in income or changes in Family composition or circumstances unrelated to the factors referred to in paragraphs (b) (2)–(6) of this section.

(9) The limitations contained in paragraphs (b) (2)–(6) of this section do not apply to Families subject to paragraph (a)(3) of this section when the welfare agency includes as the housing component of the Family's grant an amount equal to the Total Tenant Payment, without reduction.

(10) In order to facilitate administration of the limitations provided in paragraphs (b) (2)–(4) and (6) of this section, upon any regular or interim reexamination of a Family which was in occupancy on July 1, 1984, the PHA or Owner shall continue to collect and verify information which would have been taken into account in calculating Annual Income and Annual Income After Allowances, as defined in regulations in effect immediately prior to September 30, 1984, as if such regulations were in effect at the date of such reexamination.

(11) The limitations prescribed in paragraphs (b) (2) through (6), of this section, shall be applied in accordance with procedures prescribed by HUD.

(Information collection requirements contained in this section have been approved by the Office of Management and Budget under OMB control number 2502-0204.)

§ 813.108 Utility reimbursement.

Where applicable, the Utility Reimbursement shall be paid to the Family in the manner provided in the pertinent program regulation. If the Family and the utility company consent, a PHA or Owner may pay the Utility Reimbursement jointly to the Family and the utility company, or directly to the utility company. Section 813.109 Initial determination, verification, and reexamination of family income and composition.

(a) *Responsibility for initial determination and reexamination.* The Owner or PHA shall be responsible for determination of eligibility for admission, for determination of Annual Income, Adjusted Income and Total Tenant Payment, and for reexamination of Family income and composition at least annually, as provided in pertinent program regulations and handbooks (see, *e.g.*, Part 880, Subpart F; Part 881, Subpart F; Part 882, Subparts B and E; Part 883, Subpart G; Part 884, Subpart B; Part 886, Subpart A; and Part 886, Subpart C. For purposes of this Part, the provisions of Subpart F of Part 880 or 881, as appropriate, shall apply to projects developed under Part 885). As used in this Part, the "effective date" of an examination or reexamination refers to (1) in the case of an examination for admission, the effective date of initial occupancy, and (2) in the case of a reexamination of an existing tenant, the effective date of the redetermined Total Tenant Payment.

(b) *Verification.* As a condition of housing assistance under any program covered by this Part, the PHA or Owner shall require the Family head and other such Family members as it designates to execute a HUD-approved release and consent authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA or Owner and to HUD such information as the PHA, Owner or HUD determines to be necessary. The PHA or Owner shall also require the Family to submit directly documentation determined to be necessary. Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing a Family's eligibility to receive housing assistance, for determining the Family's Adjusted Income or Tenant Rent, for verifying related information, or for monitoring compliance with equal opportunity requirements. The use or disclosure of information obtained from a Family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of this Part 813 or the housing program under which the Family is receiving or applying for assistance.

(Information collection requirements contained in this section have been approved by the Office of Management and Budget under OMB Control Number 2502-0204.)

§ 813.110 Transition Provisions.

(a) *Delayed implementation for rent calculations.* This Part shall be effective on July 1, 1984. However, applicability of the definitions of Annual Income and Adjusted Income contained in this Part shall be delayed until October 1, 1984, due to the need for distribution of instructions and forms, instruction of PHA and Owner staffs, and similar administrative adjustments.

(b) *Examinations and Reexaminations prior to October 1, 1984.* In the case of (1) any current tenant whose regularly scheduled reexamination is conducted on or after July 1, 1984, and before October 1, 1984, (2) current tenants for whom interim reexaminations are conducted during such period, and (3) applicants for admission whose initial examinations are conducted during such period, the PHA or Owner shall conduct the examination as scheduled and determine the tenant's contribution in accordance with regulations and procedures in effect immediately prior to July 1, 1984 (including the percentage to be applied to adjusted income in the case of such tenants pursuant to § 813.107 based on the effective date of

the examination or reexamination). For purposes of this section, an examination or reexamination will be considered to be "conducted" at the time a PHA or owner, based upon its regular practice, begins scheduling and verifying the submission of data by an applicant or tenant, regardless of the "effective date" of the examination or reexamination (see § 813.109(a)).

(c) *Admissions.* On or after July 1, 1984, and prior to October 1, 1984, for purposes of application of §§ 813.103 and 813.105, a Family will be determined to be a Lower-Income Family or a Very Low-Income Family on the basis of a determination of Annual Income made in accordance with regulations and procedures in effect immediately prior to July 1, 1984. The admission of any Family on such basis prior to October 1, 1984, shall not be affected by a recalculation of Annual Income made pursuant to this Part on or after October 1, 1984.

(d) *Admissions and Reexaminations on or after October 1, 1984.* All regular or interim reexaminations, or examinations for admission, conducted on or after October 1, 1984, and determinations of Annual Income, Adjusted Income, Tenant Total Payments and Tenant Rent based thereon, shall be made in accordance with the requirements of this Part.

(e) *Optional Interim Reexamination.* Each PHA or Owner shall have the right, at its discretion, to require any Family in occupancy at October 1, 1984, to undergo an interim reexamination, and determination of Annual Income, Adjusted Income, Total Tenant Payment, and Tenant Rent based thereon, in accordance with the requirements of this Part, at any time after October 1, 1984, and prior to the next scheduled regular reexamination for such Family.

(f) *Retroactive Adjustment.* For all Families other than those whose examination for admission was conducted on or after October 1, 1984, in accordance with this Part, at the time of the first regular or interim reexamination conducted after October 1, 1984, the PHA or Owner shall make an additional calculation with respect to the period between October 1, 1984, and the effective date of such reexamination. An adjusted tenant rental payment shall be calculated for such period on the basis of—

(1) The Annual Income determined for such period in accordance with regulations and procedures in effect immediately prior to July 1, 1984;

(2) The Dependent and Elderly Family deductions prescribed by § 813.102;

(3) Estimated Medical Expenses taken into account in the calculation of Annual Income After Allowances for such period in accordance with regulations and procedures in effect immediately prior to July 1, 1984, but only if the Family was an Elderly Family during such period;

(4) Unusual Expenses taken into account in the calculation of Annual Income After Allowances for such period in accordance with regulations and procedures in effect immediately prior to July 1, 1984, but only if such unusual expenses qualify as Child Care Expenses as defined in § 813.102.

(5) The percentage applied to Monthly Adjusted Income in accordance with regulations and procedures in effect immediately prior to July 1, 1984, to determine the rental payment actually charged during such period.

(g) *Adjustments.* (1) If the adjusted tenant rental payment calculated under paragraph (f) is higher than the tenant payment actually charged for the applicable period, no adjustment shall be made. If the adjusted tenant rental payment calculated under paragraph (f) is lower than the tenant rental payment actually charged for the applicable period, the amount of such difference shall first be offset against any amounts due from the Family to the PHA or Owner and any remaining balance shall be applied as a credit to the Total Tenant Payment due immediately after the effective date of the reexamination. If the amount of any such credit to a Family exceeds 25 percent of the Total Tenant Payment due from such Family, such credit may be applied in not more than four installments.

(2) If a Family vacates a unit after October 1, 1984, and before the first reexamination occurring after such date, the PHA or Owner will notify the Family of the possibility of a rent adjustment for the period commencing October 1, 1984, subject to the requirement of a request therefor (made not later than 60 days after vacating the unit) together with notification of a current address to which any refund can be sent. For any Family making such a timely request, the PHA or Owner will make all calculations necessary to determine whether an adjustment is due to the Family pursuant to this subsection (g) and, if so, the amount of any such adjustment will first be offset against any amounts due from the Family and any balance will be refunded to the Family.

(h) *Increased Subsidy Needs.* If a PHA or Owner notifies HUD that its subsidy needs exceed the amount available under its contract with HUD as a result of reduced rental income caused by implementation of this Part, HUD will follow regular procedures appropriate to the circumstances.

PART 800—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

2. Section 800.102 is amended by revising paragraph (b)—the definition of Gross Family Contribution, and adding a new definition of Utility Reimbursement as paragraph (k), as follows:

§ 800.102 Definitions.

* * * * *

(b) *Gross family contribution.* Total Tenant Payment, as defined in Part 813 of this chapter.

* * * * *

(k) *Utility reimbursement.* As defined in Part 813 of this chapter.

3. Sections 800.103(b)(1) and 800.103(i) are revised as follows:

§ 800.103 Basic policies.

* * * * *

(b) *Housing assistance payments.* (1) The housing assistance payments will be made to the owner in an amount that does not exceed the difference between the rent chargeable by the owner as specified in the Contract and the portion of said rent payable by the family, except where the Utility Allowance exceeds the Gross Family Contribution, in which case the housing assistance payments will include a payment in trust to the Owner solely for the purpose of paying the Utility Reimbursement to the Family.

* * * * *

(i) *Responsibilities of the LHA.* The LHA shall be responsible for determining family eligibility for assistance in accordance with provisions of Parts 812 and 813; determining the amount of adjusted income, the amount of rent payable by the Family, and housing assistance payments in accordance with Part 813; issuing Certificates of Family Participation to eligible families; notifying families determined eligible; approving owner-family leases; making housing assistance payments on behalf of eligible families; reexamining family eligibility at least annually; inspecting units before leasing, and at least annually thereafter, to determine that the units are maintained in decent, safe and sanitary condition (failure to do so shall constitute a Substantial Default by the LHA under the Annual Contributions Contract); authorizing evictions; and complying with equal opportunity requirements. The LHA

shall provide advice and guidance to eligible families in finding suitable housing, including advice and guidance to families experiencing discrimination, in an affirmative manner to further the policies of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.

* * * * *

Authority: Sec. 10(d), United States Housing Act, 1937 (42 U.S.C. 1410(b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

4. The authority citation for Part 880 is revised to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

5. Section 880.101(c) is revised to read as follows:

§ 880.101 General.

* * * * *

(c) *Tenant Rents and Eligible Families.* In addition to the Housing Assistance Payments, the project Owner receives a Tenant Rent directly from the assisted family. The total amount received by the Owner for rent is called the Contract Rent. Eligible families are Families that at admission have incomes within the HUD-specified income limits and are unable to pay the Gross Rent with their Total Tenant Payment.

* * * * *

6. Section 880.201 is amended by removing the definitions of Total Family Contribution, and Total Housing Expense; by adding, in alphabetical order, definitions of Annual Income, Gross Rent, Total Tenant Payment, and Utility Reimbursement; and by revising the definitions of Elderly Family, Family (eligible family), Housing Assistance Payment, Lower Income Family, Tenant Rent, Utility Allowance, and Very Low-Income Family, to read as follows:

§ 880.201 Definitions.

* * * * *

Annual Income. As defined in Part 813 of this chapter.

* * * * *

Elderly Family. As defined in Parts 812 and 813 of this chapter.

* * * * *

Family (eligible family). As defined in Part 812 of this chapter.

* * * * *

Gross Rent. As defined in Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the Owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible Family, the payment is the difference between the Contract Rent and the Tenant Rent. An additional payment is made to the Family when the Utility Allowance is greater than the Total Tenant Payment. In the case of a Family renting only a manufactured home space as provided in §880.202(j), the Housing Assistance Payment is the difference between the Gross Rent and the Total Tenant Payment, but such payment may not exceed the Contract Rent for the space, and no additional payment is made to the Family. A Housing Assistance Payment, known as a "vacancy payment", may be made to the Owner when an assisted unit is vacant, in accordance with the terms of the Contract.

* * * * *

Lower Income Family. As defined in Part 813 of this chapter.

* * * * *

Tenant Rent. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Total Tenant Payment. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Utility Allowance As defined in Part 813 of this chapter, made or approved by HUD.

Utility Reimbursement. As defined in Part 813 of this chapter.

Very Low-Income Family. As defined in Part 813 of this chapter.

7. Section 880.501(e) is revised as follows:

§ 880.501 The contract.

* * * * *

(e) *Payment of Utility Reimbursement.* Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of the contract administrator. Funds will be paid to the Owner in trust solely for the purpose of making the additional payment. If the Family and the utility company consent, the Owner may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

8. Section 880.603 is amended by removing paragraph (d), by revising the paragraph (b) introductory text, and paragraph (c), to read as follows:

§ 880.603 Selection and admission of assisted tenants

* * * * * *

(b) *Determination of Eligibility and Selection of Tenants.* The Owner is responsible for determining whether the applicant is eligible, in accordance with Parts 812 and 813 of this chapter, and for the selection of families:

* * * * *

(c) *Reexamination of Family Income and Composition.* (1) *Regular reexaminations.* The Owner must reexamine the income and composition of all Families at least every 12 months. Upon verification of the information, the Owner shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate. The Owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD.

(2) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified.

(3) *Continuation of housing assistance payments.* A Family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

9. Section 880.604 is revised to read as follows:

§ 880.604 Tenant rent.

The eligible Family pays the Tenant Rent directly to the Owner.

§ 880.608 [Amended]

10. Section 880.608(a) is amended by removing the term "total family contribution" and by adding in its place the term "Total Tenant Payment."

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

11. The authority citation for Part 881 is revised to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

12. Section 881.101(c) is revised to read as follows:

§ 881.101 General.

* * * * *

(c) *Tenant rents and eligible families.* In addition to the Housing Assistance Payments, the project Owner receives a Tenant Rent directly from the assisted family. The total amount received by the Owner for rent is called the Contract Rent. Eligible families are Families that at admission have incomes within the HUD-specified income limits and are unable to pay the Gross Rent with their Total Tenant Payment.

* * * * *

13. Section 881.201 is amended by: removing the definitions of Total Family Contribution and Total Housing Expense; by adding, in alphabetical order, definitions of Annual Income, Gross Rent, Total Tenant Payment, and Utility Reimbursement; and by revising the definitions of Elderly Family, Family (eligible family), Housing Assistance Payment, Lower-Income Family, Tenant Rent, Utility Allowance, and Very Low-Income Family, to read as follows:

§ 881.201 Definitions.

* * * * *

Annual Income. As defined in Part 813 of this chapter.

* * * * *

Elderly Family. As defined in Parts 812 and 813 of this chapter.

* * * * *

Family (eligible family). As defined in Part 812 of this chapter.

* * * * *

Gross Rent. As defined in Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by the PHA to the Owner of a unit as provided in the Contract. The payment is the difference between the Contract Rent and the Tenant Rent. An additional payment is made to the Family when the Utility Allowance is greater than the Total Tenant Payment. In the case of a Family renting only a manufactured home space, as provided in § 881.202(i), the Housing Assistance Payment is the difference between the Gross Rent and the Total Tenant Payment, but such payment may not exceed the Contract Rent for the space. A Housing Assistance Payment, known as a "vacancy payment", may be made to the Owner when an assisted unit is vacant, in accordance with the terms of the Contract.

* * * * *

Lower Income Family. As defined in Part 813 of this chapter.

* * * * *

Tenant Rent. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Total Tenant Payment. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Utility Allowance. As defined in Part 813 of this chapter, made or approved by HUD.

Utility Reimbursement. As defined in Part 813 of this chapter.

Very Low-Income Family. As defined in Part 813 of this chapter.

14. Section 881.501(e) is revised to read as follows:

§ 881.501 The contract.

* * * * *

(e) *Payment of Utility Reimbursement.* Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of the contract administrator. Funds for this purpose will be paid to the Owner in trust solely for the purpose of making the additional payment. If the Family and the utility company consent, the Owner may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

15. Section 881.603 is amended by removing paragraph (d), by revising the paragraph (b) introductory text and paragraph (c), to read as follows:

§ 881.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of Eligibility and Selection of Tenants.* The Owner is responsible for determining whether the applicant is eligible, in accordance with Parts 812 and 813 of this chapter, and for the selection of families:

* * * * *

(c) *Reexamination of Family Income and Composition.* (1) *Regular reexaminations.* The Owner must reexamine the income and composition of all Families at least once every 12 months. After consultation with the Family and upon verification of the information, the Owner shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate. The Owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD.

(2) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in scheduled reexaminations the Owner must make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified.

(3) *Continuation of housing assistance payments.* A Family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the Family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

16. Section 881.604 is revised to read as follows:

§ 881.604 Tenant rent.

The eligible Family pays the Tenant Rent directly to the Owner.

§ 881.608 [Amended]

17. Section 881.608(a) is amended by removing the term "total family contribution" and by adding in its place the term "Total Tenant Payment".

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

18. The authority citation for Part 882 is revised to read as follows:

Authority: Sections 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

19. Section 882.102 is amended by removing the definitions of Allowance for Utilities and Other Services ("Allowance"), Gross Family Contribution, Housing Assistance Payment on Behalf of Eligible Family, Income, and Eligible Family ("Family"); by adding, in alphabetical order, definitions for Annual Income, Family

("eligible family"), Housing Assistance Payment, Tenant Rent, Total Tenant Payment ("Gross Family Contribution"), Utility Allowance, and Utility Reimbursement; and by revising the definitions of Gross Rent, Lower Income Family, and Very Low-Income Family, to read as follows:

§ 882.102 Definitions.

* * * * *

Annual Income. As defined in Part 813 of this chapter.

* * * * *

Family (eligible family). As defined in Part 812 of this chapter.

* * * * *

Gross Rent. As defined in Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by the PHA to the Owner of a unit under lease by an eligible Family, as provided in the Contract. The payment is the difference between the Contract Rent and the Tenant Rent. An additional payment is made by the PHA to the Family when the Utility Allowance is greater than the Total Tenant Payment. In the case of a Family renting only a manufactured home space as provided in Subpart F of this part, the Housing Assistance Payment is determined in accordance with § 882.604. A Housing Assistance Payment, known as a "vacancy payment", may be made to the Owner when a unit is vacant, in accordance with 882.105.

* * * * *

Lower Income Family. As defined in Part 813 of this chapter.

* * * * *

Tenant Rent. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Total Tenant Payment ("Gross Family Contribution"). The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

* * * * *

Utility Allowance. As defined in Part 813 of this chapter, approved by a PHA.

Utility Reimbursement. As defined in Part 813 of this chapter. It is inapplicable to a Family renting only a manufactured home space.

Very Low-Income Family. As defined in Part 813 of this chapter.

20. Section 882.105(a) is revised as follows:

§ 882.105 Housing assistance payments to owners.

(a) *General.* Housing Assistance Payments shall be paid to an Owner for the unit under lease by an eligible Family, in accordance with the Contract. Where applicable, the Utility Reimbursement will be paid by the PHA to the Family as an additional Housing Assistance Payment. If the Family and the utility company consent, the PHA may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company. No Section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing rather than Owner-occupied housing for this purpose.

§ 882.112 [Amended]

21. Section 882.112 is amended by removing the term "Gross Family Contribution" and adding in its place the term "Total Tenant Payment", and by removing the term "Family Contribution" in each place where it occurs and adding in its place the term "Tenant Rent".

§ 882.113 [Removed]

22. Section 882.113 is removed and reserved.

§ 882.116 [Amended]

23. Section 882.116(m) is amended by removing the phrase "exceptional medical or other unusual expenses" and adding in its place the term "medical or child care expenses", by removing the term "Gross Family Contribution" and adding in its place "Total Tenant Payment", and by removing the phrase "HUD-established schedules and criteria" and adding in its place "Part 813 of this chapter".

24. Section 882.212 is revised to read as follows:

§ 882.212 Reexamination of Family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all Families at least once every 12 months. After consultation with the Family and upon verification of the information, the PHA shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate (see § 882.213) The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment.

(b) *Interim reexaminations.* The Family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations the PHA must consult with the Family and make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified.

(c) *Continuation of housing assistance payments.* A Family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the Family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant cirumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

(d) *Termination of Contract.* If one year has elapsed since the date of the last Housing Assistance Payment, the Contract shall be terminated.

25. Section 882.514(a)(1) is revised to read as follows:

§ 882.514 Family participation.

(a) *Initial Determination of Family Eligibility.* (1) The PHA will be responsible for determining Family eligibility for participation, in accordance with HUD regulations (see Parts 812 and 813). The PHA is responsible for verifying the sources and amount of the Family's income and other information necessary for determining eligibility and the amount of the assistance payments.

* * * * *

26. Section 882.514(d) is amended by removing the terms "Gross Family Contribution" and "Allowances for Utilities and Other Services" and adding in their place, respectively, the terms "Tenant Rent" and "Utility Allowances".

27. Section 882.515 is revised to read as follows:

§ 882.515 Reexamination of Family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all Families at least once every 12 months. After consultation with the Family and upon verification of the information, the PHA shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment.

(b) *Interim reexaminations.* The Family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations the PHA must consult with the Family and make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified.

(c) *Continuation of housing assistance payments.* A Family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the Family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

§ 882.602 [Amended]

28. In § 882.602, the term "Gross Rent", is removed from the introductory language, the reference "Part 813 of this chapter" is substituted for "24 CFR 889.103" in the definition of Assisted Family, and the definition of Family Contribution is removed.

§§ 882.510 and 882.606 [Amended]

29. Sections 882.510 and 882.606 are amended by removing the terms "Allowances for Utilities and Other Services" and "Allowances for Utilities and Other Services" and adding in their place the terms "Utility Allowance", and "Utility Allowances", respectively.

30. Section 882.604 is revised to read as follows:

§ 882.604 Assistance Payments.

The provisions of § 882.105, Housing Assistance Payments to Owners, shall apply except for paragraph (a) of that section. Instead of § 882.105(a), the following shall apply: Assistance payments to the Owner will cover the difference between the Tenant Rent and the Gross Rent. However, the assistance payment may not exceed the Contract Rent. Amortization payments included in Gross Rent may include costs other than furniture included in the purchase price of the Mobile Home; the portion of the amortization costs covering principal and interest shall be reduced by 15 percent to exclude the cost of furniture unless there is evidence that furniture was not included in the purchase price. Principal and interest payments are those established at time of application; any increase in principal and interest due to later refinancing must not be allowed. Set-Up Charges incurred by an Assisted Family that relocates its home may be included in the monthly amortization payments made by the Family; in addition, Set-Up Charges incurred before the Family became an Assisted Family may be included to the extent that monthly payments are still being made to amortize them.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

31. The authority citation for Part 883 is revised to read as follows:

Authority: Sections 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

32. Section 883.101(c) is revised as follows:

§ 883.101 General.

* * * * *

(c) *Tenant Rents and Eligible Families.* In addition to the Housing Assistance Payments, the project Owner receives a Tenant Rent directly from the assisted Family. The total amount received by the Owner for rent is called the Contract Rent. Eligible families are Families that at admission have incomes within the HUD-specified income limits and are unable to pay the Gross Rent with their Total Tenant Payment.

* * * * *

33. Section 883.302 is amended by removing the definitions of Total Family Contribution and Total Housing Expense; by adding, in alphabetical order, definitions of Annual Income, Gross Rent, Total Tenant Payment, and Utility Reimbursement; and by revising the definitions for Family-(Eligible Family), Housing Assistance Payment, Lower-Income Family, Tenant Rent, Utility Allowance, and Very Low-Income Family, to read as follows:

§ 883.302 Definitions.

* * * * *

Annual Income. As defined in Part 813 of this chapter.

* * * * *

Family (Eligible Family). As defined in Part 812 of this chapter.

* * * * *

Gross Rent. As defined in Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made to the Owner of an assisted unit by the State Agency as provided in the Contract. Where the unit is leased to an eligible Family, the payment is the difference between the Contract Rent and the Tenant Rent. An additional payment is made to the Family when the Utility Allowance is greater than Total Tenant Payment. In the case of a Family renting only a manufactured home space as provided in § 883.303(i), the Housing Assistance Payment is the difference between Gross Rent and the Total Tenant Payment, but such payment may not exceed the Contract Rent for the space, and no additional payment is made to the Family. A Housing Assistance Payment, known as a "vacancy payment", may be made to the Owner when an assisted unit is vacant, as provided in § 883.712.

* * * * *

Lower Income Family. As defined in Part 813 of this chapter.

* * * * *

Tenant Rent. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Total Tenant Payment. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Utility Allowance. As defined in Part 813 of this chapter, made or approved by HUD.

Utility Reimbursement. As defined in Part 813 of this chapter.

Very Low-Income Family. As defined in Part 813 of this chapter.

34. Section 883.602(e) is revised to read as follows:

§ 883.602 The contract.

* * * * *

(e) *Payment of utility reimbursement.* Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of the Agency. Funds will be paid to the Owner in trust solely for the purpose of making this additional payment. If the Family and the utility company consent, the Owner may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

35. Section 883.704 is amended by removing paragraph (d), by revising the paragraph (b) introductory text, and paragraph (c), to read as follows:

§ 883.704 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of Eligibility and Selection of Tenants.* The Owner is responsible for determining whether the applicant is eligible, in accordance with Parts 812 and 813 of this chapter, and for the selection of families:

* * * * *

(c) *Reexamination of Family Income and Composition.* (1) *Regular reexaminations.* The Owner must reexamine the income and composition of all Families at least once every 12 months. After consultation with the Family and upon verification of the information, the Owner shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate. The Owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment, and carry out any unit transfer required by HUD.

(2) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified.

(3) *Continuation of housing assistance payments.* A Family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the Family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

36. Section 883.705 is revised to read as follows:

§ 883.705 Tenant rent.

The eligible Family pays the Tenant Rent directly to the Owner.

§ 883.709 [Amended]

37. Section 883.709(a) is amended by removing the term "total family contribution" and by adding in its place the term "Total Tenant Payment".

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

38. The authority citation for Part 884 is revised to read as follows:

Authority: Sections 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

39. Section 884.102 is amended by removing definitions of Allowance for Utilities and Other Services ("Allowance"), Eligible Family ("family"), Housing Assistance Payment on Behalf of Eligible Family, and Gross Family Contribution; by adding, in alphabetical order, definitions of Annual Income, Family, Housing Assistance Payment, Tenant Rent, Total Tenant Payment, Utility Allowance and Utility Reimbursement; and by revising the current definitions of Gross Rent, Lower-Income Family, and Very Low-Income Family, to read as follows:

§ 884.102 Definitions.

* * * * *

Annual Income. As defined in Part 813 of this chapter.

* * * * *

Family (eligible family). As defined in Part 812 of this chapter.

* * * * *

Gross Rent. As defined in Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the Owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible Family, the payment is the difference between the Contract Rent and Tenant Rent. An additional Housing Assistance Payment is made to the Family when the Utility Allowance is greater than the Total Tenant Payment. A Housing Assistance Payment may be made to the Owner when a unit becomes vacant, in accordance with the terms of the Contract.

* * * * *

Lower Income Family. As defined in Part 813 of this chapter.

* * * * *

Tenant Rent. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Total Tenant Payment. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Utility Allowance. As defined in Part 813 of this chapter, made or approved by HUD.

Utility Reimbursement. As defined in Part 813 of this chapter.

Very Low-Income Family. As defined in Part 813 of this chapter.

40. Section 884.106(a) is revised to read as follows:

§884.106 Housing assistance payments to owners.

(a) *General.* Housing Assistance Payments shall be paid to Owners for units under lease by eligible families, in accordance with the Contract and as provided in this section. These Housing Assistance Payments will cover the difference between the Contract Rent and the Tenant Rent. Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of the contract administrator. Funds will be paid to the Owner in trust solely for the purpose of making this additional payment. If the Family and the utility company consent, the Owner may pay the utility reimbursement jointly to the Family and the utility company or directly to the utility company. No Section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing, rather than Owner-occupied housing, for this purpose.

41. Section 884.116(b) is revised to read as follows:

§ 884.116 Establishment of income limit schedules; occupancy by very low-income families.

* * * * *

(b) In the leasing of units, the Owner shall comply with HUD requirements concerning the permissible income levels of families, as prescribed in 24 CFR Part 813.

§ 884.117 [Removed]

42. Section 884.117 is removed and reserved.

§ 884.118 [Amended]

43. Section 884.118 is amended by removing the terms "Family contribution" and "Family rents" and adding in their places respectively, the terms "Tenant Rent" and "Tenant Rents"; by removing the term "Allowance for Utilities and Other Services" and adding in its place the term "Utility Allowance"; and by removing the term "HUD-established schedules and criteria" and adding in its place the words "Part 813 of this chapter".

44. Section 884.218 is revised as follows:

§ 884.218 Reexamination of Family income and composition.

(a) *Regular reexaminations.* The Owner must reexamine the income and composition of all Families at least once each year. Upon verification of the information, the Owner shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate. The Owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD.

(b) *Interim reexaminations.* The Family must comply with provisions of its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified.

(c) *Continuation of housing assistance payments.* A Family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent, or until the Family loses eligibility for continued occupancy under Farmer's Home Administration regulations.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS—SPECIAL ALLOCATIONS

45. The authority citation for Part 886 is revised to read as follows:

Authority: Sections 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

46. Section 886.102 is amended by removing the definitions of Allowance for Utilities and Other Services ("Allowance"), Eligible Family ("Family"), Gross Family Contribution, and Housing Assistance Payment on behalf of Eligible Family; by adding, in alphabetical order, definitions of Annual Income, Family, Housing Assistance Payment, Tenant Rent, Total Tenant Payment, Utility Allowance, and Utility Reimbursement; and by revising the current definitions for Fair Market Rent, Gross Rent, Lower-Income Family, and Very Low-Income Family to read as follows:

§ 886.102 Definitions

* * * * *

Annual Income. As defined in Part 813 of this chapter.

* * * * *

Fair Market Rent. (a) * * *

(b) The Fair Market Rent, minus any applicable Utility Allowance, shall be the maximum amount that can be approved as the Contract Rent, except that the maximum approvable amount may be higher or lower as provided in § 886.110 or § 886.812.

Family (eligible family). As defined in Part 812 of this chapter.

Gross Rent. As defined in Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by HUD to the Owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible Family, the payment is the difference between the Contract Rent and the Tenant Rent. An additional Housing Assistance Payment is made when the Utility Allowance is greater than the Total Tenant Payment. A Housing Assistance Payment may be made to the Owner when a unit is vacant, in accordance with § 886.109.

Lower Income Family. As defined in Part 813 of this chapter.

* * * * *

Tenant Rent. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Total Tenant Payment. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Utility Allowance. As defined in Part 813 of this chapter made or approved by HUD.

Utility Reimbursement. As defined in Part 813 of this chapter.

Very Low-Income Family. As defined in Part 813 of this chapter.

47. Section 886.109(a) is revised to read as follows:

§ 886.109 Housing assistance payments to owners.

(a) *General.* Housing Assistance Payments shall be paid to Owners for units under lease by eligible families, in accordance with the Contract and as provided in this section. These Housing Assistance Payments will cover the difference between the Contract Rent and the Tenant Rent. Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of HUD. Funds will be paid to the Owner in trust solely for the purpose of making this additional payment. If the Family and the utility company consent, the Owner may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

* * * * *

§ 886.117 [Removed]

48. Section 886.117 is removed and reserved.

49. Section 886.118 amended by removing paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (a) and (b), respectively, and by revising the heading to read as follows:

§ 886.118 Amount of housing assistance payments in projects receiving other HUD assistance.

* * * * *

§ 886.119 [Amended]

50. Section 886.119 is amended by removing the terms "Family contribution" and "Family rents" and adding in their places, respectively, the terms "Tenant Rent" and "Tenant Rents"; by removing the term "Allowance for Utilities and Other Services" and adding in its place the term "Utility Allowance"; and by removing the term "HUD-established schedules and criteria" and adding in its place the words "Part 813 of this chapter".

51. Section 886.124 is revised to read as follows:

§ 886.124 Reexamination of family income and composition.

(a) *Regular reexaminations.* The Owner must reexamine the income and composition of all Families at least once each year. Upon verification of the information, the Owner shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate. The Owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD.

(b) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified.

(c) *Continuation of housing assistance payments.* A Family's eligibility for housing assistance payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility will not affect the Family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with program requirements for such reasons as failure to submit requested verification information.

52. Section 886.302 is amended by removing definitions of Allowance for Utilities and Other Services ("Allowance"), Eligible Family ("Family"), Gross Family Contribution, Housing Assistance Payment on Behalf of Eligible Family, and Income; by adding, in alphabetical order, definitions of Family, Tenant Rent, Total Tenant Payment, Utility Allowance, and Utility Reimbursement; and by revising paragraph (d) of the definition of Fair Market Rent, and the definitions of Gross Rent, Housing Assistance Payment, Lower-Income Family and Very Low-Income Family, to read as follows:

§ 886.302 Definitions

* * * * *

Annual Income. As defined in Part 813 of this chapter.

* * * * *

Fair Market Rent. * * *

(d) The Fair Market Rent, minus the amount of any applicable Utility Allowance, shall be the maximum amount that can be approved as the Contract Rent, except that the maximum approvable amount may be higher or lower as provided in § 886.310 or § 886.312.

Family (eligible family). As defined in Part 812 of this chapter.

Gross Rent. As defined in Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the Owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible Family, the payment is the difference between the Contract Rent and the Tenant Rent. A Housing Assistance Payment may be made to the Owner when a unit is vacant, in accordance with the terms of the Contract. An additional Housing Assistance Payment is made when the Utility Allowance is greater than the Total Tenant Payment.

* * * * *

Lower Income Family. As defined in Part 813 of this chapter.

* * * * *

Tenant Rent. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Total Tenant Payment. The monthly amount defined in, and determined in accordance with Part 813 of this chapter.

Utility Allowance. As defined in Part 813 of this chapter, made or approved by HUD.

Utility Reimbursement. As defined in Part 813 of this chapter.

Very Low-Income Family. As defined in Part 813 of this chapter.

53. Section 886.309(a) is revised to read as follows:

§ 886.309 Housing assistance payment to owners.

(a) *General.* Housing Assistance Payments shall be paid to Owners for units under lease by eligible Families, in accordance with the Contract and as provided in this section. These Housing Assistance Payments will cover the difference between the Contract Rent and the Tenant Rent. Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of HUD. Funds will be paid to the Owner in trust solely for the purpose of making this additional payment. If the Family and the utility company consent, the Owner may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

* * * * *

§§ 886.316 and 886.317 [Removed]

54. Sections 886.316 and 886.317 are removed and reserved.

§ 886.318 [Amended]

55. Section 886.318 is amended by removing the terms "family contribution" and "family rents" and adding in their places, respectively, the terms "Tenant Rent" and "Tenant Rents"; by removing the term "allowance for utilities and other services" and adding in its place the term "Utility Allowance"; and by removing the term "HUD-established schedules and criteria" and adding in its place the words "Part 813 of this chapter".

56. Section 886.324 is revised to read as follows:

§ 886.324 Reexamination of Family income and composition.

(a) *Regular reexaminations.* The Owner must reexamine the income and composition of all Families at least once each year. Upon verification of the information, the Owner shall make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the Family's unit size is still appropriate. The Owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD.

(b) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the Family and make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified.

(c) *Continuation of housing assistance payments.* A Family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the Family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information.

PART 889—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—DETERMINATION OF INCOME FOR ELIGIBILITY AND GROSS FAMILY CONTRIBUTION—[REMOVED]

58. Part 889 is removed.

* * * * *

(42 U.S.C. 1437a, 1437(f), 1437c(b) and 3535(d))

Dated: May 4, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-12637 Filed 5-9-84; 8:45 am]

BILLING CODE 4210-27-M

federal register

Thursday
May 10, 1984

Part IV

Department of the Treasury

Customs Service

19 CFR Part 103

Customs Regulations Amendment Relating to Disclosure of Information on Cargo Declarations of Inward Vessel Manifests; Final Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 103

[T.D. 84-111]

Customs Regulations Amendment Relating to Disclosure of Information on Cargo Declarations of Inward Vessel Manifests

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the disclosure of information on cargo declarations of inward vessel manifests, by allowing accredited representatives of the press, except in certain instances, to copy and publish all the information appearing on the cargo declaration submitted to Customs upon entry of the vessel. This change, which implements a court order, will provide the press with access to more information as to imported cargo, thus resulting in wider dissemination of trade statistics to the public.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Doris B. Robinson, Regulations Control & Disclosure Law Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8681).

SUPPLEMENTARY INFORMATION:

Background

Section 4.7, Customs Regulations (19 CFR 4.7), provides that the master of every vessel entering the United States must submit an inward foreign manifest and a copy thereof to the appropriate Customs officer. This manifest consists of various documents, among them the cargo declaration (Customs Form 1302), which lists all the inward foreign cargo, its gross weight, all bills of lading, all container and seal numbers, a description of the cargo, the names of foreign shippers and the country of dispatch, and the names of importers or consignees.

Pursuant to § 103.14, Customs Regulations (19 CFR 103.14), the above information may be revealed to accredited members of the press, who are permitted to examine and copy the manifest for publication of information and data not of a confidential nature. Of the information shown on the cargo declaration of the inward manifest, however, only the name of the consignee, the general character of the commodity, the quantity (or value but not both) of the cargo, the name of the vessel, and the country of dispatch may be copied and published. Furthermore, in the event that an importer or consignee has at any time made a written request for confidentiality under § 103.14(d)(1), the name of the importer or consignee on the cargo declaration must be withheld.

Controversy arose between the Government and the *Journal of Commerce*, a subsidiary of Twin Coasts Newspapers, Inc., over the withholding of the name of an importer or consignee who has requested confidentiality, and also the withholding of other information on the cargo declaration, such as bills of lading numbers, container numbers, and seal numbers, which were considered by Customs to be exempt from disclosure. On April 18, 1983, Twin Coasts Newspapers, Inc., on behalf of the *Journal of Commerce*, filed suit in the U.S. District Court for the District of Columbia, under the Freedom of Information Act (5 U.S.C. 552), requesting the Court to order the Customs Service to grant the *Journal of Commerce* access to the names of importers or consignees who had submitted requests for confidentiality, as well as access to bills of lading, container and seal numbers, and other notations appearing on the cargo declaration.

Customs gave written notification of the pending suit to 339 companies which were on record as having requested confidentiality with respect to the identity of consignees and importers as shown on the cargo declaration. This notification informed the companies that as parties in interest they could intervene in the pending suit, under rule 24 of the Federal Rules of Civil Procedure. They were also requested to submit to Customs a written explanation as to how disclosure of the consignee's or importer's name, as well as the other information on the cargo declaration sought by the *Journal of Commerce*, would cause substantial harm to the competitive position of their firms.

None of the contacted firms chose to intervene in the court action. A total of 129, however, did respond to Customs on the confidentiality issue. Of this number, 90 stated that they desired to maintain the confidentiality of the importer's or consignee's identity, citing reasons why disclosure of this and other information on the cargo declaration would cause substantial harm to their firms.

Settlement of the suit filed by Twin Coast Newspapers, Inc., was reached by a Consent Order of March 2, 1984, signed by Judge Joyce Hens Green. By the terms of the Consent Order, on May 31, 1984, and thereafter, Customs must permit the *Journal of Commerce* and other accredited representatives of the press to examine, copy and publish all the information appearing on cargo declarations submitted to Customs on May 31, 1984, and thereafter, except as provided below:

(a) If the Secretary of the Treasury makes a finding, on a shipment-by-shipment basis, that the disclosure of the information on the cargo declaration is likely to pose a threat of personal injury or property damage, the information shall not be disclosed; or

(b) If an importer or consignee wishes to request confidential treatment of its name and address on the cargo declaration, or the name and address of the shipper or shippers to such importer or consignee, this information may not be copied or published by accredited representatives of the press provided that:

(1) The importer or consignee, or authorized representative of the importer or consignee, submits a certification claiming confidential treatment of its name and address and/or the name and address of the shipper to the importer or consignee; and

(2) The certification contains sufficient facts to support the conclusion that the disclosure of the importer's or consignee's name and address and/or the shipper's name and address are exempt from mandatory public disclosure as personal or financial information obtained from a person, the public disclosure of which is likely to cause substantial harm to the competitive position of the importer or consignee.

Each certification meeting the requirements of paragraphs (1) and (2) above, upon approval by Customs, will be valid from the date of approval through the end of February 1986. Subsequent certifications will be valid through the end of February of even-numbered years. Information so certified may not be copied or published by accredited members of the press during the effective period of the certification.

Copies of the Consent Order will be furnished to any interested party upon written request to Customs.

Inapplicability of Public Notice and Delayed Effective Date Requirement

The amendment implements a Court Order which becomes effective on May 31, 1984. In view of this fact, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are impracticable and unnecessary. For the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d).

Executive Order 12291

The amendment does not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

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

Paperwork Reduction Act

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the information collection requirements contained in this document have been reviewed and approved by the Office of Management and Budget and assigned control number 1515–0124.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 103

Customs duties and inspection, Freedom of information.

Amendments to the Regulations

Part 103, Customs Regulations (19 CFR Part 103), is amended as set forth below.

John P. Simpson,

Acting Commissioner of Customs.

Approved: May 4, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 103—AVAILABILITY OF INFORMATION

Section 103.14 is amended by revising paragraphs (a), (a)(3), (c) and (d)(1), and by adding new paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), and (d)(1)(iv), to read as follows:

§ 103.14 Information on vessel manifests and summary statistical reports.

(a) *Disclosure to members of the press.* Accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications may be permitted to examine vessel manifests and summary statistical reports of imports and exports and to copy therefrom for publication information and data subject to the following rules:

(1) * * *

(2) * * *

(3) All the information appearing on the cargo declaration (Customs Form 1302) of the inward vessel manifest may be copied and published. However, if the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that the disclosure of the information contained on the cargo declaration is likely to pose a threat of personal injury or property damage, that information shall not be disclosed to the press.

(b) * * *

(c) *Disclosure to the public.* Members of the public shall not be permitted to examine vessel manifests. However, they may request and obtain from Customs, information from vessel manifests, subject to the rules set forth in paragraph (a) of this section. However, importers and exporters, or their duly authorized brokers, attorneys, or agents may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or make any copies or notations from them except with reference to the particular importation or exportation in which they have a proper and legal interest.

(d) *Confidential treatment.* (1) *Inward manifest.* If an importer or consignee wishes to request confidential treatment of its name and address contained in inward manifests, or if an importer or consignee wishes to request confidential treatment of the name and address of the shipper or shippers to such importer or consignee, the following procedures shall be followed:

(i) An importer or consignee, or authorized employee or official of the importer or consignee, must submit a certification claiming confidential treatment of its name and address. The name and address of an importer or consignee includes marks and numbers which reveal the name and address of such importer or consignee. An importer or consignee filing a certification requesting shipper confidentiality must either designate with particularity the name and address of each shipper for whom it seeks confidentiality or it may certify that it seeks confidentiality for all shippers to such importer or consignee.

(ii) There is no prescribed format for a certification. Such certification, however, shall contain sufficient facts to support the conclusion that the disclosure of the name and address of the importer or consignee, and/or the name and address of the shipper or shippers to such importer or consignee certified as confidential, are exempt from mandatory public disclosure as commercial or financial information obtained from a person, the public disclosure of which would likely cause substantial harm to the competitive position of the importer or consignee. The certification shall include the importer's or consignee's Internal Revenue Service Employer Number, if available.

(iii) The certification must be submitted to the regional commissioner for the region in which the port of entry is located.

(iv) Each initial certification meeting the above requirements and approved by Customs will be valid from the date of its approval through the end of February 1986. Subsequent certification will be valid through the end of February of even-numbered years. Renewal certification should be submitted to the regional commissioner at least 60 days prior to the expiration of the current certification. Information so certified may not be copied or published during the effective period of the certification. An importer or consignee shall be given written notification of approval or nonapproval of its certification of confidentiality. An importer or consignee notified of nonapproval of its certification of confidentiality may submit additional facts to support its claim.

(Approved by the Office of Management and Budget under control number 1515–0124)

(R.S. 251 as amended, sec. 624, 46 Stat. 759 (5 U.S.C. 301; 19 U.S.C. 66, 1624))

[FR Doc. 84–12721 Filed 5–9–84; 10:34 am]

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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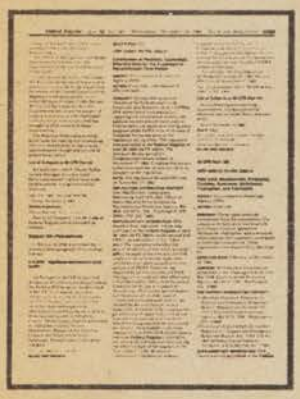

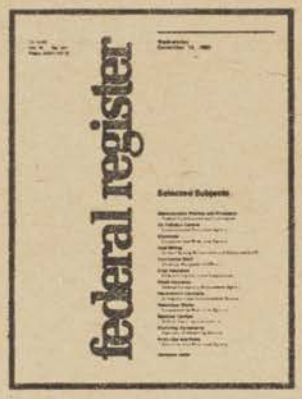

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