1-8-85
Vol. 50 No. 5
Pages 917-1038

Federal Register

Tuesday
January 8, 1985

I-2

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Commodity Futures
Commodity Futures Trading Commission

Communcations Common Carriers
Federal Communications Commission

Employee Benefit Plans
Pension and Welfare Benefit Programs Office

Fisheries
National Oceanic and Atmospheric Administration

Government Procurement
General Services Administration

Government Property Management
General Services Administration

Labeling
Alcohol, Tobacco and Firearms Bureau

National Parks
National Park Service

Natural Gas
Federal Energy Regulatory Commission

Organization and Functions (Government Agencies)
Architectural and Transportation Barriers Compliance Board

CONTINUED INSIDE

Selected Subjects

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

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

The **Federal Register** will be furnished by mail to subscribers for $300.00 per year, or $150.00 for 6 months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

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

Privacy
Army Department

Railroads
Interstate Commerce Commission

Reporting and Recordkeeping Requirements
Federal Grain Inspection Service
Interstate Commerce Commission

Telephone
Federal Communications Commission

Water Resources
Geological Survey
Water Resources Research Office

Contents

Federal Register
Vol. 50, No. 5
Tuesday, January 8, 1985

The President
EXECUTIVE ORDERS
1036 Regulatory planning process (EO 12498)

Executive Agencies

Agricultural Trade and Export Policy, National Commission
NOTICES
1009 Meetings

Agriculture Department
See also Federal Grain Inspection Service.
NOTICES
Grants; availability, etc.:
982 Special research grants program

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol beverages:
960 Labeling and advertising; definition of natural; withdrawn
NOTICES
1026 Firearms; granting of relief

Architectural and Transportation Barriers Compliance Board
RULES
1032 Organization and procedures

Army Department
RULES
932 Privacy Act; implementation

Commerce Department
See also International Trade Administration; Minority Business Development Agency; National Bureau of Standards; National Oceanic and Atmospheric Administration.
RULES
928 Conflict of interests; disciplinary actions concerning post-employment violations; correction

Commodity Futures Trading Commission
RULES
928 Contract market rule enforcement and financial reviews; schedule of fees
NOTICES
Contract market proposals:
994 Chicago Mercantile Exchange; gold
994 New York Cotton Exchange; propane gas

Defense Department
See also Army Department.
NOTICES
Meetings:
996 DIA Scientific Advisory Committee

Drug Enforcement Administration
NOTICES
Registration application, etc.; controlled substances:
1003 Applied Science Laboratories, Inc.
1003 Carranza, William H., M.D.
1003 Hoffman La Roche Inc.
1004 Turet, Lee A., D.D.S.

Education Department
NOTICES
Meetings:
996 Bilingual Education National Advisory Council

Employment and Training Administration
NOTICES
Adjustment assistance:
1004 Airco Carbon et al.; correction

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air pollution; national emission standards, and standards of performance for new stationary sources; authority delegations:
933 Iowa, Missouri, and Nebraska
Air quality implementation plans; approval and promulgation; various States:
932 Oregon
Air quality implementation plans; delayed compliance orders:
935 Tennessee
Air quality planning purposes; designation of areas:
935 Pennsylvania
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
975 Oregon
Air quality implementation plans; preparation, adoption, and submittal:
974 Stack height requirements; corrections, etc.

Federal Aviation Administration
PROPOSED RULES
Air carriers certification and operations:
949 Flight recorders and cockpit voice recorders

Federal Communications Commission
RULES
Common carrier services:
939 MTS and WATS market structure, etc.
PROPOSED RULES
Common carrier services:
976 Interlocking directorates, applications for authorizations

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
931 West Virginia
NOTICES
Hearings; etc.:
996 Central Power & Light Co.

997 Cincinnati Gas & Electric Co.
997 Consolidated Edison Co. of New York, Inc.
997, 998 Florida Power Corp. (2 documents)
997 Mountain Lake, MN, et al.
998 Public Service Co. of New Mexico
998 South Carolina Generating Co., Inc.
998, 999 St. Joseph Light & Power Co. (2 documents)
999 Union Electric Co.

Federal Grain Inspection Service
PROPOSED RULES
948 Reporting and recordkeeping requirements

Federal Mine Safety and Health Review Commission
NOTICES
1030 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
999 Green Mountain Financial Services, Corp. et al.

Food and Drug Administration
NOTICES
Meetings:
999 Consumer information exchange

General Services Administration
RULES
945 Acquisition regulations (GSAR):
Federal service contracts, labor standards; temporary
Property management:
938 Transportation documentation and audit; unused ticket refund procedures

Geological Survey
PROPOSED RULES
956 State water research institute program

Health and Human Services Department
See Food and Drug Administration.

Interior Department
See Geological Survey; Minerals Management Service; National Park Service; Water Resources, Research Office.

International Trade Administration
NOTICES
986 Antidumping and countervailing duties waiver; hearing
Scientific articles; duty free entry:
986 Microelectronics Center of North Carolina et al.
987 Montana State University et al.

Interstate Commerce Commission
RULES
Rail carriers:
945 Reasonably expected costs; surcharge determination
Reports:
946 Railroad employees, service and compensation; annual report
NOTICES
Rail carriers:
1002 State intrastate rail rate authority; Michigan; extension of time
Railroad services abandonment:
1002 Burlington Northern Railroad Co.
1002, 1003 Seaboard System Railroad, Inc. (2 documents)

Justice Department
See Drug Enforcement Administration.

Labor Department
See Employment and Training Administration; Pension and Welfare Benefit Programs Office.

Merit Systems Protection Board
NOTICES
1030 Meetings; Sunshine Act
Special Counsel Office:
1007 Organization and functions; zip code change
1007 Senior Executive Service; Performance Review Board; membership

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
1000 Kerr-McGee Corp.
1000 Union Texas Petroleum Corp.

Minority Business Development Agency
NOTICES
Financial assistance application announcements:
988 Arizona
988–992 California (7 documents)
992 Nevada
993 Oregon

National Aeronautics and Space Administration
NOTICES
Meetings:
1008 Aeronautics Advisory Committee
1008 Space Applications Advisory Committee

National Bureau of Standards
NOTICES
Procurement:
993 Commercial or industrial activities, performance; cost comparison study (OMB A-76 implementation)

National Labor Relations Board
NOTICES
1030 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
947 Atlantic mackerel, squid, and butterfish
NOTICES
Deep seabed mining, exploration license applications:
994 Ocean Minerals Co. and Kennecott Consortium; correction

National Park Service
PROPOSED RULES
Special regulations:
973 Delaware Water Gap National Recreation Area, NJ and PA.
NOTICES
Historic Places National Register; pending nominations:
1001 Colorado et al.
Meetings:
1000 Martin Luther King, Jr., National Historic Site Advisory Committee

National Science Foundation
NOTICES
1009 Agency information collection activities under OMB review

Oceans and Atmosphere, National Advisory Committee
NOTICES
1009 Meetings

Pension and Welfare Benefit Programs Office
PROPOSED RULES
Employee benefit plans:
961 Plan assets, definition
NOTICES
Employee benefit plans; prohibited transaction exemptions:
1004 Washington Mortgage Co. et al.

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
1010 Roanoke, WV
1010 Wadsworth, NY

Postal Service
NOTICES
1010 Postal rates, fees, and mail classifications; changes

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
1025 Cincinnati Stock Exchange
1023 Pacific Stock Exchange, Inc.
1024 Philadelphia Depository Trust Co.

Small Business Administration
RULES
917 Innovation research program; policy directive

Transportation Department
See Federal Aviation Administration.

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau.
NOTICES
1026 Agency information collection activities under OMB review

Water Resources Research Office
PROPOSED RULES
956 State water research institute program; CFR Parts and Chapter removal

Separate Parts in This Issue

Part II
1032 Architectural and Transportation Barriers Compliance Board

Part III
1036 The President

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Orders:
12291 (See EO 12498) 1036
12498 1036

7 CFR
Proposed Rules:
800 948

13 CFR
Ch. I 917

14 CFR
Proposed Rules:
91 949
121 949
125 949
135 949

15 CFR
0 928

17 CFR
1 928

18 CFR
271 931
Proposed Rules:
501 956
502 956
503 956
504 956
505 956
506 956
507 956
508 956

27 CFR
Proposed Rules:
4 960
5 960
7 960

29 CFR
Proposed Rules:
2510 961
2550 961

30 CFR
Proposed Rules:
401 956

32 CFR
505 932

36 CFR
1155 1032
Proposed Rules:
7 973

40 CFR
52 932
60 933
61 933
65 935
81 935
Proposed Rules:
51 974
52 975

41 CFR
101-41 938

47 CFR
67 939
69 939
Proposed Rules:
62 976

48 CFR
Ch. 5 945

49 CFR
1140 945
1245 946

50 CFR
655 947

Rules and Regulations

Federal Register
Vol. 50, No. 5
Tuesday, January 8, 1985

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Small Business Innovation Research Program; Policy Directive

AGENCY: Small Business Administration.

ACTION: Publication of Policy Directive No. 65 01 2.

SUMMARY: This document revises the Small Business Innovation Research (SBIR) Program Policy Directive No. 65 01.1 which was published on August 26, 1983 (48 FR 38794). This revised policy directive reflects new statutory requirements and comments received from the public, participating agencies, associations and small business concerns. It is intended to provide guidance to participating Federal agencies for the general conduct of their fiscal year 1985 SBIR programs.

DATES: This policy directive is effective September 30, 1984.

ADDRESS: Written comments should be submitted to and copies can be obtained from Richard J. Shane, Acting Assistance Administrator, Office of Innovation, Research and Technology, Room 500, 1441 L Street, NW., Washington, DC. 20416.

FOR FURTHER INFORMATION CONTACT: Richard J. Shane, Assistant Administrator for the Office of Innovation, Research and Technology, phone number (202) 653-7875.

SUPPLEMENTARY INFORMATION: Pub. L. 97-219, 96 Stat. 221, amended section 9(j) of the Small Business Act, 15 U.S.C. 631, *et seq.*, to establish a government-wide Small Business Innovation Research Program. The law directed the Small Business Administration (SBA), by November 19, 1982, to develop, issue and maintain a Small Business Innovation Research (SBIR) Program policy directive to be used as guidance by the participating agencies. Policy Directive 65 01 2 represents the second major revision to the original policy directive and is intended to provide guidance to the agencies for their Fiscal Year 1985 SBIR programs.

This amended policy directive has been modified to reflect recent statutory requirements and oral and written comments and clarifications received from the public, participating agencies, associations and small business concerns.

SBA is issuing this amended policy directive in final form without additional opportunity for prior public comment because the FY 1985 contracting/granting year has already begun. However, SBA welcomes public comment upon this policy directive subsequent to its publication and will consider all comments carefully in revising the policy directive in the future as may be necessary to improve the general conduct of the Small Business Innovation Research Program.

SBIR Policy Directive No. 65 01.1, published August 6, 1983, 48 FR 38794, *et seq.*, has been modified as follows to reflect new statutory requirements and comments and recommended clarifications of the public, participating agencies, associations and small business concerns. It is intended that participating agencies will adopt these changes in their FY 1985 SBIR programs.

The only substantive change in the previous SBIR Policy Directive appears in paragraph 2, which summarizes the legislative provisions affecting the SBIR program. Title VII of the Competition in Contracting Act, Pub. L. 98-369, requires agencies which use contracts to fund Phase I SBIR awards to submit a notice of an impending solicitation to the Secretary of Commerce for publication in the *Commerce Business Daily*. The notice must be published at least 15 days before the solicitation is issued and the solicitation must allow a minimum response time of 30 days from its date of issuance. Phase II SBIR contract solicitations are not affected by the new notice requirements.

In cases where publication of a notice would be inappropriate, the agency head may exempt that solicitation from these notice requirements by making a written determination, with the concurrence of the Administrator of the Office of Federal Procurement Policy, that it is inappropriate or unreasonable to publish a notice before issuing that solicitation.

Other changes in this policy directive are minor, technical changes which can be found in the following sections and subsections of the text and appendix: Sections 1, 2(b) (1) and (2), 3(a), (3)(b), 4(g) (1) and (3), 5(c), 6(b), 6(d)(3), 8(a), 9(b)(5), 9(c) (1) and (2), 10(a), 12(a)(1)(c), 12(2) (a) and (b), 12(m), 13(b) (7) and (8), 13(e), appendix sections II, III(B)(8), III(B)(10), III(D)(10) (e) and (f) and IV(D).

Dated: December 14, 1984.

James C. Sanders,

Administrator.

Small Business Innovation Research Program Policy Directive; 65 01 2
To: The Heads of Executive Departments and Establishments
Subject:
Small Business Innovation Development Act
Small Business Innovation Research Programs

1. *Purpose.* To modify the policy directive pursuant to comments by the public, associations, OMB, agencies and small business concerns.

2. *Authority.* This Policy Directive is issued pursuant to the authority contained in 15 U.S.C. 638 (Pub. L. 97-219, 96 Stat. 217, "Small Business Innovation Development Act of 1982").

3. *Procurement Regulations.* It is recognized that Federal procurement regulations (currently, DAR, FPR and NASAPR) may need to be modified to conform to the requirements of Pub. L. 97-219 and this policy directive. Agencies responsible for the regulations, DOD, GSA and NASA are encouraged to proceed rapidly with necessary changes to the regulations. Regulatory provisions pertaining to areas of SBA responsibility, as established by Pub. L. 97-219, will require approval of the SBA Administrator or his designee. SBA's Office of Innovation, Research and Technology is the appropriate office for coordinating such regulatory provisions.

4. *Personnel Concerned.* All Federal Government personnel who are involved in the administration, funding agreements and technical process of the Small Business Innovation Research Program and the establishment of goals for small business concerns in research or research and development acquisition or grants.

5. *Distribution.* Federal Government agencies and departments with Small

Business Innovation Research Programs and those required to establish small business research and development goals as directed by Pub. L. 97-219.

6. *Originator.* Small Business Administration, Office of Innovation, Research and Technology.

Authorized By:

Richard J. Shane,

Assistant Administrator (Acting), Office of Innovation, Research and Technology.

James C. Sanders,

Administrator.

Effective Date: September 30, 1984.

Contents

Paragraph

1. Purpose
2. Summary of Legislative Provisions
3. Minimizing Regulatory Burden
4. Definitions
5. Program Levels
6. Small Business Innovation Research Program
7. Unilateral Actions of Participating Agencies and Departments
8. SBA Source File
9. SBA Coordination of SBIR Solicitation Schedules
10. SBA (Phase I) Program Pre-Solicitation Announcements
11. Simplified, Standardized and Timely SBIR Program Solicitations
12. Simplified and Standardized Funding Process
13. Annual Report to SBA and Office of Science and Technology Policy
14. SBA Program to Monitor and Survey SBIR Activity
15. SBIR Information System
16. Small Minority and Disadvantaged Business Concerns
17. Exemption for National Security or Intelligence Functions

Appendix

1. Instructions for SBIR Program Solicitation Preparation

1. Purpose

a. Section 9(j) of the Small Business Act (as amended by Pub. L. 97-219) requires that "the Small Business Administration * * * issue policy directives for the general conduct of the Small Business Innovation Research (SBIR) program within the Federal Government * * *"

b. This policy directive fulfills this statutory obligation and provides guidance to the participating Federal agencies for the general conduct of the SBIR program, including research or research and development (R, R&D) goaling requirements. Additional instructions may be issued by the Small Business Administration (SBA) as a result of public comment or experience. These instructions will be issued as additional or replacement pages for this directive.

2. Summary of Legislative Provisions

a. The Small Business Innovation Development Act of 1982, Pub. L. 97-219, that became law on July 22, 1982, amends the Small Business Act (15 U.S.C. 631).

(1) The purpose of the Act are to:

(a) Stimulate technological innovation.

(b) Use small business to meet Federal research and development needs.

(c) Increase private sector commercialization of innovations derived from Federal research and development.

(d) Foster and encourage minority and disadvantaged participation in technological innovation.

(2) The Act mandates that Federal agencies establish SBIR programs if their FY 1982 extramural budgets for research or R&D exceed stated threshold figures ($100 million). The Act also requires agencies whose R, R&D budgets exceed a lower threshold figure ($20 million), to establish specific goals for the participation of small business in contracts, grants, or cooperative agreements for research or R&D.

(a) No goal may be less than the percentage of the agency's R, R&D budget expended with small business under grants, contracts, and cooperative agreements in the immediately preceding fiscal year.

(b) Agencies with budgets over $100 million shall have both programs.

(3) The statutory requirements are aimed at assisting small business by establishing a uniform, simplified format for the operation of the SBIR programs while allowing the participating agencies flexibility in the content and operation of their individual SBIR programs.

(4) The Act states that each participating agency will establish an SBIR program by reserving a statutory percentage of its extramural budget to be awarded to small business concerns for research or R&D through a uniform, three-phase process.

(a) The first two phases will help agencies meet their research or R&D objectives.

(b) The third phase, where appropriate, is to pursue commercial applications from the Government-funded research or R&D to stimulate technological innovation and the national return on investment from research or R&D or for further contracting or grant activities with Federal agencies through non-SBIR funding agreements.

(5) The Act mandates that each agency required to have an SBIR program or to establish research or research and development goals must report annually to SBA.

(a) Agencies having an SBIRA program must also annually report to the Office of Science and Technology Policy.

(b) The Act also requires SBA to acquire annual reports and monitor each agency's SBIR progam and to report its findings annually to the House and Senate Committees on Small Business.

b. Effective October 1, 1986, the Small Business Innovation Act of 1982 is repealed.

(1) Effective March 31, 1985, Section 2732(a) of Title VII of the Competition in Contracting Act of 1984, Pub. L. 98-369, must be read in conjunction with the procurement notice publication requirements of Section 8(e) of the Small Business Act (15 U.S.C. 637(e)). Therefore, the notice publication requirements of the new law apply to agencies participating in the SBIR funding agreements.

(a) As of March 31, 1985, any Federal executive agency intending to solicit a proposal for contract for property or services valued above $10,000 is required to submit a notice of the impending solicitation to the Secretary of Commerce for publication in the *Commerce Business Daily*. No agency shall issue its solicitation for at least 15 days from the date of the publication of the notice. The agency may not establish a deadline for submission of proposals in responses to such solicitation that is earlier than 30 days after the date on which the solicitation was issued.

(b) The Competition in Contracting Act also requires that any executive agency awarding a contract for property or services valued at more than $25,000 submit a notice for publication to the Secretary of Commerce announcing such an award for publication if a subcontract is likely to result from such contract.

(2) The following are exemptions from the notice publication requirements:

(a) In the case of agencies intending to solicit Phase I proposals for contracts in excess of $10,000, the head of the agency may exempt a particular solicitation from the notice publication requirements if he/she makes a written determination, with the concurrence of the Administrator of the Office of Federal Procurement Policy, that it is inapropriate or unreasonable to publish a notice before issuing a solicitation.

(b) The SBIR Phase II awards process is exempted.

3. Minimizing Regulatory Burden

a. Important objectives in establishing uniform SBIR program implementation are to:

(1) Minimize the creation of new or complex regulations.

(2) Ensure that the program's requirements are met.

(3) Simplify and standardize application of existing regulations related to the program. The explicit nature of the SBIR legislation concerning certain recognized acquisition procedures provides a strong base of authority for streamlining the process for obtaining research or R&D from small highly innovative business concerns.

(a) The above includes funding allocations, centralized SBIR technology management, and routine operational implementation.

(b) Where not contrary to existing statutory requirements, each agency is authorized to establish financial procedures and financing mechanisms that it deems necessary to properly implement the SBIR program, including, but not limited to, obligating funds solely on the basis of proposal merit without regard to the purpose for which funds were originally appropriated, and transferring assessed funds to a single account to facilitate financial management, reporting, and oversight.

(c) The participating agencies are encouraged to initiate or continue their development of simplified procedures that may be used on SBIR actions. Submit information concerning simplified procedures to the SBA for possible general program improvements.

b. No participating agency may promulgate a rule or regulation that is contrary to or inconsistent with the SBIR legislation or this policy directive.

4. Definitions

a. *Research or Research and Development (R, R&D).* Any activity that is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied.

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need.

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

b. *Extramural Budget.* The sum of the total obligations for R, R&D minus amounts obligated for R, R&D activities by employees of the agency in or through Government-owned, Government-operated facilities, except that for the Agency for International Development it shall not include amounts obigated solely for general institutional support for international research centers or for grants to foreign countries.

c. *Federal Agency.* An executive agency as defined in 5 U.S.C. 105, or a military department as defined in 5 U.S.C. 102 except that it does not include any agency within the Intelligence Community as defined in Executive Order 12333, Section 3.4(f), or its successor orders.

d. *Funding Agreement.* Any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government.

e. *Subcontract.* Any agreement, other than one involving an employer-employee relationship, entered into by a Federal Government funding agreement awardee calling for supplies or services required solely for the performance of the original funding agreement.

f. *Minority and Disadvantaged Small Business.* A minority and disadvantaged small business concern is one that is:

(1) At least 51 percent owned by one or more minority and disadvantaged individuals; or in the case of any publicly owned business, at least 51 percent of the voting stock of which is owned by one more minority and disadvantaged individuals; and

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

A minority and disadvantaged individual is defined as a member of any of the following groups:

(1) Black Americans.

(2) Hispanic Americans.

(3) Native Americans.

(4) Asian-Pacific Americans.

(5) Asian-Indian Americans.

g. *Small Business.* A small business concern is one that, at the time of award of Phase I and Phase II funding agreements meets the following criteria:

(1) Is independently owned and operated, is not dominant in the field of operation in which it is proposing, has its principal place of business located in the United States and is organized for profit;

(2) Is at least 51 percent owned, or in the case of a publicly owned business, at least 51 percent of its voting stock is owned by United States citizens or lawfully admitted permanent resident aliens;

(3) Has, including its affiliates, a number of employees not exceeding 500, and meets the other regulatory requirements found in 13 CFR Part 121. Business concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958, 15 U.S.C. 661 *et seq.*, are affiliates of one another when either directly of indirectly: (A) One concern controls or has the power to control the other; or (B) a third party or parties controls or has the power to control both. Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR 121.3–2(a). The term "number of employees" is defined in 13 CFR 121.3–2(f). Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association or cooperative.

h. *Women-Owned Small Business.* A small business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day to day management.

i. *Program Solicitation.* A formal solicitation of proposals whereby an agency notifies the small business community of its research or R&D needs and interests in selected areas and requests proposals in response to these needs from small business concerns. Announcements in the Federal Register or the Commerce Business Daily are not to be considered substitutes for an SBIR program solicitation.

5. Program Levels

The Act directs that agencies shall conduct SBIR programs beginning in FY 1983 and in subsequent fiscal years depending upon the size of their extramural research or R&D budgets as defined in Sec. 4. of Pub. L. 97–219.

a. Each agency extramural research or R&D budget for FY 1982 or any fiscal year thereafter in excess of $10 billion shall establish an SBIR program and set aside and expend funds through funding agreements. The program shall be phased in over 5 years using set extramural funding percentages. The percentages of the extramural budget for the program are for:

(1) FY 1983, 0.1%.

(2) FY 1984, 0.3%.

(3) FY 1985, 0.5%.

(4) FY 1986, 1.0%.

(5) FY 1987 and FY 1988, 1.25%.

b. Each agency with an extramural research or R&D budget in FY 1982 or any year after that in excess of $100

million but less than $10 billion shall establish an SBIR program and set aside and expend funds through funding agreements. The program shall be phased in over 4 years using set extramural funding percentages. The percentages of extramural funding for the program are for:

(1) FY 1983, 0.2%.
(2) FY 1984, 0.6%.
(3) FY 1985, 1.0%.
(4) FY 1986 through FY 1988, 1.25%.

c. Each agency that has a total research or R&D budget for any fiscal year beginning with FY 1983 in excess of $20 million shall establish non-SBIR goals for the awarding of funding agreements with small businesses in research or R&D. Any goal established shall not be less than the agency's non-SBIR acheived percentage to small business in research or R&D funding during the preceding fiscal year. SBIR awards may not be counted toward this non-SBIR goal achievement. Non-SBIR awards to small business may not be counted toward meeting SBIR program funding levels or achievement.

6. Small Business Innovation Research Program

a. The SBIR program is a phased process uniform throughout the Federal government of soliciting proposals and awarding funding agreements for research or R&D to meet stated agency needs or missions.

b. Each agency shall at least annually issue an SBIR solicitation that sets forth a substantial number of research or R&D topic and subtopic areas consistent with stated agency needs or missions. Both the list of topics and the description of the topics and subtopics shall be sufficiently comprehensive to provide a wide range of opportunity for small business concerns to participate in the agency research or R&D programs. Topics and subtopics shall emphasize the need for proposals with advanced concepts to meet specific agency research or R&D needs. Each topic and subtopic shall describe the needs in sufficient detail so as to assist small firms in providing on-target responses, but shall not involve detailed specifications to prescribed solutions of the problems. Unsolicited proposals or proposals not responding to stated topics or subtopics are not eligible for SBIR awards.

c. Because the program is intended to increase the use of small business firms in Federal R&D, for Phase I a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing firm. For Phase II a minimum of one-half of the research and/or analytical effort must be performed by the proposing firm. For both Phase I and II the primary employment of the principal investigator must be with the small business firm at the time of award and during the conduct of the proposed effort. Deviations from these requirements must be approved in writing by the funding agreement officer. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the small business. Also for both Phase I and Phase II the research or R&D work must be performed by the small business concern in the United States. 'United States' means the several states, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

d. To stimulate and foster technological innovation, including increasing private sector applications of Federal R,R&D, the program must follow a uniform process of three phases:

(1) *Phase I.* Phase I involves a solicitation of proposals to conduct feasibility related experimental or theoretical research or R&D efforts on described agency requirements. The object of this phase is to determine the technical feasibility of the proposed effort and the quality of performance of the small firm with a relatively small agency investment before consideration of further Federal support in Phase II.

(a) Several different proposed solutions to a given problem may be funded.

(b) Awards shall be made primarily on the basis of scientific and technical merit. Secondary considerations may include program balance, critical agency requirements, and whether the proposal indicates potential commercial applications in addition to meeting agency needs.

(c) Only awardees in Phase I are eligible to participate in Phase II. Agencies may include a provision requiring submission of a Phase II proposal as a deliverable item under Phase I.

(2) *Phase II.* Phase II is the principal research or R&D effort. Funding shall be based upon the results of Phase I and the scientific and technical merit of the Phase II proposal. The object is to continue the research or R&D initiated under Phase I on agency needs. Phase II awards may not necessarily complete the total research and development that may be required to satisfy commercial or federal needs beyond the SBIR program. Completion of the research and development may be through Phase III. The Government is not obligated to fund any specific Phase II proposal. The Phase II award decision requires, where proposals are evaluated as being of approximately equal merit, that special consideration shall be given to proposals that have demonstrated third phase, non-Federal capital commitments.

(3) *Phase III.* Where appropriate, Phase III is to be conducted with non-Federal funds by the small business to pursue commercial applications of the government research or R&D funded in Phases I and II. Phase III also may involve follow-on non-SBIR funded R&D or production contracts with a Federal agency for potential products or processes intended for use by the United States Government.

7. Unilateral Actions of Participating Agencies and Departments

The Act requires each participating agency to:

a. Unilaterally determine the categories of projects to be included in its SBIR program.

b. Issue SBIR solicitations in accordance with the SBA master schedule.

c. Unilaterally receive and evaluate proposals, resulting from SBIR solicitations and make awards.

d. Administer its own SBIR funding agreements or delegate such administration to another agency.

e. Make payments to recipients of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements.

f. Make an annual report on the SBIR program to SBA and the Office of Science and Technology Policy.

8. SBA Source File

a. *SBA Business Innovation Research Program Source File.* The SBA has developed and maintains an SBIR mailing list of interested small business concerns. The list is available to all participating SBIR agencies for solicitation purposes. Requests for the mailing labels from the list may be made to the U.S. Small Business Administration, Office of Innovation, Research and Technology, 1441 L Street NW., Washington, D.C. 20416. A two-week period is required to fill requests.

b. *SBA Procurement Automated Source System (PASS).* Participating agencies may acquire additional potential sources from the SBA PASS system. PASS uses a "keyword" system that identifies the capabilities of small firms as related to specific government requirements. Agencies may contact SBA, Office of Procurement and

Technical Assistance, to obtain further information.

c. *Federal Procurement Data System (FPDS).* Participating agencies should review FPDS data that identify small business awardees of research or R&D contracts as a potential supplement to their existing source data base.

d. *Other Sources.* Agencies may maintain their own mailing lists or use other sources.

9. SBA Coordination of SBIR Solicitation Schedules

a. The Act requires issuance of agency (Phase I) Program Solicitations in accordance with a master schedule coordinated between SBA and the agency. The SBA organization responsible for coordination is: Office of Innovation, Research and Technology, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

b. For maximum participation by interested small business concerns it is important that the planning, scheduling and coordination of agency SBIR solicitation release schedules be completed as early as practicable. Bunching of agency SBIR solicitation release and proposal due dates may prohibit small concerns from the preparation and timely submission of proposals for more than one SBIR project. SBA's coordination of agency schedules will minimize the bunching of proposed issue and close dates. Participating agencies may elect to establish multiple solicitations within a given fiscal year to facilitate in-house agency proposal review and evaluation scheduling.

c. To accomplish the master schedule coordination process the following procedure will be followed:

(1) The SBA will publish four pre-solicitation announcements a year, one in each quarter of the fiscal year. It is intended that the dates of publication will be September 20, December 20, March 20 and June 20. The Agency solicitation release date shall not be prior to 10 days after publication of the pre-solicitation announcement which includes notice of that solicitation.

(2) Each agency representative will notify the SBA in writing of its proposed solicitation release and proposal due dates by August 1. The SBA and the agency representatives will coordinate the resolution of any conflicting agency solicitation dates by the second week of August.

(3) Agency representatives must have their written pre-solicitation announcement information (subparagraph 10(b)) to the SBA 30 days prior to the pre-solicitation issue date for the quarter in which their solicitation is to be released.

10. SBA (Phase I) Program Pre-Solicitation Announcements

a. *SBA Publication.* The SBA, as required by public law, shall prepare and issue pre-solicitation Phase I Program Solicitation announcements, covering all participating agencies. Any agency solicitation announcement changes that occur prior to or after the release of the Pre-Solicitation Announcement must immediately be reported in writing to the SBA by the agency SBIR representative. If possible, announcement amendments will be released reflecting such changes. The pre-solicitation announcements will be based upon the data received by SBA from the agencies. The agencies are advised, however, that:

(1) The publication of the pre-solicitation announcements is not intended to restrict or prohibit application of customary or other internal agency procedures designed to obtain publicity for its research or R&D programs.

(2) The pre-solicitation announcement publications by SBA shall not be interpreted as a substitute or relief vehicle for existing statutory and regulatory publication requirements related to individual or specific procurement/grant actions.

b. *Pre-Solicitation Announcement Content.* The SBIR pre-solicitation announcements will include sufficient data to effectively apprise appropriate segments of the Nation's small business community of forthcoming SBIR Program Solicitations, thereby assisting the participating agencies in identifying prospective, responsible sources. The agencies shall provide the required information to the SBA 30 days prior to the pre-solicitation announcement dates set by the SBA per the master schedule. The following information is required:

(1) The list of topics upon which research or R&D proposals will be sought. Each research or R&D topic shall have approximately 10 words or less in its title.

(2) Agency address and/or phone number from which SBIR Program Solicitations can be obtained.

(3) Names, addresses, and phone numbers of agency contact points where SBIR-related inquiries may be directed.

(4) Dates of Program Solicitations release.

(5) Dates for receipt of proposals.

(6) Estimated number and average dollar amounts or level of effort of Phase I awards to be made under the solicitation.

11. Simplified, Standardized and Timely SBIR Program Solicitations

a. *Instructions for SBIR Program Solicitation Preparation.* The Small Business Research Development Act (Pub.L. 97-219) requires "* * * simplified, standardized and timely SBIR solicitations" (Section 4(j)(1)). Further, the Act requires the SBIR programs of participating agencies to use a "uniform process" (Section 4(e)(4)) and that the regulatory burden of participating in the SBIR programs be minimized. The instructions in Appendix 1, therefore, purposely depart from normal Government solicitation formats and requirements. SBIR Program Solicitations shall be prepared according to Appendix 1.

b. Agencies shall provide the SBA, Office of Innovation, Research and Technology, ten copies of each solicitation and any modifications thereto no later than the date of release of the solicitation or modification to the public.

c. *Non-SBIR R, R&D-Related Actions.* It is not intended that the SBIR Program Solicitation replace or be used as a substitute for unsolicited proposals or R, R&D awards to small business authorized by existing regulations; nor, are the SBIR Program Solicitation procedures intended to prohibit other agency R, R&D actions with small business concerns carried on in accordance with applicable statutory/regulatory authorizations.

12. Simplified and Standardized Funding Process

In its requirement for the establishment of a "simplified, standardized funding process," the SBIR legislation requires that specific attention be given to the following areas of SBIR program administration:

a. *Timely Receipt and Review of Proposals.*

(1) Participating agencies shall establish firm schedules and review formats for appropriate distribution of the proposals for reviewing recommendations and submission to the SBIR program manager for award determinations.

(a) All activities related to Phase I proposal reviews shall normally be completed and awards made within 6 months from the date proposals are received by the agencies.

(b) The SBIR Program Solicitations for Phase I will establish proposal submission dates. Related to Phase II activity, an agency may establish set proposal submission dates; however, it is anticipated that each agency will

negotiate mutually acceptable proposal submission dates with individual Phase I performers, accomplish proposal reviews expeditiously, and proceed with awards. While it is recognized that Phase II arrangements between the agency and proposer may require more detailed negotiation to establish terms acceptable to both parties, the agencies must not sacrifice the research or R&D momentum created under Phase I by engaging in unnecessarily protracted Phase II proceedings.

(c) It can be anticipated that SBIR participants will submit duplicate or similar proposals to more than one soliciting agency when the work projects appear to involve similar topics or requirements which are within the expertise and capability levels of the small business proposer. To the extent reasonably feasible, interagency funding duplications related to acquiring similar technology under the SBIR or other Federal programs should not occur. For this purpose, the standardized SBIR Program Solicitation will require the proposers to indicate the name and address of the agencies to which duplicate or similar proposals were made and to identify by subject the projects for which the proposal was submitted and the dates submitted. The same information will be required for any previous Federal Government awards. To assist in avoiding duplicate funding, each agency shall provide the SBA and each participating SBIR agency with a listing of Phase I and Phase II awardees including the complete address and title of the project. This information should be distributed no later than release of such information to the public.

b. *Review of SBIR Proposals.* Agencies are encouraged to use their normal review process for SBIR proposals whether internal or external evaluation is used. A more limited review process may be used for Phase I due to the larger number of proposals anticipated. Where appropriate, "peer" reviews, that are external to the agency, are authorized by the SBIR legislation. Participating agencies are cautioned that all review procedures shall be formulated to minimize any possible conflict of interest as it pertains to proposer proprietary data. The standardized SBIR solicitation will advise potential proposers that proposals may be subject to an established external review process, but that the proposer may include in its proposal company designated proprietary information.

c. *Proprietary Information Contained in Proposals.* In preparation of the standardized SBIR Program Solicitation as described in Appendix 1, provisions will be included requiring confidential treatment of proprietary information to the extent permitted by law. Offerors will be discouraged from submitting information considered proprietary unless it is deemed essential for proper evaluation of the proposal. The solicitation will require that all proprietary information be clearly identified and marked with a prescribed legend. Agencies may elect to require proposers to limit proprietary information to that essential to the proposal and to have such information submitted on a separate page or pages keyed to the text.

d. *Selection of Phase I Awardees.* Participating agencies shall establish a proposal review cycle wherein successful and unsuccessful proposers shall be notified of final award decisions within 6 months of the agency's Phase I proposal due date.

(1) The standardized Program Solicitation (Appendix 1) shall:

(a) Advise Phase I proposers that additional information may be requested by the awarding agency to evidence awardee responsibility for project completion.

(b) Contain information advising potential offerors of basic proposal evaluation criteria, such as legally required Phase II special consideration to proposals that have demonstrated third phase, non-Federal follow-on funding commitments.

(2) Phase II proposal submissions, review, and selections shall be managed by arrangements between the agency and each Phase I performer considered for Phase II award.

(a) Within 30 days of the date of award of funding agreements—three copies of the Technical Abstract (containing all information described in Appendix 1, para. III. C. 1.–7.) for Phase I and Phase II awards shall be submitted to the SBA.

(b) Within 30 days of the date of award of Phase II funding agreements—three copies of all follow-on funding documents submitted by Phase II awardees shall be submitted to the SBA.

e. *Rights in Data Developed Under SBIR Funding Agreement.* The SBIR legislation provides for "retention of rights in data generated in the performance of the contract by the small business concern." The legislative history clarifies that the intent of the statute is to provide authority for the participating agency to protect technical data generated under the funding agreement, and to refrain from disclosing such data to competitors of the small concern or from using the information to produce future technical procurement specifications that could harm the small business that discovered and developed the innovation until the small business has a reasonable chance to seek patent protection if appropriate. Therefore, it is recommended that, except for program evaluation, participating agencies protect such technical data for a period of 2 years from the completion of the project from which the data was generated unless the agencies obtain permission to disclose such data from the contractor or grantee. However, at the conclusion of the 2-year period, the Government shall retain a royalty-free license for Government use of any technical data delivered under an SBIR funding agreement whether patented or not.

f. *Title Transfer of Agency Provided Property.* Under SBIR legislation, title to equipment purchased in relation to project performance with funds provided under SBIR funding agreements may be transferred to the awardee where such transfer would be more cost effective than recovery of the property by the government.

g. *Cost Sharing.*

(1) Cost participation could serve the mutual interest of the participating agencies and certain SBIR performers by helping to assure the efficient use of available resources. Cost-sharing, however, shall not normally be encouraged except where required by other statutes.

(2) Except where required by other statutes, participating agencies shall not, as a general policy, request or require cost sharing on Phase I and Phase II projects. The standardized SBIR Program Solicitation (Appendix 1) will, however, provide information to prospective SBIR performers concerning cost-sharing. Cost participation will not be a consideration factor in evaluation of Phase I and Phase II proposals except where required by other statutes.

h. *Payment Schedules and Cost Principles.*

(1) Consistent with Sec. 4 of the SBIR legislation (Section 9(j)(2)(H) of the Small Business Act (as amended by Pub. L. 97–219)). SBIR performers may be paid under an applicable, authorized progress payment procedure or in accordance with a negotiated/definitized price and payment schedule. Advance payments are optional and may be made under appropriate public law.

(2) All SBIR funding agreements shall use, as appropriate, current cost principles and procedures authorized for use by the participating agencies.

i. *Funding Agreement Types and Fee or Profit.* The legislative requirements for uniformity and standardization require that there be consistency in application of SBIR program provisions among participating agencies. This consistency must consider, however, the need for flexibility by the various agencies in missions and needs as well as the wide variance in funds required to be devoted to SBIR programs in the agencies. The following guidelines are for the purpose of meeting these requirements:

(1) *Funding Agreement.* The choice of type of funding agreement (contract, grant, or cooperative agreement) rests with the awarding agency but must be consistent with the guidelines in Pub. L. 95–224 (41 U.S.C. 501), as amended by Pub. L. 97–258 (31 U.S.C. 6301–6308).

(2) *Fee or Profit.* Unless expressly excluded by statute, awarding agencies are to provide for a reasonable fee or profit on SBIR funding agreements, including grants, consistent with normal profit margins provided to profit-making firms for R,R&D work.

j. *Periods of Performance and Extensions.*

(1) *Phase I.* Period of performance should normally not exceed 6 months except where agency needs or research plans require otherwise. Exceptions should be minimized.

(2) *Phase II.* Period of performance under Phase II is the subject of negotiations between the selected Phase I recipient and the awarding agency. However, the duration of Phase II should normally not exceed 2 years. Exceptions should be minimized.

(3) In keeping with the legislative intent to make a large number of relatively small awards, modification of funding agreements to extend periods of performance, increase the scope of work, or to increase the dollar amount should be minimized, except for options in the original Phase I or II awards.

k. *Dollar Value of Awards*

(1) The SBIR legislation does not establish limitations on dollar amounts of Phase I or Phase II awards. The legislative history clearly envisions a large number of relatively small awards of "up to $50,000" and "up to $500,000" for Phase I and II respectively. While no specific limitations on dollar amounts for Phase I or II are established by this policy directive, and while it is recognized that some research or R&D projects will require larger awards, agencies should strive to plan SBIR projects so that the majority of Phase I awards will be $50,000 (or ½ person year) or less and the majority of Phase II awards will be $500,000 or less. SBA will amend the policy directive as required to adjust the $50,000 and $500,000 amounts to compensate for inflation.

(2) Within 30 days after the award of any funding agreement exceeding $50,000 for Phase I or $500,000 for Phase II, the agency SBIR representative shall provide the SBA with written justification of such action. Similar justification is required for any dollar increase of a funding agreement which would bring the cumulative dollar amount to a total in excess of the aforestated amounts.

l. *Grant Authority.* The Small Business Innovation Development Act does not, in and of itself, convey grant authority. Each agency must secure grant authority in accordance with its normal procedures.

m. *Conflicts of Interest.* Participating agencies are cautioned that awards made to firms owned by or employing current or previous Federal Government employees could create conflicts of interest for those employees in violation of the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended by Pub. L. 96–19 and Pub. L. 96–28). Each participating agency should refer to the standards of conduct review procedures currently in effect for that agency to ensure that such conflicts of interest do not arise.

13. Annual Report to SBA and Office of Science and Technology Policy

The Small Business Innovation Development Act requires a "simplified, standardized and timely annual report" from the participating agencies in the SBIR program and those agencies required to establish small business research and research and development goals to the SBA and OSTP. Reports to SBA are due and shall include the following:

a. *Reporting Dates to SBA.* Reporting shall be on an annual basis and will be for the period ending September 30 of each fiscal year. The report is due to SBA within 90 days from the annual period ending date.

b. *Small Business Innovation Research Programs (SBIR) (awards over $10,000).*

(1) Agency total fiscal year, for FY 1983 and each year thereafter, extramural research and research and development total budget authority as reported to the National Science Foundation pursuant to Special K of the United States budget.

(2) SBIR program total fiscal year dollars derived by applying the statute per centum to the agencies extramural research and research and development total budget authority.

(3) SBIR program fiscal year dollars obligated through SBIR program funding agreements for Phase I and Phase II.

(4) Number of SBIR individual solicitations released during the fiscal year and the number of topics and subtopics contained in each solicitation.

(5) Number of copies of each SBIR solicitation distributed by the participating agency.

(6) Number of proposals received by the agency for each topic and subtopic in each SBIR solicitation.

(7) For both Phase I and II the SBIR awardee's name and address, solicitation topic and subtopic, solicitation number, project title, and total dollar amount of funding agreement. Identify minority and disadvantaged small business, women-owned small business and Phase II awardees with a follow-on funding commitment.

(8) For an agency Phase III award using non SBIR Federal funds, to continue a Phase II project, the agency shall provide the name, address, project title and dollar amount obligated.

c. *Small Business Research and Research and Development Goaling Program (non-SBIR awards over $10,000).*

(1) Agency previous fiscal year's total R&R&D budget authority.

(2) Agency previous fiscal year's total R&R&D obligated dollars to small business, minority and disadvantaged small businesses and women-owned small business under funding agreements and the percentage to the agency's total R&R&D dollar authority.

(3) Agency current fiscal year total R&R&D budget authority.

(4) Agency current fiscal year total R&R&D small business goal based on the percentage of awards to small businesses made the previous fiscal year.

(5) Current fiscal year achievement of the singular small business R&R&D goal and the dollars obligated through prime funding agreements by categories of small business, minority and disadvantaged small business, and women-owned small business.

d. *Agency Research and Research and Development Funding Agreements (SBIR and goaling program awards over $10,000).* Report the total number and dollar value of R&R&D awards under subparagraph b. and c. above made pursuant to the categories of contracts, cooperative agreements or grants. Identify SBIR awards of a participating agency, and compare the number and amount of such awards with awards to other than small business concerns.

e. *Agency Reports.* Submit five copies of each report to the SBA, Office of Innovation, Research and Technology, 1441 "L" Street, NW., Washington, D.C. 20416.

14. SBA Program to Monitor and Survey SBIR Activity

a. *Examples of SBIR Areas to be Monitored by SBA.*

(1) *SBIR Funding Allocations.* Of major significance to the success of the SBIR program is the magnitude and nature of the agencies' funding allocations identified for fiscal year SBIR applications. The SBIR legislation explicity relates to both the definition of the SBIR effort, research or R&D (as defined in the Act and OMB Circular A-11), and the mathematical methodology for determining fiscal year participation levels for all work categorized within the statutory definitions. SBA will monitor these allocations.

(2) *Program Solicitation and Award Status.* The accomplishment of scheduled SBIR events, such as Program Solicitation release and contract, grant, or cooperative agreement award, is critical to meeting statutory mandates and to operating an effective, useful program. SBA plans to monitor these and other operational features of SBIR program implementation. Except in instances where SBA assistance is requested related to a specific SBIR project, contract, etc., SBA does not intend to monitor administration of the agreements.

(3) *Follow-on Funding Commitments.* SBA will monitor whether follow-on non-Federal funding commitments obtained by Phase II awardees for Phase III were considered in the evaluation of Phase II proposals as required by the Act.

(4) *Agency Rules and Regulations.* It is essential that no implementing regulation be promulgated by the participating agencies that is inconsistent with or contradicts either the letter or intent of the legislation and the directive. SBA's monitoring activity will include review of rules and regulations and procedures generated to facilitate intra-agency SBIR program implementation.

15. SBIR Information System

SBA will prepare and distribute information materials (pamphlets, fact sheets and news releases as appropriate) that describe the basic elements of the SBIR program.

a. The legislative requirement for an SBA-maintained information system is not interpreted as prohibiting participating agencies from publicizing SBIR activities relating to individual agency programs to identify organizational structures actually responsible for carrying on SBIR operational functions.

(1) In view of certain joint SBA/agency activities required by the SBIR legislation, information publication may often be most effectively accomplished in concert.

(2) The participating agencies are invited to advance suggestions to SBA concerning existing information systems that may be tailored to serve specific SBIR publication needs.

b. SBA identifies in its SBIR publications points of contact for obtaining SBIR-related information.

(1) All participating agencies will establish and maintain contact points to process inquiries related to specific agency SBIR activities.

16. Small Minority and Disadvantaged Business Concerns

Pub. L. 97-219 (section 2(b)(3)) states that one of its purposes is "to foster and encourage participation by minority and disadvantaged persons in technological innovation."

a. To carry out this purpose of the statute the SBA and agencies will make outreach efforts to find and place innovative small minority and disadvantaged concerns in the SBIR program information system.

b. The SBA will develop, participate in, and when appropriate and feasible sponsor seminars for innovative small minority and disadvantaged concerns and individuals to inform them of the SBIR program.

c. The SBA will inform small minority and disadvantaged concerns and individuals of Federal and commercial assistance and services available for SBIR program participants.

d. While these individuals and small concerns will be required to compete for SBIR awards on the same basis as all other small business concerns, participating agencies are encouraged to work independently and cooperatively with SBA to develop methods to encourage qualified small minority and disadvantaged firms to participate in their SBIR programs.

17. Exemption for National Security or Intelligence Functions

a. The SBIR legislation provides for exemptions related to the simplified, standardized funding process "* * * if national security or intelligence functions clearly would be jeopardized." This "exemption" should not be interpreted as a blanket exemption or prohibition of SBIR participation concerning acquisition of effort related to these subjects and functions except as specifically defined under Section 4 (Section 9(e)(2) of the Small Business Act (as amended by Pub. L. 97-219)) of the SBIR public law. Agency technology managers in directing research or R&D projects under the SBIR program, where the project subject matter may be particularly sensitive to national security must make a determination on which, if any, of the standardized proceedings clearly place national security and intelligence functions in jeopardy, then proceed with an acceptable modified process to complete the SBIR action.

b. It is anticipated that SBA's SBIR program monitoring activities, except where prohibited by security considerations, shall include a review of nonconforming SBIR actions justified under this public law provision.

Appendix 1—Instructions for SBIR Program Solicitation Preparation

The Small Businesses Innovation Development Act (Pub. L. 97-219) requires "* * * simplified, standardized and timely SBIR solicitations" (Section 4, Section 9(j)(1)). Further, the Act requires the SBIR programs of participating agencies to utilize a "uniform process" (Section 4, Section 9(E)(4)) and that the regulatory burden of participating in the SBIR programs be minimized. Therefore, the following instructions purposely depart from normal government solicitation formats and requirements. SBIR solicitations will be prepared and issued as Program Solicitations in accordance with the following instructions.

Limitation in Size of Solicitation

In the interest of meeting the legislative requirement for simplified and standardized solicitations, the entire SBIR solicitation with the exception of Section VIII "Research Topics," described below, shall be limited to 20 pages. There is no page limit on Section VIII "Research Topics."

Format

SBIR Program Solicitations will be prepared in a simplified, standardized, easily read, easy to understand format including a cover sheet, a table of contents and the following sections in the order listed (content of each section is discussed below):

I. Program Description
II. Definitions
III. Proposal Preparation Instructions and Requirements
IV. Method of Selection and Evaluation Criteria
V. Considerations
VI. Submission of Proposals

VII. Scientific and Technical Information Sources
VIII. Research Topics

Cover Sheet

The cover sheet or title page of an SBIR Program Solicitation shall clearly identify the solicitation as a Small Business Innovation Research Program Solicitation, identify the agency issuing the solicitation, specify date (or dates) proposals are due under the solicitation and state solicitation number.

Instructions for Preparation of SBIR Program Solicitation Sections I through VIII

I. Program Description

A. Summarize in narrative form the invitation to submit proposals and the objectives of the SBIR program.

B. Describe in narrative form the agency's SBIR program including a description of the three phases. Note in your description that the solicitation is for Phase I proposals only. (See Section VI. 65–01.)

C. Describe program eligibility, as follows: *Eligibility.* Each concern submitting a proposal must qualify as a small business for research or R&D purposes. In addition, the primary employment of the principal investigator must be with the small business firm at the time of award and during the conduct of the proposed research. Also for both Phase I and Phase II the research or R&D work must be performed in the United States. "United States" means the several states, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

D. List name, address and telephone number of agency contacts for general information on the SBIR Program Solicitation.

II. Definitions

Whenever terms that are unique to the SBIR program, a given solicitation or portion of a solicitation are used, these terms will be defined in a separate section titled " Definitions." As a minimum the definitions of small business, small minority and disadvantaged business, women owned small business and subcontracting from paragraph 4 of Small Business Administration (SBA) Policy Directive 65–01 shall be included in this section.

III. Proposal Preparation Instructions and Requirements

The purpose of this section is to tell the proposer what to include in his or her proposal and to set forth limits on what may be included. It should also provide guidance to assist proposers in improving the quality and acceptance of proposals particularly to firms which may not have previous Government experience.

A. *Limitations on Length of Proposal.* Include at least the following information:

1. SBIR Phase I proposals shall not exceed a total of 25 pages (regular size type—no smaller than elite—single or double spaced, standard 8½" x 11" pages) including cover page, budget and all enclosures or attachments.

2. A notice that no additional attachments, appendices or references beyond the 25-page limitation shall be considered in proposal evaluation and that proposals in excess of the 25-page limitation shall not be considered for review or award.

B. *Proposal Cover Sheet.* Every proposer will be required to include at least the following information on the first page of proposals. Items 8 and 9 are for statistical purposes only.

1. Agency and solicitation number.
2. Topic Number.
3. Subtopic Number.
4. Topic Area.
5. Project Title.
6. Name and complete address of firm.
7. Small Business certification as follows: "The above concern certifies it is a small business firm and meets the definition as stated in the solicitation."
8. Small Minority and Disadvantaged Business Certification as follows: "The above concern certifies that it —— does —— does not qualify as a minority and disadvantaged small business as defined in the Definition Section of the Program Solicitation."
9. Women-owned Small Business Certification as follows: The above concern certifies that it —— does —— does not qualify as a women-owned small business as defined in the Definition Section of the Program Solicitation.
10. Disclosure permission statement as follows: "Will you permit the Government to disclose the title and technical abstract page of your proposed project, plus the name, address, and telephone number of the corporate official of your firm, if your proposal does not result in an award, to firms that may be interested in contacting you for further information?" Yes — No —
11. Signature of a company official of the proposing firm and that individual's typed name, title, address, telephone number, and date of signature.
12. Signature of Principal Investigator or Project Manager within the proposing firm and that individual's typed name, title, address, telephone number, and date of signature.
13. Legend for proprietary information as described in the "Considerations" Section of this Program Solicitation if appropriate.

C. *Abstract or Summary.* Proposers will be required to include a one-page project summary of the proposed research or R&D including at least the following:

1. Name and address of firm.
2. Name and title of principal investigator or project manager.
3. Agency name, solicitation number, solicitation topic and subtopic.
4. Title of project.
5. Technical abstract, limited to two hundred words.
6. Provide key words (8 maximum) description of the project useful in identifying the technology, research thrust and/or potential commercial application.
7. Summary of the anticipated results and implications of the approach (both Phases I and II) and the potential commercial applications of the research.

D. *Technical Content.* SBIR Program Solicitations shall require as a minimum the following to be included in proposals submitted thereunder:

1. *Identification and Significance of the Problem or Opportunity.* A clear statement of the specific technical problem or opportunity addressed.
2. *Phase I Technical Objectives.* State the specific objectives of the Phase I research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.
3. *Phase I Work Plan.* A detailed description of the Phase I R, R&D plan. The plan should indicate what will be done, where it will be done and how the R, R&D will be carried out. Phase IR, R&D should address the objectives and the questions cited in 2 above. The methods planned to achieve each objective or task should be discussed in detail.
4. *Related Research or R&D.* Describe significant research or R&D that is directly related to the proposal including any conducted by the project manager/principal investigator or by the proposing firm. Describe how it relates to the proposed effort, and any planned coordination with outside sources. The proposer must persuade reviewers of his or her awareness of key recent research or R&D conducted by others in the specific topic area.
5. *Key Personnel and Bibliography of Directly Related Work.* Identify key personnel involved in Phase I including their directly related education,

experience, and bibliographic information. Where vitae are extensive, summaries that focus on the most relevant experience or publications are desired and may be necessary to meet proposal size limitation.

6. *Relationship with Future Research or Research and Development.*

a. State the anticipated results of the proposed approach if the project is successful (Phase I and II).

b. Discuss the significance of the Phase I effort in providing a foundation for Phase II research or research and development effort.

7. *Facilities.* A detailed description, availability and location of instrumentation and physical facilities proposed for Phase I should be provided.

8. *Consultants.* Involvement of consultants in the planning and research stages of the project is permitted.

a. If such involvement is intended, it should be described in detail.

9. *Potential Post Applications.* Briefly describe:

a. Whether and by what means the proposed project appears to have potential commercial application.

b. Whether and by what means the proposed project appears to have potential use by the Federal Government.

10. *Similar Proposals or Awards.* A firm may elect to submit proposals for essentially equivalent work under other Federal Program Solicitations, or may have received other Federal awards for essentially equivalent work. In these cases, a statement must be included in each such proposal indicating:

a. The name and address of the agencies to which proposals were submitted or from which awards were received.

b. Date of proposal submission or date of award.

c. Title, number, and date of solicitations under which proposals were submitted or awards received.

d. The specific applicable research topics for each proposal submitted or award received.

e. Titles of research projects.

f. Name and title of project manager or principal investigator for each proposal submitted or award received.

E. *Cost Breakdown/Proposed Budget.* The solicitation will require the submission of simplified cost or budget data. Appropriate and simplified forms such as optional form 60 (FPRI–16.806) may be used.

IV. Method of Selection and Evaluation Criteria

A. *Standard Statement.* Essentially the following statement shall be included in all SBIR Program Solicitations:

All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness. Proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. The Agency is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or none of the proposed approaches to the same topic or subtopic.

B. *Evaluation Criteria.*

1. The agency in its evaluation process shall develop a standardized method that will consider as a minimum the following factors:

a. The technical approach and the anticipated benefits that may be derived from the research.

b. The adequacy of the proposed effort and its relationship to the fulfillment of requirements of the research topic or subtopics.

c. The soundness and technical merit of the proposed approach and its incremental progress toward topic or subtopic solution.

d. Qualifications of the proposed principal/key investigators supporting staff and consultants.

e. In Phase II evaluations of proposals of equal technical and scientific merit the agency should give special consideration to proposals which demonstrate Phase III non-Federal capital commitments. Phase II proposals may only be submitted by Phase I award winners.

2. The factors in subparagraph 1. and other appropriate evaluation criteria, if any, shall be specified in the "Method of Selection" Section of SBIR Program Solicitations.

C. *Peer Review.* If it is contemplated that as a part of SBIR proposal evaluation external peer review will be used, the Program Solicitation must so indicate.

D. *Release of Proposal Review Information.* After final award decisions have been announced the technical evaluations of the proposer's proposal may be provided, to the proposer. The identity of the reviewer shall not be disclosed.

V. Considerations

This section shall include, as a minimum, the following information:

A. *Awards.* Indicate the estimated number and type of awards anticipated under the particular SBIR Program Solicitation in question including:

1. Approximate number of Phase I awards expected to be made.

2. Type of funding agreement, i.e., contract, grant or cooperative agreement.

3. State whether fee or profit will be allowed.

4. Cost basis of funding agreement, e.g., grant, frim-fixed-price, cost reimbursement, or cost-plus-fixed fee.

5. Information on the approximate average dollar value of awards for Phase I and Phase II.

B. *Reports.* Describe the frequency and nature of reports that will be required under Phase I funding agreements. Interim reports should be brief letter reports.

C. *Payment Schedule.* Specify the method and frequency of payment under Phase I agreements.

D. *Innovations, Inventions and Patents.*

1. *Limited Rights Information and Data.*

a. *Proprietary Information.* Essentially the following statement shall be included in all SBIR solicitations:

Information contained in unsuccessful proposals will remain the property of the proposer. The Government may, however, retain copies of all proposals. Public release of information in any proposal submitted will be subject to existing statutory and regualtory requirements.

If proprietary information is provided by a proposer in a proposal which constitutes a trade secret, proprietary commercial or financial information, confidential personal information or data affecting the national security, it will be treated in confidence, to the extent permitted by law, provided this information is clearly marked by the proposer with the term "confidential proprietary information" and provided the following legend appears on the title page of the proposal:

For any purpose other than to evaluate the proposal, this data shall not be disclosed outside the government and shall not be duplicated, used, or disclosed in whole or in part, provided that if a funding agreement is awarded to this proposer as a result of or in connection with the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement. This restriction does not limit the Government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction is contained in pages——of this proposal.

Any other legend may be unacceptable to the Government and may constitute grounds for removing the proposal from further consideration and without assuming any liability for inadvertent disclosure. The Government will limit dissemination of such information to within official channels.

b. *Alternative To Minimize Proprietary Information.* Agencies may elect to instruct proposers to:

(1) Limit proprietary information to only that absolutely essential to their proposal.

(2) Provide proprietary information on a separate page with a numbering system to key it to the appropriate place in the proposal.

c. *Rights in Data Developed Under SBIR Funding Agreements.* To notify the small concern of the policy stated in Policy Directive 65.01, para. 12(e), essentially the following statement will be included in all SBIR Program Solicitations:

Rights in technical data including software developed under the terms of any funding agreement resulting from proposals submitted in response to this solicitation shall remain with the contractor or grantee, except that the Government shall have the limited right to use such data for government purposes and shall not release such data outside the Government without permission of the contractor or grantee for a period of two years from completion of the project from which the data was generated. However, effective at the conclusion of the two-year period, the Government shall retain a royalty free license for Government use of any technical data delivered under an SBIR funding agreement whether patented or not.

d. *Copyrights.* Include an appropriate statement concerning copyrights and publications; for example:

With prior written permission of the contracting officer, the awardee normally may copyright and publish (consistent with appropriate national security considerations, if any) material developed with (agency name) support. (Agency name) receives a royalty-free license for the Federal Government and requires that each publication contain an appropriate acknowledgement and disclaimer statement.

e. *Patents.* Include an appropriate statement concerning patents; for example:

Small business firms normally may retain the principal worldwide patent rights to any invention developed with Government support. The Government receives a royalty-free license for Federal Government use, reserves the right to require the patentholder to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must normally manufacture it domestically. To the extent authorized by 35 U.S.C. 205, the Government will not make public any information disclosing a Government-supported invention for a two-year period to allow the awardee a reasonable time to pursue a patent.

E. *Cost-Sharing.* Unless in conflict with another statute, include a statement essentially as follows:

Cost-sharing is permitted for proposals under this Program Solicitation; however, cost-sharing is not required nor will it be an evaluation factor in consideration of your proposal.

Where cost-sharing is required by statute, include an appropriate statement.

F. *Profit or Fee.* Incude a statement on the payment of profit or fee on awards made under the SBIR Program Solicitation.

G. *Joint Ventures or Limited Partnerships.* Include essentially the following language: "Joint ventures and limited partnerships are eligible provided the entity created qualifies as a small business as defined in this Program Solicitation."

H. *Research and Analytical Work.* Include essentially the following statement:

1. "For Phase I a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing firm unless otherwise approved in writing by the funding agreement officer."

2. For Phase II a minimum of one-half of the research and/or analytical effort must be performed by the proposing firm.

I. *Contractor Commitments.* To meet the legislative requirement that SBIR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in SBIR funding agreements shall not be included in full or by reference in SBIR Program Solicitations. Rather proposers shall be advised that they will be required to make certain legal commitments at the time of execution of funding agreements resulting from SBIR Program Solicitations. Essentially the following statement shall be included in the "Consideration" section of SBIR Program Solicitations:

Upon award of a funding agreement, the awardee will be required to make certain legal commitments through acceptance of numerous clauses in Phase I funding agreements. The outline that follows is illustrative of the types of clauses to which the contractor would be committed. This list should not be understood to represent a complete list of clauses to be included in Phase I funding agreements, nor to be specific wording of such clauses. Copies of complete terms and conditions are available upon request.

J. *Summary Statements.* The following are illustrative of the type of summary statements to be included immediately following the statement in the subparagraph I. These statements are examples only and may vary depending upon type of funding agreement.

1. *Standards of Work.* Work performed under the funding agreement must conform to high professional standards.

2. *Inspection.* Work performed under the funding agreement is subject to Government inspection and evaluation at all times.

3. *Examination of Records.* The Comptroller General (or a duly authorized representative) shall have the right to examine any directly pertinent records of the awardee involving transactions related to this funding agreement.

4. *Default.* The Government may terminate the funding agreement if the contractor fails to perform the work contracted.

5. *Termination for Convenience.* The funding agreement may be terminated at any time by the Government if it deems termination to be in its best interest, in which case the awardee will be compensated for work performed and for reasonable termination costs.

6. *Disputes.* Any dispute concerning the funding agreement which cannot be resolved by agreement shall be decided by the contracting officer with right of appeal.

7. *Contract Work Hours.* The awardee may not require an employee to work more than eight hours a day or forty hours a week unless the employee is compensated accordingly (i.e., overtime pay).

8. *Equal Opportunity.* The awardee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

9. *Affirmative Action for Veterans.* The awardee will not discriminate against any employee or application for employment because he or she is a disabled veteran or veteran of the Vietnam era.

10. *Affirmative Action for Handicapped.* The awardee will not discriminate against any employee or applicant for employment because he or she is physically or mentally handicapped.

11. *Officials Not To Benefit.* No member of or delegate to Congress shall benefit from the funding agreement.

12. *Covenant Against Contingent Fees.* No person or agency has been employed to solicit or secure the funding agreement upon an understanding for compensation except bona fide employees or commercial agencies maintained by the awardee for the purpose of securing business.

13. *Gratuities.* The funding agreement may be terminated by the Government if any gratuities have been offered to any representative of the Government to secure the contract.

14. *Patent Infringement.* The awardee shall report each notice or claim of patent infringement based on the performance of the funding agreement.

K. *Additional Information.* Information pertinent to an understanding of the administration requirements of SBIR proposals and funding agreements not included elsewhere shall be included in this section. As a minimum, statements essentially as follows shall be included under "Additional Information" in SBIR Program Solicitations:

1. This Program Solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR funding agreement, the terms of the funding agreement are controlling.

2. Before award of an SBIR funding agreement, the Government may request the proposer to submit certain organizational, management, personnel, and financial information to assure responsibility of the proposer.

3. The Government is not responsible for any monies expended by the proposer before award of any funding agreement.

4. This Program Solicitation is not an offer by the Government and does not obligate the Government to make any specific number of awards. Also, awards under this program are contingent upon the availability of funds.

5. The SBIR program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals shall not be accepted under the SBIR program in either Phase I or Phase II.

6. If an award is made pursuant to a proposal submitted under this SBIR Program Solicitation, the contractor or grantee or party to a cooperative agreement will be required to certify that he or she has not previously been, nor is currently being, paid for essentially equivalent work by any agency of the Federal Government.

VI. Submission of Proposals

A. This section shall clearly specify the proposal due date (due dates where the agency elects to phase proposal submissions by research topic).

B. This section shall specify the number of copies of the proposal that are to be submitted.

C. This section shall clearly set forth the complete mailing and/or delivery address(es) where proposals are to be submitted.

D. This section may include other instructions such as the following:

1. *Bindings.* Please do not use special bindings or covers. Staple the pages in the upper left corner of the cover sheet of each proposal.

2. *Packaging.* All copies of a proposal should be sent in the same package.

VII. Scientific and Technical Information Sources

Wherever descriptions of research topics or subtopics include reference to publications, information on where such publications will normally be available shall be included in a separate section of the solicitation entitled "Scientific and Technical Information Sources."

VIII. Research Topics

Describe the research or R&D topics and subtopics for which proposals are being solicited sufficiently to inform the proposer of technical details of what is desired while leaving sufficient flexibility in order to obtain the greatest degree of creativity and innovation consistent with the overall objectives of the SBIR programs.

[FR Doc. 85-537 Filed 1-7-85 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 0

Disciplinary Action Concerning Post-employment Conflict of Interest Violations

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects the section numbers contained in final regulations establishing administrative procedures for disciplinary actions concerning post-employment conflict of interest violations, which appeared at pages 32057 and 32058 in the **Federal Register** of Friday, August 10, 1984 (49 FR 32057–32058).

FOR FURTHER INFORMATION CONTACT: David Maggi, General Attorney, Office of General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 5882, Washington, D.C., telephone: (202) 377–5017.

Marilyn G. Wagner,

Assistant General Counsel for Administration.

The following corrections are made in FR Doc. 84–21322, appearing at pages 32057–32058 in the **Federal Register** issue of August 10, 1984:

In Subpart H, §§ 0.735–40 through 0.735–48 are renumbered as 0.735–42 through 0.735–50, including changing the appropriate internal references accordingly.

[FR Doc. 85–565 Filed 1–7–85; 8:45 am]

BILLING CODE 3510–BW–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Fees for Contract Market Rule Enforcement Reviews and Financial Reviews

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: The Commission recently proposed to charge each board of trade ("exchange") an annual fee for the costs the Commission incurs in conducting rule enforcement reviews and financial reviews with respect to contract markets. 49 FR 22827 (June 1, 1984). Having reviewed the public comments on the proposed fee schedule, the Commission is now adopting a modified fee schedule in final form. While the fee for each exchange will still be based on a formula which takes into account both the trading volume of the exchange and the number of contracts trading on the exchange, the revised formula also takes into consideration the average annual review costs which the Commission incurred with respect to each exchange during the preceding three fiscal years. It is anticipated that the final fee schedule will recover a substantial portion of the actual costs to the Commission of conducting rule enforcement reviews and financial reviews. The first year for which fees will be collected is fiscal year 1985.

EFFECTIVE DATE: February 7, 1985.

FOR FURTHER INFORMATION CONTACT: Daniel S. Goodman, Esquire, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254–9880.

SUPPLEMENTARY INFORMATION:

On June 1, 1984, the Commission published for comment in the **Federal Register** a proposed annual fee to recover the Commission's actual costs in conducting rule enforcement reviews and financial reviews of each exchange. 49 FR 22827 (June 1, 1984). The supplementary information accompanying the proposed fee schedule set forth in detail the statutory and regulatory authority pursuant to which the Commission conducts these reviews. Under the fee proposal, the total amount that the Commission would

collect in each fiscal year would be based on its average annual total review costs during the preceding three fiscal years. Each exchange would be assessed $2,000 of this total fee. The remainder of the total fee would be divided among the exchanges according to (1) the trading volume of each exchange during the preceding three fiscal years and (2) the number of contracts in which the exchange was designated as a contract market and in which at least one trade had taken place during the previous fiscal year. The volume factor would be weighted twice as heavily as the number-of-contracts factor. In no event would the Commission total fee recovery be more than its average actual total review costs for the preceding three fiscal years.

The Commission received seven comment letters in response to its proposed fee, six from exchanges and one from a trade organization. The comments focused on the Commission's proposed fee formula. One commenter firmly supported the Commission's proposed fee formula. Several of the other commenters, however, concluded that the Commission should base the fee for each exchange on the actual Commission review costs incurred with respect to that exchange. Two exchanges suggested that using actual costs on a per-exchange basis was a legal requirement imposed by the relevant statutory authority for the fee, while other commenters felt that computing costs on a per-exchange basis was necessary to reward exchanges with superior rule enforcement and financial compliance programs. MidAmerica Commodity Exchange ("MidAmerica") performed its own statistical comparison of the Commission's proposed fee with what it calculated to be the Commission's actual costs of reviewing each exchange during fiscal years 1981–83.[1] On the basis of its calculations, MidAmerica determined that the Commission's proposed fee formula placed relatively too much weight on the number of trading contracts and too little weight on volume.

Upon considering these comments, the Commission has determined that its proposed fee formula should be modified to ensure that in general no exchange is charged more than the average actual review costs which the Commission incurred with respect to it during the preceding three fiscal years[2] and that the first fee to be collected should be due within 60 days of the effective date of this rule for fiscal year 1985.[3] The three-year period was chosen to compensate for any anomalous events which might occur during any single year and to make sure that each exchange would be reviewed at least once during the period for which the fee was computed.

As a further revision in its proposed fee formula, the Commission has decided to raise its base fee per exchange from $2,000 per year to $5,000 per year. This change reflects the fact that each exchange incurred annual average review costs in excess of $5,000 during fiscal years 1982–84.

Although one commenter suggested that the Commission's proposed fee formula placed unjustified emphasis on the number of contracts trading on an exchange, the Commission has not altered its proposed decision to weight the volume factor twice as heavily as the number-of-contracts factor. In this regard, the Commission acknowledges that its use of a formula to apportion total review costs is an educated approximation and is not based on a precise statistical correlation. It should again be emphasized, however, that under the new fee formula no exchange will be charged more than its actual average review costs during the preceding three fiscal years.

The net result of the Commission's new formula is that the Commission will recover $207,000 for fiscal year 1985. This figure represents approximately 69 percent of the $298,648 which the Commission spent per year during fiscal years 1982–84 in conducting rule enforcement reviews and financial reviews of the 11 exchanges.

The Commission's calculation of a fiscal year 1985 fee of $18,000 for MidAmerica is provided as an example of how fees are calculated under the final fee formula. The Commission calculated that during fiscal year 1984, MidAmerica's active contracts represented 22.09 percent of all active contracts.[4] The Commission further determined that trading on MidAmerica amounted to 2.13 percent of all trading on domestic futures exchanges during fiscal years 1982–84.[5] The Commission then multiplied the volume figure by two and added that product to the number-of-contracts figure to arrive at a sum of 26.35. ((2.13×2)+22.09=26.35).

To arrive at a fee for MidAmerica, this sum was multiplied by $525.45 (the "multiplier"), the largest figure that could be used as a uniform multiplier without charging any exchange more than the actual average annual cost of reviewing that exchange during fiscal years 1982–84. The multiplier was derived as follows: For each exchange, the Commission computed the sum of twice the exchange's volume percentage plus its number-of-contracts percentage. This sum was divided into a figure $5,000 less than the exchange's actual average annual review costs for fiscal years 1982–84.[6] The lowest resulting quotient, $525.45, belonged to the Chicago Mercantile Exchange. This quotient was used as the multiplier.[7]

The product of 26.35 and the uniform multiplier of $525.45 is $13,845.60. (26.35×$525.45=$13,845.60). This product was added to the base fee of $5,000 to arrive at a sum of $18,845.60. Finally, this sum was rounded down to $18,000, a figure which is less than MidAmerica's actual average annual

---

[1] MidAmerica's cost totals for each exchange differed somewhat from those calculated by the Commission; in one instance, the discrepancy was greater than 100 percent. Because MidAmerica did not provide the backup data for its calculations, it is not possible to pinpoint the basis for these discrepancies.

[2] The only exception to this policy would occur in the rare event that the Commission did not complete a major rule enforcement review of an exchange during the preceding three years. This exception does not affect the fees for fiscal year 1985, since the Commission completed a major rule enforcement review of each exchange during fiscal years 1982–84. Moreover, the Commission anticipates that in the future it will complete a major rule enforcement review of each exchange once every two years.

MidAmerica is the only exchange of which the Commission did not complete a major rule enforcement review during fiscal years 1981–83. This explains why MidAmerica's computations suggested that its proposed fiscal year 1984 fee was too high when compared with the Commission's actual costs of reviewing MidAmerica during fiscal years 1981–83. In view of the Commission's expenditure of $43,138 for rule enforcement and financial reviews of MidAmerica in fiscal year 1984, MidAmerica's fiscal year 1985 fee of $18,000 is less than the Commission's actual annual cost of reviewing MidAmerica during fiscal years 1982–84.

[3] Since the comments on the proposed fee were not received until late in fiscal year 1984, the Commission decided to wait until cost data for fiscal year 1984 were available before implementing the final fee proposal.

[4] A complete list of contracts traded in fiscal year 1984, by exchange, is included as Attachment 1.

[5] A list of trading volumes for each exchange is included as Attachment 2.

One commenter wondered why the Commission's formula considered an exchange's volume over a three-year period but its number of contracts only for the most recent fiscal year. The Commission believes that the volume statistic is generally more volatile than the number-of-contracts figure, and thus it is necessary to look at volume over a longer period of time in order to avoid distorted data.

[6] As explained above, $5,000 is the base fee which the Commission is charging each exchange. This figure represents the Commission's minimum average annual cost of conducting rule enforcement and financial reviews of an exchange.

[7] Depicted numerically, the computations for the Chicago Mercantile Exchange were as follows: Volume percentage=27.93. Number-of-contracts percentage=25.58. Actual average review costs=$47,793. ($47,793−$5,000) divided by ((2×27.93)+25.58)=$525.45.

review cost of $19,321 during fiscal years 1982–84.

Using the same formula, the following fiscal year 1985 fees were computed for all eleven exchanges:

Chicago Board of Trade	$63,000
Chicago Mercantile Exchange	47,000
Commodity Exchange, Inc.	22,000
MidAmerica Commodity Exchange	18,000
Coffee, Sugar & Cocoa Exchange	11,000
New York Mercantile Exchange	11,000
New York Cotton Exchange	8,000
Kansas City Board of Trade	8,000
New York Futures Exchange	6,000
Minneapolis Grain Exchange	6,000
Chicago Rice & Cotton Exchange	5,000

These fiscal year 1985 fees shall be paid to the Commission within 60 days of the effective date of this rule. Contrary to the comment suggesting that the Commission would use these fees to fund its regulatory activities, the Commission will forward these fees to the United States Treasury.

Several commenters expressed the view that the Commission should be held accountable for the costs it incurs in conducting rule enforcement and financial reviews. Specifically, these commenters suggested that the Commission delineate more precisely the components of its costs figures, establish cost-control mechanisms, and provide each exchange with a breakdown and justification of the costs incurred in reviewing the exchange's programs. The Commission believes that its budget accounting code system, which was revised at the beginning of fiscal year 1984, provides a sufficiently detailed breakdown of the costs it incurs in conducting reviews of the exchanges. As it has done in the past, the Commission will continue to provide these figures to the exchanges when appropriate requests are made. Beyond that, the staff of the Commission's Division of Trading and Markets is constantly in contact with exchange officials before and during the course of exchange reviews. The Commission welcomes suggestions and constructive criticisms of its review plans. At the same time, however, the Commission does not believe it would be appropriate to require the Commission to justify its resource allocations to the exchanges.

The Commission was asked by one exchange to provide additional justification for its 32 percent overhead figure. Commission overhead includes such items as rent, communications, utilities, printing, reproduction, supplies, materials, equipment, and furniture. For fiscal year 1984, the Commission's total direct obligations were $26,652,000, of which $8,643,000 were attributable to overhead items. $8,643,000 divided by $26,652,000 equals 32.43 percent, a figure which the Commission rounded down to 32 percent.

Another exchange claimed that "planning costs" should not be included in the Commission's total cost figures. Among these costs are the expenses incurred by the Commission staff in determining which exchanges to review each year and how generally to conduct reviews. The total annual planning costs for the Commission amounted to an average of only $10,499.72 for all exchanges, exclusive of overhead, or less than $1,000 per exchange, during fiscal years 1982–84. The Commission has decided not to include these planning costs in the final fee schedule.

Pointing to the over 30 percent jump in total Commission review costs from fiscal year 1981 to fiscal year 1982, one exchange recommended that limits be placed on annual increases in the Commission's costs of conducting rule enforcement and financial reviews. The Commission cannot commit itself to such an exchange-imposed budget cap, particularly since it cannot predict when or whether conditions at the exchanges will necessitate expanded review activity. The Commission notes that the average annual increase in review costs since fiscal year 1982 has been approximately 10 percent, without any adjustment for inflation, notwithstanding the inclusion of sales practice audits for the first time in fiscal year 1983.

Regulatory Flexibility Act

The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* 47 FR 18618 (April 30, 1982). The requirements of the Regulatory Flexibility Act therefore do not apply to contract markets. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule promulgated herein will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 1

Contract market rule enforcement reviews, Contract market financial reviews, Fees.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act, and in particular in sections 4c, 5, 5a, 5b, 6b, 8 and 8a, 7 U.S.C. 6c, 7, 7a, 7b, 13a, 12, and 12a, and in section 26 of the Futures Trading Act of 1978, as amended by section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a, the Commission hereby amends Part 1 of Chapter 1 of Title 17 of the Code of Federal Regulations by adding Appendix B. In taking this action, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Appendix B—Fees for Contract Market Rule Enforcement Reviews and Financial Reviews

(a) Within 60 days of the effective date of a final fee schedule for each fiscal year, each board of trade which has been designated as a contract market for at least one actively trading contract shall submit a check or money order, made payable to the Commodity Futures Trading Commission, to cover the Commission's actual costs in conducting contract market rule enforcement reviews and financial reviews.

(b) The Commission shall compute the fee for each board of trade by (1) taking the number of contracts in which the board of trade was designated as a contract market and in which at least one trade has taken place during the previous fiscal year; (2) dividing that number by the number of contracts in which all boards of trade were designated and in which at least one trade has taken place during the previous fiscal year; (3) taking the total trading volume of the board of trade for the preceding three fiscal years; (4) dividing that number by the total trading volume during that period for all boards of trade to be charged a fee; (5) multiplying that quotient by two; (6) adding the quotient computed in (2) to the product computed in (5); (7) multiplying the sum computed in (6) by a "multiplier" computed as follows: (a) For each board of trade of which the Commission completed a major rule enforcement review during the previous three fiscal years, obtain the actual average annual Commission costs of conducting rule enforcement and financial reviews of that board of trade during those years, (b) subtract $5,000 from each figure obtained in (a), (c) divide each difference computed in (b) by the sum computed in (6) above for the corresponding board of trade, and (d) use the smallest of the quotients computed in (c) as the "multiplier"; (8) adding $5,000 to the product computed in (7); and (9) rounding that sum down to the nearest multiple of $1,000.

(c) Checks should be sent to the attention of the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C., on January 3, 1985, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Attachment 1

The following is a list of the 86 contracts traded during fiscal year 1984 in which the 11 boards of trade have been designated as contract markets.

Chicago Board of Trade (18)—20.93%
- Corn
- Oats
- Soybeans
- Soybean Meal
- Soybean Oil
- Wheat
- Plywood
- GNMA Mortgages, CDR
- T-Bonds, 15 year
- T-Bonds, Option
- T-Notes, 6½–10 year
- Heating Oil, Gulf
- Crude Petroleum
- Gasoline, Unleaded
- Gold
- Silver
- GNMA II
- Major Market Index

Chicago Mercantile Exchange (22)—25.58%
- Live Cattle
- Live Hogs
- Pork Bellies
- Feeder Cattle
- Lumber
- Certificates of Deposit, 90 day
- T-Bills, 90 day
- S&P 500 Stock Index
- S&P 100 Stock Index
- S&P 500 Stock Index, Option
- Eurodollar
- Gold
- Swiss Franc
- British Pound
- Canadian Dollar
- Deutsche Mark
- Deutsche Mark, Option
- Japanese Yen
- French Franc
- Mexican Peso
- Gasoline, Leaded
- No. 2 Fuel Oil

Commodity Exchange, Inc. (5)—5.81%
- Gold
- Silver
- Copper
- Gold, Option
- Aluminum

MidAmerica Commodity Exchange (19)—22.09%
- Soybeans
- Wheat
- Corn
- Oats
- Refined Sugar
- Live Cattle
- Live Hogs
- T-Bonds
- T-Bills, 90 day
- Silver
- Silver, New York
- Gold
- Canadian Dollar
- Deutsche Mark
- Japanese Yen
- British Pound
- Swiss Franc
- Platinum
- Gold, Option

Coffee, Sugar and Cocoa Exchange (5)—5.81%
- Coffee C
- Sugar, No. 11
- Sugar, No. 11 Option
- Sugar, No. 12
- Cocoa

New York Mercantile Exchange (6)—6.97%
- Potatoes, Round White
- Heating Oil, New York No. 2
- Gasoline, New York Leaded
- Crude Oil
- Palladium
- Platinum

New York Cotton Exchange (3)—3.48%
- Cotton, No. 2
- Orange Juice, Frozen Concentrated
- Propane

Kansas City Board of Trade (3)—3.48%
- Wheat
- Value Line Stock Index
- Mini Value Line Stock Index

New York Futures Exchange (2)—2.32%
- NYSE Composite Stock Index
- NYSE Composite, Option

Minneapolis Grain Exchange (2)—2.32%
- Wheat
- Wheat, White

Chicago Rice & Cotton Exchange (1)—1.16%
- Rice, Rough

Attachment 2

The following is a list of trading volume, by exchange, for fiscal years 1982, 1983, and 1984.

Chicago Board of Trade—45.28%
- 1982—48,510,002
- 1983—59,205,337
- 1984—73,667,320
- SUM—181,382,659

Chicago Mercantile Exchange—27.93%
- 1982—31,191,637
- 1983—38,043,739
- 1984—42,627,371
- SUM—111,862,747

Commodity Exchange, Inc.—14.14%
- 1982—16,077,256
- 1983—20,369,008
- 1984—20,190,027
- SUM—56,636,291

MidAmerica Commodity Exchange—2.13%
- 1982—2,151,695
- 1983—3,041,461
- 1984—3,360,077
- SUM—8,553,233

Coffee, Sugar and Cocoa Exchange—3.06%
- 1982—3,243,899
- 1983—4,637,263
- 1984—4,374,944
- SUM—12,256,106

New York Mercantile Exchange—2.72%
- 1982—2,323,378
- 1983—3,580,697
- 1984—5,010,738
- SUM—10,914,813

New York Cotton Exchange—1.19%
- 1982—1,561,436
- 1983—1,648,433
- 1984—1,588,481
- SUM—4,798,350

Kansas City Board of Trade—1.25%
- 1982—1,425,530
- 1983—1,744,388
- 1984—1,837,882
- SUM—5,007,800

New York Futures Exchange—1.98%
- 1982—757,320
- 1983—3,413,827
- 1984—3,775,408
- SUM—7,946,555

Minneapolis Grain Exchange—0.27%
- 1982—364,908
- 1983—383,350
- 1984—337,346
- SUM—1,085,604

Chicago Rice & Cotton Exchange—0.01%
- 1982—36,958
- 1983—9,546
- 1984—6,168
- SUM—52,672

All Exchanges—100.00%
- 1982—107,644,019
- 1983—136,077,049
- 1984—156,775,762
- SUM—400,496,830

[FR Doc. 85-541 Filed 1-7-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-230 (West Virginia-4); Order No. 409]

High-Cost Gas Produced From Tight Formations; West Virginia

Issued January 4, 1985.

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 (Commission) is authorized to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Gas so designated may receive an incentive price. Under Section 107(c)(5), the Commission issued a final rule designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703) (1983). Jurisdictional agencies may submit recommendations of areas for designation as tight formations. This order adopts the recommendation of the Office of Oil and Gas, State of West Virginia, that portions of the Berea Sandstone, the "Second Berea" zone, and the "Gordon" zone underlying portions of Jackson, Mason, and Wood Counties, West Virginia, be designated as tight formations under § 271.703(d).

EFFECTIVE DATE: This rule is effective February 4, 1985.

FOR FURTHER INFORMATION CONTACT: James Whitfield Jr., (202) 357–8213 or Walter W. Lawson, (202) 357–8556.

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

Based on a recommendation made by the Office of Oil and Gas of the State of West Virgiaia (West Virginia), the Commission amends its regulations [1] to include portions of the Berea Sandstone, "Second Berea" zone, and the "Gordon" zone underlying portions of Jackson, Mason, and Wood Counties, West Virginia, as designated tight formations eligible for incentive pricing. The Director of the Office of Pipeline and Producer Regulations issued a notice proposing the amendment on July 23, 1984.[2] No comments or requests for hearing were filed in response to the notice.

Evidence submitted by West Virginia supports the assertion that the Berea Sandstone, "Second Berea" zone, and the "Gordon" zone meet the guidelines contained in § 271.703(c)(2). The Commission adopts that recommendation.

This amendment shall become effective February 4, 1985.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

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

[2] 49 FR 30075, July 26, 1984.

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]

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 (d)(185) to read as follows.

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(185) The Berea Sandstone and "Second Berea" zone of the Pocono Group and the "Gordon" zone of the Hampshire Group in West Virginia. RM79–76 (West Virginia—4).

(i) *Delineation of formation.* The Berea Sandstone, "Second Berea" zone, and "Gordon" zone underlie portions of Jackson, Mason, and Wood Counties. The Berea Sandstone lies immediately below the Sunbury Shale and the "Gordon" zone lies above the "Brown Shale" zone.

(ii) *Depth.* The average depth to the top of the Berea Sandstone and "Second Berea" zone ranges from 1,500 feet in western Mason County to over 2,700 feet in eastern Jackson County. The average depth to the top of the "Gordon" zone ranges from 2,538 feet in Wood County to 2,852 feet in Jackson County.

[FR Doc. 85–536 Filed 1–7–85; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Privacy Act of 1974; Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Army hereby deletes exemption rules for systems of records A0508.11bUSACIDC and A0508.25aUSACIDC and amends the exemption rule identification for system of records A0508.11aUSACIDC.

EFFECTIVE DATE: January 8, 1985.

ADDRESS: Office of the Adjutant General, Headquarters, Department of the Army (DAAG–AMR–S), 2461 Eisenhower Avenue, Alexandria, VA 22331–0301.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, telephone (703) 325–6163.

SUPPLEMENTARY INFORMATION: In FR Doc 84–32892, dated December 18, 1984 (49 FR 49139), the Department of the Army deleted and/or amended notices for exempted systems of records identified above. Purpose of this document is to effect agreement between the exemption rules and the notices to which they apply.

List of Subjects in 32 CFR Part 505

Privacy.

PART 505—[AMENDED]

§ 505.9 [Amended]

Accordingly, 32 CFR 505.9 is amended by removing Exempted Record Systems A0508.11bUSACIDC and A0508.25aUSACIDC and by amending Exempted Record System A0508.11aUSACIDC to remove the suffix "a".

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 2, 1985.

[FR Doc. 85–495 Filed 1–7–85; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–10–FRL–2750–8]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of final rule.

SUMMARY: EPA today gives notice that the final rule approving amendments to the Oregon Department of Environmental Quality (ODEQ) rules for municipal incinerators and open field burning published October 15, 1984 (49 FR 40162) has been withdrawn. A request has been made by an individual to submit critical comments on these two revisions. Elsewhere in today's **Federal Register**, EPA is opening a 30-day public comment period on its

proposed approval of these two rule revisions. This action does not affect any other part of the October 15, 1984 notice, specifically, the approval of the revisions to the ODEQ open burning rules as revisions to the Oregon State Implementation Plan (SIP).

EFFECTIVE DATE: This action will be effective on December 15, 1984.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460
Air Programs Branch (10A-84-5), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101
State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97207

Copy of the State's submittal may be examined at: The Office of Federal Register, 1101 L Street NW, Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-8577, (FTS) 399-8577.

SUPPLEMENTARY INFORMATION: On January 16, 1984 ODEQ submitted amendments to its rules for refuse burning equipment (OAR 340-21-005, 025 and 027). On March 14, 1984 ODEQ submitted amendments to its rules for open field burning in the Willamette Valley (OAR 340-26-001 through 045). On June 5, 1984 ODEQ submitted amendments to its rules for open burning (OAR 340-23-022 through 115). EPA published on October 15, 1984 (49 FR 40162), a final rulemaking approving these three revisions.

EPA received notice on October 31, 1984 from an individual that he wished to submit critical comments on the revisions to the ODEQ rules for refuse burning equipment and open field burning. Pursuant to the procedure announced in the October 15, 1984 rulemaking, EPA is therefore withdrawing the final rule approving these two rules. EPA is doing so without providing prior notice and opportunity to comment because EPA has already informed the public it would follow this procedure if a request to submit adverse or critical comments was received by November 15, 1984. For the same reason, EPA finds it has good cause to make this withdrawal immediately effective. Elsewhere in today's **Federal Register**, EPA is proposing approval of these two rule revisions and is opening a 30-day public comment period on its proposed action.

This action does not affect any other part of the October 15, 1984 notice, specifically, the approval of the amended Opening Burning Rules (OAR 340-23-022 through 115).

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

(Secs. 110(a) and 301(a) of the Clean Air Act (42 U.S.C. 7410(a) and 7601(a)))

List of Subjects in 40 CFR Part 52

Environmental Protection Agency, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide.

Dated: December 28, 1984.

William D. Ruckelshaus,
Administrator.

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

PART 52—[AMENDED]

Subpart MM—Oregon

In § 52.1970, paragraph (c)(68) is revised to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(68) Amendments to the Open Burning Rules (OAR 340-23-022 through 115), submitted by the State Department of Environmental Quality on June 5, 1984.

[FR Doc. 85-547 Filed 1-7-85; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Parts 60 and 61

[A-7-FRL-2752-4]

Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); Automatic Delegation of Authority Agreements and Delegation of Additional Authority (Nebraska, Iowa and Missouri)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: This notice announces a revision of the delegation of authority procedures involving EPA and the States of Nebraska, Iowa and Missouri. Under the terms of the new procedures, Nebraska, Iowa and Missouri will automatically receive authority to implement and enforce the federal Standards of Performance for New Stationary Sources (NSPS), 40 CFR Part 60 and/or the National Emission Standards for Hazardous Air Pollutants (NESHAPS), 40 CFR Part 61, upon the state's adoption of additional standards. The new procedures were set forth in separate agreements between EPA and the states involved. The notice also announces an extension of the Nebraska, Iowa and Missouri delegations of authority to include additional standards. The extension actions, which automatically occurred under the terms of the new agreements added the following: four (4) NSPS source categories and one (1) NESHAPS category to the Nebraska delegation; six (6) NSPS source categories to the Iowa delegation; and, five (5) NSPS source categories to the Missouri delegation.

EFFECTIVE DATE: January 8, 1985.

ADDRESSES: All requests, reports, applications, submittals and such other communications 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 Nebraska, Iowa or Missouri affected by the respective state's NSPS or NESHAPS rule should be sent to the appropriate state agency (i.e., the *Iowa* Department of Water, Air and Waste Management (IDWAWM), Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319; the *Nebraska* Department of Environmental Control (NDEC), P.O. Box 94877, State House Station, Lincoln, Nebraska 68509; or the *Missouri* Department of Natural Resources (MDNR), Division of Environmental Quality, Air Pollution Control Program, P.O. Box 1368, Jefferson City, Missouri 65102). 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, of the EPA, Region VII, office (816/374-6525 or FTS: 758-6525).

SUPPLEMENTARY INFORMATION: Secs. 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 the affected activities) from the agency to the state government.

From time to time, EPA promulgates NSPS and NESHAPS for additional source categories, activities, and/or pollutants and revises previously promulgated regulations. In turn, the states periodically update their rules by adopting most of the additional and revised standards, and request delegations of authority from EPA for the additional standards.

The basic intent of the new procedures discussed below was to streamline the delegation process.

Prior to the establishment of the new delegation procedures, a state that wanted to enforce particular NSPS or NESHAPS would have to adopt the standard(s) in question and then submit a formal request for a delegation of authority to implement and enforce the standard(s) to the EPA through the Governor's office. The regional office would review each request and, if deemed appropriate, would delegate to the requesting state agency authority to implement and enforce the adopted standard(s). The state would then be required to acknowledge acceptance of the delegation action. The EPA would then announce the delegation action in a **Federal Register** notice. Delays in the process typically occurred as follows: the period between the state's adoption action and the state's formal request for delegation, the internal review period at the regional office, and the period between the regional office's issuance and the state's acceptance of the delegation. The time period between the state's adoption action and the state's acceptance of the delegation action as discussed above could easily encompass three or four months. Most of the delays probably could be attributed to higher priority activities, the need to prepare and internally clear formal correspondence, staff workloads, etc. In general, the EPA regional office grants, and the states accept, the delegations which are requested.

To eliminate the three to four month time lag mentioned above, the EPA regional office and the States of Nebraska, Iowa and Missouri have entered into agreements which set forth procedures under which concurrent authority to implement and enforce additional standards will be automatically delegated to the states upon the adoption of the additional standards by the state if the conditions of the agreement are met. The new procedures are set forth in separate agreements (i.e., Superseding Documents) involving the EPA, Region VII, office and the States of Nebraska, Iowa, and Missouri. The agreements supersede NSPS- and NESHAPS-related delegation and extension of authority letters previously issued to the states by the EPA regional office. Past delegations (and extensions) of authority remain in effect as of the date of the action; however, said previous actions are now subject to the conditions of the applicable Superseding Document.

The conditions of the Superseding Documents addressed, in part, the following: identification of the state agency (i.e., the NDEC, IDWAWM, and MDNR) which will have the responsibility of implementing and enforcing the delegated standards; the establishment of pre- and postadoption notifications regarding the adoption of additional standards by the state; subdelegation of authority to local air pollution control agencies; identification of the provisions which the state is expected to implement and enforce under the delegation (e.g., performance test, maintenance, monitoring, and recordkeeping requirements; the use of NSPS/NESHAPS reference methods, etc.); identification of NSPS/NESHAPS provisions which are not delegable; applicability determinations; and, withdrawal of authority provisions. Most of the conditions of the Superseding Documents are identical; the other conditions differ slightly because of last minute discussions between EPA and state representatives on certain items (e.g., communication and data submittal between EPA and the state, applicability determinations, subdelegation, etc.).

As of August 7, 1984 (Nebraska), August 20, 1984 (Iowa) and October 29, 1984 (Missouri), the state will automatically receive authority to implement and enforce federal NSPS and/or NESHAPS upon its adoption of additional NSPS/NESHAPS standards into its rules or regulations, if the state complies with the conditions of the applicable Superseding Document.

Hereafter, the regional office will periodically publish a **Federal Register** notice which announces the automatic delegations of authority which have occurred under the terms of the Superseding Documents.

Interested individuals are also informed that on the above-mentioned dates the States of Nebraska and Missouri were also delegated authority to implement and enforce the standards for the following source categories (and/or pollutant):

Nebraska

NSPS/Subpart Da—Electric Utility Steam Generating Units (for which Construction is Commenced after September 18, 1978);
NSPS/Subpart Ka—Storage Vessels for Petroleum Liquids Constructed after May 18, 1978;
NSPS/Subpart GG—Stationary Gas Turbines;
NSPS/Subpart HH—Lime Manufacturing Plants; and,
NESHAPS/Subpart F—Vinyl Chloride.

Missouri:

NSPS/Subpart EE—Metal Furniture Surface Coating;
NSPS/Subpart QQ—Publication Rotogravure Printing;
NSPS/Subpart SS—Large Appliance Surface Coating;
NSPS/Subpart TT—Metal Coil Surface Coating; and,
NSPS/Subpart UU—Asphalt Processing and Asphalt Roofing Manufacturing.

On November 14, 1984, the State of Iowa was delegated authority to implement and enforce the standards for the following source categories (and/or pollutant) under the terms of the automatic delegation agreement:

Iowa:

NSPS/Subpart LL—Metallic Mineral Processing Plants;
NSPS/Subpart RR—Pressure Sensitive Tape and Label Surface Coating Operations;
NSPS/Subpart VV—Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry;
NSPS/Subpart WW—Beverage Can Surface Coating;
NSPS/Subpart XX—Bulk Gasoline Terminals;
NSPS/Subpart HHH—Synthetic Fiber Production Plants; and,
NESHAPS/Subpart M—Asbestos (except for the provisions of 40 CFR 61.145 through 61.147)

Effective immediately, all reports, correspondence, and such other communications required to be submitted under the NSPS or NESHAPS regulations for facilities or activities in Nebraska, Iowa or Missouri affected by the delegated standards should be sent to the appropriate state agency 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 secs. 111 and 112 of the

Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: December 24, 1984.

Morris Kay,

Regional Administrator.

[FR Doc. 85-610 Filed 1-7-85; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 65

[A-4-FRL-2751-5]

Delayed Compliance Orders; Approval of a Delayed Compliance Order Issued by Memphis and Shelby County Health Department to Sandusky-Memphis Metal Cabinets, Inc.

AGENCY: Environmental Protection Agency, EPA.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Memphis and Shelby County Health Department (MSCHD) to Sandusky-Memphis Metal Cabinets, Inc. (SMMCI). The Order requires the SMMCI to bring air emissions from its paint-spray booth and curing oven at Millington, Tennessee, into compliance with local air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP). Because of the Administrator's approval, SMMCI compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule takes effect on January 8, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd Ledbetter, Chief, Northern Compliance Unit, Air Compliance Section, Air Management Branch, Air, Pesticides, and Toxics, Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, Telephone Number: (404) 881-4298.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior Federal Register notice proposing approval of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency Region IV, Air, Pesticides, and Toxics Management Division, Air Management Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

SUPPLEMENTARY INFORMATION: On October 3, 1984, the Regional Administrator of EPA's Region IV Office published in the Federal Register, 49 FR 39080, a notice proposing approval of a Delayed Compliance Order issued by the MSCHD to SMMCI. The notice asked for public comments by November 8, 1984, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the Delayed Compliance Order issued to SMMCI is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places SMMCI on a schedule to bring its paint-spray booth and curing oven into compliance as expeditiously as practicable with the Shelby County Air Pollution Control Code, section 3-22, Ref. 1200-3-18.15, of the Tennessee Air Quality Control Act, part of the federally approved Tennessee State Implementation Plan. The Order also imposes final compliance with the above regulation by November 1, 1984, through the construction or installation of control equipment modifications.

If the conditions of the Order are met, it will permit SMMCI to delay compliance with the SIP regulations covered by the Order until November 1, 1984. The facility is unable to comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the immediate need to place SMMCI on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) in the Tennessee State Implementation Plan.

List of Subjects in 40 CFR Part 65

Air pollution control.

Authority: 42 U.S.C. 7413(d), 7601.

Dated: December 28, 1984.

William D. Ruckelshaus,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. Section 65.471 is amended by inserting the following in the table:

§ 65.471 EPA approval of state Delayed Compliance Orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Sandusky-Memphis Metal Cabinets, Inc.	Millington, Tennessee	DCO/IV/8403	1200-3-18.15	Oct. 9, 1984	Nov. 1, 1984

[FR Doc. 85-611 Filed 1-7-85; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 81

[EPA Docket No. 107PA-15; A-3-FRL-2750-5]

Air Programs; Designation of Areas for Air Quality Planning Purposes Approval of State Implementation Revision and Section 107 Designation for the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency, EPA.

ACTION: Final rule.

SUMMARY: EPA is approving a request from the Commonwealth of Pennsylvania to revise the attainment status designation of twenty areas in Pennsylvania with respect to TSP (40 CFR 81.339). EPA is also approving a request from the Commonwealth to revise the attainment status designations, at 40 CFR 81.339, of twenty counties in Pennsylvania from "Does Not Meet Primary Standards" (nonattainment) to "Cannot be Classified or Better Than National Standards" (attainment/unclassifiable) relative to the ozone National Ambient Air Quality Standards (NAAQS).

Additionally, EPA is disapproving the Commonwealth's request to redesignate twenty-two counties with respect to the ozone NAAQS.

EFFECTIVE DATE: February 7, 1985.

ADDRESSES: Copies of the revisions and accompanying documents are available

during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Division, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Donna Abrams

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Gary Triplett.

FOR FURTHER INFORMATION CONTACT: Donna Abrams (3AM11) at the EPA, Region III address above or call (215) 597–9134.

SUPPLEMENTARY INFORMATION:

I. Background

The Pennsylvania Department of Environmental Resources submitted a request to the U.S. Environmental Protection Agency (EPA), on July 5, 1983, to have certain areas redesignated with respect to TSP and Ozone. The TSP redesignations are based on eight (8) quarters of monitoring data which show attainment. In addition, these areas all have an approved control strategy which is covered in Article III of the Air Resources Regulations, section 123.11 (particulate matter emissions). The ozone redesignations are based on the following two criteria:

1. Areas which currently are not required to have ozone monitors, are considered rural, are covered by statewide RACT regulations for VOC, and are not associated with any transportation control area, or

2. Areas which have air quality data justifying attainment redesignation.

On June 20, 1984, a Notice of Proposed Rulemaking (NRPM) was published at 49 FR 25252. As a result of this notice, comments were received from a local company opposed to EPA's disapproval of the Commonwealth's request to redesignate Carbon County to attainment/unclassifiable with respect to ozone.

Public Comments

In accordance with the redesignation criteria for ozone and TSP, on June 20, 1984, EPA proposed approval of twenty of the forty-two counties requested for redesignation with respect to ozone, and all twenty counties requested for redesignation with respect to TSP. We received (1) letter from an industry located within the Commonwealth as a result of this proposed action.

In its letter, the industry opposed EPA's proposed disapproval of the Commonwealth's request to redesignate Carbon County from "Does Not Meet Primary Standards" to "Cannot be Classified or Better Than National Standards" relative to Ozone.

1. *Comment:* The commentor states that urban areas, 13 to 25 miles distant from Carbon County, are too far away to cause Ozone nonattainment problems in Carbon County.

Response: Contrary to the comment, maximum Ozone concentrations, due to urban area emissions, frequently occur at downwind distances comparable to those referred to.

2. *Comment:* Winds from the south are rare (less than 10% of the time) and therefore, in combination with factors described in the other comments, counties to the south will not significantly impact Carbon County.

Response: In this case, "less than 10%" is actually a 9.4% annual average frequency of south winds. During the Ozone season (generally April thru October), the frequency will be somewhat greater than 9.4%. Even if only a 9.4% figure is assumed, that results in 15 to 20 days with southerly winds during the Ozone season each year. Therefore, contrary to the comment, 15 to 20 days with southerly winds is quite significant, considering that the Ozone NAAQS only permits an average of one exceedance per year, in a given area, over a three year period.

3. *Comment:* The mountain ridge along the southern border presents a barrier to Ozone transport from the south.

Response: The ridge will not prevent Ozone transport from the south. Typical unstable air, characteristic of high ozone days, may flow over the ridge on days with southerly winds.

EPA feels that these comments do not justify a change in position with respect to the designation of Carbon County for Ozone. Therefore, EPA is taking final action on these attainment status designations as originally proposed.

Total Suspended Particulate

The following areas will be redesignated as shown below: Conshohocken Borough, Troop Borough, City of Wilkes-Barre, Laureldale Borough, Temple Borough, Muhlenberg Township, and Brownsville Borough redesignated from "Does not Meet Secondary Standards" to "Better Than National Standards."

City of York, Carroll Township and Donora Borough redesignated from "Does Not Meet Primary Standards" to "Better Than National Standards."

City of Palmerton and the City of New Kensington redesignated from "Cannot be Classified" to "Better Than National Standards."

City of Lancaster, Manheim Township, West York Borough, West Manchester Township, City of Johnstown, Dale Borough, Upper Beaver Valley (except Elwood City Borough and the City of New Castle) and Lower Beaver Valley (except Aliquippa Borough, Baden Borough, and Midland Borough) redesignated from "Does Not Meet Primary Standards" to "Does Not Meet Secondary Standards."

A detailed discussion of the redesignation criteria for TSP can be found in the NPRM at 49 FR 25253.

Ozone

EPA finds that a redesignation of several counties to attainment/unclassifiable is not approvable at this time. This decision is based on the fact that although these areas are considered rural, are covered by statewide RACT regulations for Volatile Organic Compounds (VOC's), and are not associated with any transportation control area, they are however, adjacent to monitored nonattainment areas for ozone. The areas being disapproved are Adams, Bedford, Carbon, Centre, Clearfield, Crawford, Fayette, Franklin, Greene, Indiana, Juniata, Lebanon, Monroe, Northumberland, Pike, Schuylkill, Snyder, Somerset, Susquehanna, Warren, Wayne, and Wyoming.

EPA finds that several areas are approvable at this time for redesignation to attainment. This is based on the fact that these areas are considered rural, are covered by statewide RACT regulations for VOC's, are not associated with any transportation control area, and are not adjacent to any monitored nonattainment areas for ozone; they are:

Bradford, Cameron, Clarion, Clinton, Columbia, Elk, Forest, Fulton, Huntingdon, Jefferson, McKean, Mifflin, Montour, Potter, Sullivan, Tioga, Union, and Venango.

In addition to the preceding 18 counties which are being approved, there are two counties, Mercer and Lycoming, being approved based on 8 quarters of air quality data which show attainment of the ozone standard and the implementation of statewide RACT regulations. A detailed explanation of the redesignation criteria for ozone, including the basis for approval/disapproval of each county can be found in the Notice of Proposed Rulemaking (49 FR 25253/25254).

40 CFR, Part 81 is being revised by amending the chart, in § 81.339, for TSP and Ozone.

Administrative Procedures

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

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Act, the requirements which are the subject of today's Notice may *not* by challenged later in civil or criminal proceedings brought by EPA to enforce their requirements.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas, Intergovernmental relations.

Authority: Section 107, Clean Air Act (42 U.S.C. 7407).

Dated: December 28, 1984.

William Ruckelshaus,

Administrator.

PART 81—[AMENDED]

Part 81 of Title 40, Code of Federal Regulations is amended as follows:

Subpart C—Section 107

Attainment Status Designations

§ 81.339 [Amended]

1. In § 81.339, Pennsylvania, the table entitled "Pennsylvania—TSP", is revised to read as follows:

PENNSYLVANIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
I. Metropolitan Philadelphia Interstate AQCR:				
(A) * * *				
(B) Montgomery County: Conshohocken Boro * * *				X
(C) * * *				
(D) * * *				
(E) * * *				
II. Northeast Pennsylvania Interstate AQCR:				
(A) Scranton, W-B Air Basin:				
Lackawanna County: Throop Boro				
Luzerne County: City of Wilkes-Barre				
(B) * * *				X
(C) Reading Air Basin				X
(D) Carbon County				X
(E) * * *				X
III. South Central Penna. Intrastate AQCR:				
(A) * * *				
(B) Lancaster Air Basin:				
Lancaster County:				
City of Lancaster		X		
Manheim Township		X		
(C) York Air Basin:				
City of York				
West York Boro		X		X
West Manchester Twp.		X		
(D) * * *				
IV. Central Penna. Intrastate AQCR:				
(A) Johnstown Air Basin:				
Cambria County:				
City of Johnstown		X		
Dale Boro * * *		X		
(B) * * *				
(C) * * *				
(D) * * *				
V. Southwest Penna. Intrastate AQCR:				
(A) Monongahela Valley Air Basin:				
Fayette County				
Washington County * * *				X
(B) * * *				X
(C) Lower Beaver Valley Air Basin:				
(1) Aliquippa Boro	X			
(2) Baden Boro	X			
(3) Midland Boro	X			
(4) Remaining Portions		X		
(D) Westmoreland County				
(E) * * *				X
VI. Northwest Penna. Interstate AQCR:				
(A) Upper Beaver Valley Air Basin:				
(1) Ellwood City Boro	X			
(2) City of New Castle	X			
(3) Remaining Portions		X		
(B) * * *				
(C) * * *				
(D) * * *				

2. In § 81.339, Pennsylvania, the table entitled "Pennsylvania—Ozone (O_3)", is revised to read as follows:

PENNSYLVANIA—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
I. Metropolitan Philadelphia Interstate AQCR:		
(A) Bucks County	X	
(B) Chester County	X	
(C) Delaware County	X	
(D) Montgomery County	X	
(E) Philadelphia County	X	
II. Northeast Pennsylvania Intrastate AQCR:		
(A) Berks County		
(B) Bradford County		X
(C) Carbon County	X	
(D) Lackawanna County	X	
(E) Lehigh County	X	
(F) Luzerne County	X	
(G) Monroe County	X	
(H) Northampton County	X	
(I) Pike County	X	
(J) Schuylkill County	X	
(K) Sullivan County		X
(L) Susquehanna County	X	
(M) Tioga County		X
(N) Wayne County	X	
(O) Wyoming County	X	
III. South Central Pennsylvania Intrastate AQCR:		
(A) Adams County	X	
(B) Cumberland County	X	
(C) Dauphin County	X	
(D) Franklin County	X	
(E) Lancaster County	X	
(F) Lebanon County	X	
(G) Perry County	X	
(H) York County	X	
IV. Central Pennsylvania Intrastate AQCR:		
(A) Bedford County	X	
(B) Blair County	X	
(C) Cambria County	X	
(D) Centre County	X	
(E) Clinton County		X
(F) Columbia County		X
(G) Fulton County		X
(H) Huntingdon County		X
(I) Juniata County	X	
(J) Lycoming		X
(K) Mifflin County		X
(L) Montour County		X
(M) Northumberland County	X	
(N) Snyder County	X	
(O) Somerset County	X	
(P) Union County		X
V. Southwest Pennsylvania Intrastate AQCR:		
(A) Allegheny County	X	
(B) Armstrong County	X	
(C) Beaver County	X	
(D) Butler County	X	
(E) Greene County	X	
(F) Fayette County	X	
(G) Indiana County	X	
(H) Washington County	X	
(I) Westmoreland County	X	
VI Northwest Pennsylvania Interstate AQCR:		
(A) Cameron County		X
(B) Clarion County		X
(C) Clearfield County	X	
(D) Crawford County	X	
(E) Elk County		X
(F) Erie County	X	
(G) Forest County		X
(H) Jefferson County		X
(I) Lawrence County	X	
(J) McKean County		X
(K) Mercer County		X
(L) Potter County		X
(M) Venango County		X
(N) Warren County	X	

[FR Doc. 85-506 Filed 1-7-85; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

Office of the Comptroller

41 CFR Part 101-41

[FPMR Amendment G-70]

Unused Ticket Refund Procedures

AGENCY: Office of the Comptroller, GSA.

ACTION: Final rule.

SUMMARY: This regulation revises procedures for collecting carrier refunds of unused tickets. Under the provisions of this amendment, carriers will refund to the Government the value of expired unused tickets for which no SF 1170's, Redemption of Unused Tickets, have been received. Carriers will be reimbursed if, after an initial unused ticket refund to GSA, a ticket is subsequently used for transportation or a second refund is made through the use of an SF 1170. These revised procedures will permit recovery of outstanding monies that might otherwise remain unrefunded or unpaid for extended periods of time.

EFFECTIVE DATE: January 8, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures and Claims Branch, Office of Transportation Audits (202-786-3014).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or

will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

A proposed rulemaking was published in the **Federal Register** of February 2, 1982 (47 FR 4707), inviting comments on a revision of the FPMR unused ticket refund procedures. Section 101–41.210–5a of the proposed rule contained procedures for carrier refund of unused tickets when an SF 1170 has not been received. Section 101–41.210–5b allowed carriers to be paid in the event these tickets were subsequently used by the Government or were refunded a second time through the use of an SF 1170. Various carriers, carrier associations, and one Federal agency objected to the procedures contained in §§ 101–41.210–5a and 101–41.210–5b. Consequently, FPMR Amendment G–58, September 27, 1982, withdrew both of these sections for further study. During our review and investigation, we attempted to explore with the carriers and other Federal agencies alternative procedures for recovering carrier refunds for unused tickets when an SF 1170 has not been received. While these efforts have failed to produce an alternative means for ensuring the recovery of unused ticket refunds, GSA is not prepared to dismiss the possibility of successfully developing future alternatives. Consequently, in addition to implementing §§ 101–41.210–5a and 101–41.210–5b as originally proposed in 47 FR 4707, February 2, 1982, we are offering carriers, by regulation, an opportunity to adopt mutually acceptable alternatives which will satisfy the objective of recovering unearned carrier revenues.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The table of contents for Part 101–41 is amended by revising sections 101–41.210–5a and 101–41.210–5b, redesignating 101–41.210–5c as 101–41.210–5d, and adding 101–41.210–5c as follows:

Sec.

101–41.210–5a Carrier refund for unused tickets when SF 1170 has not been received.
101–41.210–5b Payment to carrier for subsequent use of ticket for transportation or second refund through the use of an SF 1170 after an initial refund to GSA for unused expired ticket.
101–41.210–5c Alternative unused ticket refund procedures.
101–41.210–5d Agency recovery of carrier refunds sent directly to GSA.

Subpart 101–41.2—Passenger Transportation Services Furnished for the Account of the United States

2. Sections 101–41.210–5a and 101–41.210–5b are revised, § 101–41.210–5c is redesignated § 101–41.210–5d, and § 101–41.210–5c is added to read as follows:

§ 101–41.210–5a Carrier refund for unused tickets when SF 1170 has not been received.

If no SF 1170 is received, carriers shall refund to GSA (BWCA) the value of unused tickets after they have expired. Carriers are required to make such refunds within 90 days after the expiration date. The GTR number, ticket number, and the amount being refunded must be included along with any other information pertinent to the refund.

§ 101–41.210–5b Payment to carrier for subsequent use of ticket for transportation or second refund through the use of an SF 1170 after an initial refund to GSA for unused expired ticket.

If, following the initial refund to GSA by the carrier of the value of an unused ticket which has expired, the ticket should subsequently be used for transportation or be refunded a second time through the use of an SF 1170, then either the value of the transportation or the amount of the second refund shall be paid to the carrier upon presentation of an SF 1113, Public Voucher for Transportation Charges. The SF 1113 shall be submitted for payment to GSA (BWCA), Washington, DC 20405. The billing carrier shall note on the face of the SF 1113 the fact that it relates to a previously refunded expired ticket which was subsequently used for transportation, or was refunded a second time through the use of an SF 1170. The carrier shall submit with the SF 1113 copies of those documents pertinent to the previous refund and the current transportation charge when applicable.

§ 101–41.210–5c Alternative unused ticket refund procedures.

If mutually satisfactory alternative arrangements such as the application of sampling techniques or other means are consummated between carriers and GSA for the purpose of recovering the value of expired, unused tickets, those methods may be used in lieu of the procedures in § 101–41.210–5a.

§ 101–41.210–5d Agency recovery of carrier refunds sent directly to GSA.

To recover carrier refunds sent directly to GSA (BWCA), agencies must forward either an SF 1080, Voucher for Transfer Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits, to the General Services Administration (BWCA). Included on these forms must be the name of the carrier, carrier check number, date, and amount of check, (obtained from carrier), as well as the GTR number and the appropriation number to be credited. Agency refund requests should be sent promptly to GSA (BWCA). Refunds from carriers which are not identified and claimed by agencies within 300 days after receipt by GSA (BWCA) will be returned to the U.S. Treasury as miscellaneous receipts.

(31 U.S.C. 3726 and Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 5, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 85–497 Filed 1–7–85; 8:45 am]

BILLING CODE 6820–AM–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 67 and 69

[CC Docket No. 78–72; CC Docket No. 80–286; FCC 84–637]

MTS and WATS Market Structure; and Establishment of a Joint Board; Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts the Joint Board's November 15, 1984 recommendations concerning the recovery of non-traffic sensitive (NTS) costs from interexchange carriers and subscribers, high cost assistance, and measures to assist low income households. The Commission directed the Joint Board to begin an expedited study of broader lifeline measures to assist low income households in affording telephone service. The Commission also directed the Common Carrier Bureau to study the effect of subscriber line charges on small businesses. This action is taken by the Commission to institute a revised method of recovering NTS costs. These measures will: (1) Protect universal service; (2) promote economic efficiency; (3) reduce discrimination in the recovery

of NTS costs; and (4) discourage bypass of the local exchange.

EFFECTIVE DATE: February 7, 1985.

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

FOR FURTHER INFORMATION CONTACT: Claudia Pabo or William Kirsch, Common Carrier Bureau (202) 632-6363.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 67

Telephone, Jurisdictional separations.

47 CFR Part 69

Telephone, Access charges.

Decision and Order

In the Matter of MTS and WATS Market Structure; CC Docket No. 78-72; Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board; CC Docket No. 80-286.

Adopted: December 19, 1984.
Released: December 28, 1984.
By the Commission.

I. Introduction

1. The Commission hereby adopts the Federal-State Joint Board's November 15, 1984, recommendations in this proceeding[1] with a few minor changes and clarifications. We also adopt the Joint Board's reasoning in support of its recommendations as our own. We are directing the Joint Board to conduct further proceedings concerning assistance for low income households on an expedited basis. We are also directing the Common Carrier Bureau, to seek further comments concerning the effect of subscriber line charges on small business subscribers.

II. Joint Board Recommendation

A. Summary

2. In general terms, the Joint Board recommended that the Commission: (1) Implement limited subscriber line charges for residential and single line business customers; (2) allow local companies flexibility to file optional alternatives interstate tariff provisions for the recovery of carrier common line costs in order to combat bypass; (3) modify the provisions for high cost assistance to direct more aid to smaller companies and those with higher cost levels; and (4) provide the equivalent of a waiver of residential subscriber line charges under specific terms and conditions. The Joint Board also recommended that it be asked to undertake expedited study of broader lifeline assistance measures.

3. More specifically, the Joint Board recommended implementation of a $1.00 per month subscriber line charge for residential and single line business customers[2] effective June 1985. It recommended that this charge be increased to $2.00 per month in June 1986 and frozen at that level.[3] In addition, the Joint Board recommended that local telephone companies, with the concurrence of state regulatory officials,[4] be given flexibility to implement optional alternative interstate tariff provisions for the recovery of carrier common line costs[5] in order to combat localized bypass problems.[6] To the extent that these tariff provisions fail to generate the same revenue levels as application of the nationwide average carrier common line charge, the revenue shortfall would be recovered through a uniform surcharge of no more than $.35 per month on the subscriber line charge for all customers in the relevant study area. The procedures which the Joint Board recommended for implementation of alternative tariff provisions contained measures designed to ensure that they do not undermine the nationwide averaging of non-tariff sensitive (NTS) costs for purposes of the carrier comon line charge. The Joint Board recommended a further Joint Board proceeding to examine the effect of subscriber line charges and the alternative anti-bypass tariffs on universal service, bypass, economic efficiency, and interexchange competition. The Joint Board stated that this proceeding should be instituted in late 1986[7] and completed as soon as possible, consistent with the need for development of an adequate record.[8]

4. The Joint Board also recommended a number of changes in the method of calculating the amount of high cost assistance for local telephone companies. It found that the high cost assistance should continue to be based primarily on NTS loop costs, rather than other factors. The Joint Board stated that the changes it recommended were designed to direct more assistance to small telephone companies and those with higher cost levels. Under this approach, assistance to subscribers in high cost areas would continue to be provided through an interstate allocation of the relevant local loop costs in addition to the basic 25 percent interstate allocation. The Joint Board recommended that the additional interstate allocation for study areas with less than 50,000 working loops (excluding WATS, wideband and private line loops) include: (1) 50 percent of the relevant cost per loop in excess of 115 percent but not greater than 150 percent of the national average for these costs; and (2) 75 percent of the relevant cost per loop in excess of 150 percent of the national average. It recommended

[1] *Recommended Decision and Order, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72 and 80-286, Mimeo No. CC 1001, released November 23, 1984, 49 FR 48325 (December 12, 1984).

[2] The Joint Board has not made a recommendation concerning subscriber line charges for multi-party service and we are not adopting rules governing this service at present. The Commission has instituted proceedings to reexamine the rules in this area pursuant to the remand by the Court of Appeals in *NARUC, v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *petition for cert. pending*, U.S. No. 84-95 (filed July 18, 1984). *Notice of Proposed Rulemaking, MTS and WATS Market Structure*, CC Docket No. 78-72, FCC 84-604, released December 28, 1984.

[3] This does not include any subscriber line surcharge that would be necessary in conjunction with alternative tariff provisions to recover carrier common line costs. To the extent a surcharge is necessary, it would be in addition to the $1.00 or $2.00 basic charge.

[4] In the absence of state commission concurrence, the local companies would be authorized to go forward with an alternative tariff filing with the FCC only if the Joint Board concurred in the plan. The Joint Board recommended that the local companies be allowed to seek Joint Board concurrence if the state does not act on the proposal within 60 days of the filing. The state would remain free to act on the company's proposal prior to a Joint Board decision. *See also Recommended Decision and Order, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, Mimeo No. 1001 at paras. 26-43 released November 23, 1984, 49 FR 48325 at paras. 26-43 (December 12, 1984).

[5] Under Part 69 of the Commission's rules, the carrier and subscriber common line elements together cover the cost of customer premises equipment, inside wiring, local loops, the Universal Service Fund and the National Exchange Carrier Association's operating expenses.

[6] Acting on behalf of the Joint Board, the Chief, Common Carrier Bureau has requested comments on issues related to implementation of the Joint Board's recommendations concerning alternative tariffs provisions. *Order Inviting Comments, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-826, Mimeo No. CC 1479, released December 18, 1984. The Commission intends to adopt appropriate implementation provisions in time to allow the filing of alternative tariffs to become effective with the new access charge tariffs in June 1985. At the same time, the Commission will act on measures designed to ensure that the subscriber line charge revenues are flowed through to subscribers in the form of reduced interstate toll rates.

[7] The Commission will issue a *Further Notice of Proposed Rulemaking* in late 1986 to institute further proceedings as recommended by the Joint Board. The basic subscriber line charge will remain frozen at $2.00 until these proceedings are completed.

[8] For the text of the Joint Board's recommendations concerning the recovery of interstate NTS costs *see Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-286, Mimeo No. CC 1001, at paras. 13-45, released November 23, 1984, 49 FR 48325 at paras 13-45 (December 12, 1984).

that the additional interstate cost allocation for study areas with more than 50,000 working loops (excluding WATS, wideband and private line loops) include: (1) 25 percent of the relevant cost per loop in excess of 115 percent but not greater than 150 percent of the national average for these costs; and (2) 75 percent of the relevant cost per loop in excess of 150 percent of the national average. Under this approach, all relevant NTS costs in excess of 150 percent of the national average would be allocated to the interstate jurisdiction. (Twenty-five percent of these costs would be allocated to interstate through the basic allocation factor. An additional 75 percent would be allocated to interstate through the high cost formula.)

5. The Joint Board recommended that the cost of NTS Category 6 Central Office Equipment (COE), Local Dial Switching Equipment, continue to be allocated to the interstate jurisdiction on the basis of the frozen Subscriber Plant Factor (SPF) pending review of all issues concerning the allocation of COE. In light of the continued use of SPF, the Joint Board concluded that NTS Category 6 COE costs should not be included in calculating the level of high cost assistance. The Joint Board recommended that the exchange companies' authorized rate of return for interstate access service, now 12.75 percent, be used in calculating the level of high cost assistance. The Joint Board recommended that existing study area boundaries continue to be used for separations purposes including calculation of the level of high cost assistance. It also concluded that the transition from the current interstate NTS cost allocation based on the Subscriber Plant Factor (SPF) to the new 25 percent basic allocation factor (combined with high cost assistance), should be implemented in eight annual steps rather than four as currently provided in Part 67 of the Commission's rules.[9]

6. In addition, the Joint Board recommended that the Commission adopt a two-phase program for assistance to low income households. As the first step, the Joint Board recommended measures to offset the effect of subscriber line charges on low income households. In this regard, the Joint Board recommended an optional program providing for a 50 percent reduction in the subscriber line charge for customers meeting a state established means test subject to verification. This revenue shortfall would be funded through the interstate carrier common line charge. States taking advantage of this assistance mechanism would be required to make an equal monetary reduction in the local exchange rate for subscribers who qualify for the subscriber line charge reduction. The reduction in local rates would be funded from intrastate sources. The Joint Board recommended that implementation of this assistance measure be at the option of the state commissions. As a second step, the Joint Board recommended expedited study of broader lifeline assistance measures.[10]

B. Discussion

1. Introduction

7. As previously stated, the Commission adopts the Joint Board's recommendations and the reasoning in support of them as its own with a few minor changes and clarifications.[11] We are directing the Joint Board to initiate a further study of issues related to the development of lifeline assistance measures which go beyond the equivalent of a subscriber line charge waiver. We are also directing the Common Carrier Bureau to request additional comments concerning the effect of subscriber line charges on small business subscribers.

2. Assistance for Low Income Households

8. In the *MTS and WATS Market Structure* proceeding, we found that the preservation of universal telephone service is one of the Commission's objectives under the Communications Act, and we established this as one of our four goals in this proceeding. In our *Third Report and Order* in CC Docket No. 78-72, we defined this "universal service objective" to mean "avoiding actions that would cause a significant number of local exchange service subscribers to cancel that service."[12] We further concluded in the *Third Report and Order* that the Communications Act's objective of making service "available . . . to all people of the United States . . . at reasonable charges"[13] contemplates that "telephone exchange service should be made available at reasonable rates."[14] We recognized that an increase in fixed charges for telephone service would conflict with this universal service objective if the increases were of sufficient magnitude and were timed so as to "cause a significant number of subscribers to cancel service."[15] Universal telephone service has contributed to the nation's economic, social, and political integration and development. We are adopting the Joint Board's recommendations because we believe that they properly serve to achieve this objective as well as the objectives of promoting efficient use of the network, eliminating unjust discrimination in the recovery of NTS costs, and discouraging uneconomic bypass.

9. Access to telephone service has become crucial to full participation in our society and economy which are increasingly dependent upon the rapid exchange of information. In many cases, particularly for the elderly, poor, and disabled, the telephone is truly a lifeline to the outside world. Significant increases in the price of basic telephone service could isolate many of the elderly and poor by depriving them of the ability to obtain medical and police assistance or communicate with family and friends. Our responsibilities under the Communications Act require us to take steps, consistent with our authority under the Act and the other Commission goals in this proceeding, to prevent degradation of universal service and the division of our society into information "haves" and "have nots." In fact, ensuring the continued availability and improved use of a technologically advanced public switched network available to all consumers at reasonable rates has been the Commission's primary goal in the *MTS and WTS Market Structure* proceeding.

10. The Joint Board has proposed a two-phase plan for dealing with the legitimate concern that the implementation of subscriber line charges in conjunction with the general upward pressure on local rates could undermine universal service. As previously discussed, the Joint Board recommended a program to offset the subscriber line charge for low income households as the first step in its assistance plan. The Joint Board recommended that the decision to implement this joint federal-state

[9] For the text of the Joint Board's recommendations concerning assistance for telephone subscribers in high cost areas *see Id.* at paras. 46-73.

[10] For the text of the Joint Board's recommendations concerning assistance for low income households *see Id.* at paras. 74-91.

[11] We are modifying the Joint Board's proposal for changes in the language of Part 69 of the Commission's rules to reflect its recommendation that 90 days notice be required for the filing of alternative tariff provisions.

[12] *MTS and WATS Market Structure*, CC Docket No. 78-72, 93 FCC 2d 567 at 592 (1983).

[13] Section 1 of the Communications Act, 47 U.S.C. 151.

[14] CC Docket No. 78-72, 93 FCC 2d 567 at 593 (1983).

[15] *Id.* at 592-93.

mechanism be left to the individual state commissions.

11. We adopt the Joint Board's recommendation concerning measures to offset the effect or subscriber line charges on low income households. In this regard, we agree with their conclusion that the proposed subscriber line charges should not have an adverse effect on universal service. Despite this, we share the Joint Board's belief that measures to offset the effect of the subscriber line charge for low income households is a necessary and appropriate first step to ensure the preservation of universal service. The adoption of the Joint Board's plan will mean that, at the very least, our action today need not place any additional financial burden on those telephone subscribers least able to afford service. We also adopt the Joint Board's recommendation that further study of broader lifeline assistance measures be instituted on an expeditious basis through the Joint Board process. We are directing the Joint Board to begin its work on this issue by the end of March 1985. Due to the importance of this issue, we direct the Joint Board to present its recommendations to us within 180 days of beginning this study. The following paragraphs discuss some of the questions on which we are asking the Joint Board to prepare recommendations.

12. *First.* We believe that measures should be available to be utilized when a threat to continued universal service is identified. As we noted in our earlier order in the *MTS and WATS Market Structure* proceeding, universal service would be threatened by rate increases of a magnitude sufficient to cause a significant number of subscribers to cancel service. Thus, we believe the Communications Act requires that remedial measures be considered if a significant number of subscribers leave the telephone network because they can no longer afford service.

13. We do not believe, however, that remedial responses are the only appropriate action under the Communications Act. Where we have reason to believe that the degradation of universal service is likely to occur as a result of dramatic rate increases, it would be inefficient and insensitive to require significant numbers of subscribers to leave the network (imposing substantial costs on themselves and other ratepayers) before taking corrective action.

14. Indeed, the Universal Service Fund mechanism adopted by the Commission in *Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80-286, is predicated on precisely this assumption. In its November 15, 1984 recommendations, the Joint Board has affirmed our view that high cost assistance, targeted to recognize the special situation of customers served by smaller, rural telephone companies, is necessary to preserve universal service. Rate increases and the discontinuation of service by significant numbers of subscribers are not required to trigger the effectiveness of these measures. Lifeline rates should be available to protect low income subscribers, just as high cost assistance is available without a requirement that rate increases in rural areas cause subscribers to discontinue telephone service.

15. Within this framework, the Joint Board should determine more specific thresholds—level of subscriber dropoff and, if feasible, the percentage or dollar amount of rate increases—which, when crossed, should trigger a response for low income households. In some states, recent increases might already be in excess of the threshold to be proposed by the Joint Board for implementing a lifeline plan. We would expect the states involved to move quickly to examine the need for an immediate response. We realize that due to the inelasticity of demand for local telephone service, even a substantial increase in the charge for telephone exchange service may not, by itself, cause a significant number of subscribers to discontinue service. Nonetheless, such an increase could place an undue burden on low income subscribers, who may be forced to sacrifice other necessities in order to continue telephone service. The Joint Board should consider these factors in preparing its recommendations.

16. *Second.* The Joint Board should recommend guidelines for the design of remedial plans to be implemented when the thresholds described above are crossed. We intend to give the Joint Board wide latitude in recommending appropriate measures to be implemented as a result of a finding that universal service is threatened by the discontinuation of service by a significant number of subscribers or by dramatic local rate increases. One obvious possibility would be the institution of lifeline plans such as those endorsed in recent legislative proposals. In these measures, "lifeline" service referred to a basic telephone service designed to keep low income households on the network without first subjecting them to an undue financial burden. As we noted above, the Joint Board's high cost assistance plan provides telephone subscribers with substantial protection, in advance, against rate increases. The proposed lifeline assistance plans would offer the same degree of protection for low income households. Thus, such a lifeline plan might involve more than a waiver of the subscriber line charge. The proposed plan could also include the ability both to receive calls and to make local calls without regard to the duration or distance (within a local calling area) of the call. Many supporters of this approach have indicated their belief that only this type of service would fulfill the function of preventing low income subscribers from becoming isolated from family, friends, and emergency assistance, or forcing them to choose among necessities. They argue that service priced on a time or distance sensitive basis could well discourage communication by such subscribers, undermining the fundamental goal of establishing lifeline service. They further contend that local measured service (available to all interested subscribers) for which charges are based on the duration and distance of local calls, would not be sufficient.

17. This is one form of lifeline service. However, the Joint Board should not be limited in its consideration to traditional lifeline plans. A range of other options may be available. For example, telephone companies could be required to offer a more basic "dial tone" service (as they have already done in some states) at national or varying rates. The price of such services might be set at the marginal, incremental cost of providing service (or less) in low cost exchanges. Some number of calls at a per call rate could be offered in conjunction with this service. It also appears that a number of local telephone companies have instituted or are developing lifeline plans. The Commission commends their efforts in this regard and urges the local companies to study this issue and develop assistance plans tailored to the conditions in their service territory. Consideration of these plans should be of assistance to the Joint Board in preparing its recommendations. We direct the Joint Board to consider these and any other options which the parties propose.

18. *Third.* The Joint Board should prepare recommendations concerning the proper role of the states and the federal government in implementing a lifeline program. On this point, a critical question is the authority and responsibility of the FCC under the Communications Act to ensure that the states adopt lifeline measures that are properly designed to maintain universal service. We naturally expect that most states would institute measures on their own initiative if necessary to prevent

subscribers from leaving the telephone network. Moreover, we believe that the states should have the primary responsibility for designing and administering lifeline rates, consistent with the guidelines described in this *Order* and any further guidelines which are adopted. Finally, we agree with the Joint Board that eligibility criteria for assistance should be established in the first instance by the individual states.

19. We also seek a Joint Board recommendation on an appropriate mechanism for funding universal service plans. The cost of funding a lifeline plan might, for example, be recovered in equal amounts from intrastate sources (as determined by each state) and through an increase in the nationwide average interstate carrier common line charge or through subscriber line charges paid by non-eligible subscribers. The Joint Board proposed a similar cost sharing arrangement to fund the offset of the subscriber line charge previously discussed. We believe that such an arrangement reflects the fact that universal service confers a benefit on all telephone subscribers for both intrastate and interstate services. Moreover, shared funding would provide an incentive, at both the state and federal level, for the development of lifeline plans that do not impose excessive costs on intrastate or interstate services.

20. We are concerned, however, that some states might not have the ability to adopt adequate lifeline plans on their own. Therefore, we are also asking the Joint Board to prepare recommendations concerning the actions which should be taken in the case of states which decline to or are unable to act, or which propose plans that do not adequately maintain universal service and protect verifiably low income households from the undue financial burdens that could result from dramatic rate increases. The establishment or recommended federal guidelines or programs, perhaps in conjunction with a requirement that the states not permit a degradation of universal service, under the recommended guidelines, may be the best response to the potential problem. The Joint Board should consider this and other options. As previously indicated, we are directing the Joint Board to begin its study of these issues by the end of March 1985 and complete preparation of its recommendations within 180 days of instituting this study.

3. Effect of Subscriber Line Charges on Small Businesses

21. Subsequent to the Commission's decision in February 1984 to implement a maximum $6.00 monthly subscriber line charge for multiline business subscribers,[16] representatives of small businesses and the Small Business Committee's Task Force on Telephone Charges have expressed concern over the potential impact of subscriber line charges on small business subscribers with multiple access lines. The Commission, like the Congressional task force, is concerned about the economic well-being of small businesses in light of the crucial role which they play in the nation's economy. As the Small Business Committee's report notes:

> [S]mall businesses employ over one-half of all private sector workers and create a disproportionately large number of new jobs in the economy. Small businesses have played a vital role in innovation and in spearheading high technology industries.[17]

The issue of the impact of subscriber line charges on small businesses was not referred to the Federal-State Joint Board, and it has not prepared recommendations in this area.

22. There have been several recent studies addressing this topic, however. The Common Carrier Bureau analyzed the potential impact of subscriber line charges on small businesses[18] after seeking information on this issue from the public.[19] The Small Business Committee's Task Force on Telephone Charges recently released its report on the impact of changes in the telecommunications industry,[20] and Bell Communications Research performed a study on the impact of subscriber line charges on small businesses.[21] To allow an opportunity for Commission analysis, we are directing the Common Carrier Bureau to seek comments on these congressional and industry studies on an expedited basis. We are also directing the Bureau to request comments on the portion of the Commission's *Further Report on the Effects of Federal Decisions on Universal Service* which discusses the effect of federal decisions on small business subscribers.[22] We intend to act on issues related to the effect of subscriber line charges on small businesses in time to allow any changes in this area to become effective with the new access charge tariffs in June 1985.

4. Regulatory Flexibility Certification

23. We certify that the Regulatory Flexibility Act is not applicable to the rules we are adopting in this proceeding. Although some local exchange carriers are very small, local telephone companies do not appear to fall within the Regulatory Flexibility Act's definition of a "small entity." The Act incorporates the definition of a "small business" in Section 3 of the Small Business Act as the definition of a "small entity." The latter definition excludes any business that is dominant in its field of operation. Exchange carriers, even small ones, enjoy a dominant monopoly position in their local service area. The Commission has found all exchange carriers to be dominant in the *Competitive Carrier* proceeding, 85 FCC 1, 23–24 (1980). To the extent that interexchange carriers may be affected by these rules, we hereby certify that these rules will not have a significant economic effect on a substantial number of small entities.

III. Ordering Clauses

24. Accordingly, it is ordered, That the recommendations of the Federal-State Joint Board,[23] as modified herein, are adopted.

25. It is further ordered, That the amendments to Parts 67 and 69 of the Commission's rules set forth in Appendix A of this *Decision and Order* are adopted effective February 7, 1985.[24]

26. It is further ordered, That the Joint Board is to initiate an expedited study of additional measures to assist low income households in affording telephone service. This study is to be completed in accordance with the schedule set out in this *Order*.

27. It is further ordered, That the Chief, Common Carrier Bureau is to request comments on the effect of subscriber line charges on small business subscribers as discussed above.[25]

---

[16] *Memorandum Opinion and Order (Second Reconsideration Order), MTS and WATS Market Structure*, CC Docket No. 78-72, 49 FR 7610 (March 2, 1984).

[17] Committee on Small Business, U.S. House of Representatives, Ninety-Eighth Congress, The Impact of Changes in the Telecommunications Industry on Small Business, at page 11, December 10, 1984.

[18] *Further Report on the Effects of Federal Decisions on Universal Telephone Service, MTS and WATS Market Structure*, CC Docket No. 78-72, Phase IV, at section V, adopted December 19, 1984.

[19] Public Notice, "Commission Seeks Information on the Effect of Federal Decisions on Local Rates and Services," Mimeo No. 5346, July 12, 1984.

[20] *See* footnote 17, *supra*.

[21] Bell Communications Research, The Impact of End-User Charges on Small Businesses, November 21, 1984.

[22] *See*, footnote 18, *supra*.

[23] During the course of the proceedings before the Joint Board, a number of parties filed pleadings after the established filing dates. These filings have been accepted and considered.

[24] The effective date of the changes in Part 67 of the Commission's rules does not affect the January 1, 1986 date set for the beginning of the transition from SPF to the new basic allocation factor plus high cost assistance.

[25] These actions are taken pursuant to Sections 1, 4(i), 4(j), 201, 202, 203, 205, 218, 221(c), 403 and 410 of the Act, U.S.C. 151, 154(i), 154(j), 201, 202, 203, 205, 218, 221(c), 403 and 410.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Amendments to Part 67 of the Commission's Rules

PART 67—[AMENDED]

1. Revised paragraph (d)(6) of § 67.124 to read as follows:

§ 67.124 Exchange outside plant categories and apportionment procedures.

* * * * * * *

(d) * * *

(6) The interstate allocations of OSP Category 1.33 plant investment for the years 1986, 1987, 1988, 1989, 1990, 1991 and 1992 will be as follows, subject to the limitation contained in § 64.124(d)(7):

(i) 1986—The § 67.124(d)(4)(i) allocation factor multiplied by .875 plus .03125.

(ii) 1987—The § 67.124(d)(4)(i) allocation factor multiplied by .750 plus .0625.

(iii) 1988—The § 67.124(d)(4)(i) allocation factor multiplied by .625 plus .09375.

(iv) 1989—The § 67.124(d)(4)(i) allocation factor multiplied by .5 plus .125.

(v) 1990—The § 67.124(d)(4)(i) allocation factor multiplied by .375 plus .15625.

(vi) 1991—The § 67.124(d)(4)(i) allocation factor multiplied by .25 plus .1875.

(vii) 1992—The § 67.124(d)(4)(i) allocation factor multiplied by .125 plus .21875.

2. Amend § 67.124(d)(7)(i), (ii) and (iii) by substituting the phrase "five percentage points" for the phrase "ten percentage points".

§ 67.211 [Amended]

3. Amend § 67.611 by removing Section 67.611(a)(9).

§ 67.621 [Amended]

4. Amend § 67.621(a)(1) by substituting "is multiplied by the study area's authorized interstate rate of return" for "is multiplied by the study area's cost of capital" and by removing the final sentence in Section 67.621(a)(1).

5. Revise § 67.631 to read as follows:

§ 67.631 Expense adjustment.

(a) For study areas reporting 50,000 or fewer working loops pursuant to § 67.611(a)(8) the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

(1) Fifty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 115 percent of the national average for this cost but not greater than 150 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(2) Seventy-five percent of the study area unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 150 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(b) For study areas reporting more than 50,000 working loops pursuant to § 67.611(a)(8) the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

(1) Twenty-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 115 percent of the national average for this cost but not greater than 150 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(2) The amount calculated pursuant to Section 67.631(a)(2).

6. Amend § 67.641(a) by substituting "1993" for "1989".

7. Revise § 67.641(c) to read as follows:

§ 67.641 Transition.

* * * * *

(c) The expense adjustments for 1986 through 1992 shall be as follows:

(1) One-eighth of the amount computed in accordance with § 67.631 in 1986;

(2) One-quarter of the amount computed in accordance with § 67.631 in 1987;

(3) Three-eighths of the amount computed in accordance with § 67.631 in 1988;

(4) One-half of the amount computed in accordance with § 67.631 in 1989;

(5) Five-eighths of the amount computed in accordance with § 67.631 in 1990;

(6) Three-quarters of the amount computed in accordance with § 67.631 in 1991; and

(7) Seven-eighths of the amount computed in accordance with § 67.631 in 1992.

8. Revise the definition of the term "study area" in the Glossary in § 67.701 to read as follows:

§ 67.701 Glossary.

* * * * *

Study area—Study area boundaries shall be frozen as they are on November 15, 1984.

* * * * *

Amendments to Part 69 of the Commission's Rules

PART 69—[AMENDED]

1. Add the following new §§ 69.203 and 69.204:

§ 69.203 Interim Common Line Charges.

(a) Except as provided in § 69.204, End User Common Line and Carrier Common Line charges for any period commencing after May 31, 1985, shall be computed as provided in this section.

(b) Charges shall be computed as provided in §§ 69.202 and 69.205 except that End User Common Line charges shall be assessed as provided in paragraphs (c)–(f) of this section.

(c) The End User Common Line charge for single line business subscribers shall be $1 per month per subscriber during the June 1, 1985–May 31, 1986 period and $2 per month per subscriber after May 31, 1986.

(d) Except as provided in subsection (f), the End User Common Line charge for single line and multi-line residential subscribers shall be $1 per month per line during the June 1, 1985–May 31, 1986 period and $2 per month per line after May 31, 1986.

(e) [Reserved for party line charges.]

(f) The End User Common Line charge for a residential subscriber shall be 50% of the charge specified in paragraphs (d) and (e) if the residential local exchange rate for such subscribers is reduced by an equivalent amount, provided that such local exchange service rate reduction is based upon a means test that is subject to verification.

§ 69.204 Optional Alternative Carrier Common Line Tariff Provisions.

(a) A telephone company that files a concurrence described in subsection (c) of this section may file Optional Alternative Carrier Common Line tariff provisions for a particular study area to encourage use of telephone company access service facilities by interexchange carriers and large volume users. Such tariff provisions shall be designed to ensure that large volume users of interstate or foreign telecommunications services in such study area will receive the benefit of any reduction in Carrier Common Line charges. These tariff provisions shall be filed on a minimum of 90 days notice.

(b) A telephone company that files an Optional Alternative Carrier Common charge may file a surcharge upon End

User Common Line charges, to be effective on a minimum of 90 days notice, if

(1) a uniform surcharge is imposed upon all monthly End User Common Line charges in such study area;

(2) the monthly surcharge does not exceed 35 cents; and

(3) such surcharge revenues are not likely to exceed the difference between the annual revenues that would have been produced by the association Carrier Common Line charge and the annual revenues that will be produced by the Optional Alternative Carrier Common Line tariff provisions.

(c) A concurrence may be issued by a public utility commission that regulates intrastate telecommunications services in the relevant area or by the CC Docket 80-286 Joint Board. A telephone company may request a concurrence from the CC Docket 80-286 Joint Board if, but only if, the appropriate public utility commission declines to issue a concurrence or fails to act upon a request for a concurrence within 60 days after such request has been filed. A concurrence shall signify that a majority of such commission or Joint Board agree that the Optional Alternative Carrier Common Line tariff provisions are warranted to deter bypass in the affected area and that any End User Common Line surcharge is not likely to impair universal service in the affected area.

2. Add the following new § 69.611:

§ 69.611 Effect of Optional Alternative Carrier Common Line Tariff Provisions and End User Common Line Surcharges.

(a) The existence or potential existence of Optional Alternative tariff provisions filed pursuant to § 69.204 shall not affect the computation of association charges for any access element.

(b) End User Common Line surcharge revenues shall not be included in End User Common Line revenues for purposes of computing pool distributions.

(c) The Carrier Common Line residue that is computed pursuant to §69.605 shall be increased by adding an amount that is computed by subtracting the Carrier Common Line revenues attributable to study areas with Alternative Carrier Common Line tariff provisions from the projected Carrier Common Line revenues for such study areas that would have been received at the association Carrier Common Line rate.

(d) The Carrier Common Line residue distribution that is computed pursuant to § 69.607 shall be reduced for a company that has effective Alternative Carrier Common Line tariff provisions by subtracting an amount that is computed by subtracting the Carrier Common Line revenues attributable to such company's study area of areas with Alternative Carrier Common Line tariff provisions from the projected Carrier Common Line revenues for such study area or areas that would have been received at the association Carrier Common Line rate.

[FR Doc. 85-357 Filed 1-7-85; 8:45 am]
BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[GSAR AC-84-2, Supplement 1]

Labor Standards for Federal Service Contracts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation Acquisition Circular AC-84-2 extends the expiration date to June 14, 1985. The intended effect is to extend the policies and procedures as established in AC-84-2, which implements the Department of Labor's (DOL) revised regulations on labor standards for Federal services contracts.

DATES: Effective date: December 14, 1984. Expiration date: This circular expires June 14, 1985 unless extended or canceled.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP) (202) 523-4754.

SUPPLEMENTARY INFORMATION:

Regulatory Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 15, 1983, exempted agency procurement regulations from Executive Order 12291. When AC-84-2 was originally issued, the General Services Administration certified under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), that the document was implementing the revised DOL Service Contract Act regulations in GSA procurements of services and that it would have a significant beneficial economic impact on many small entities. The GSA certification was based on DOL's final regulatory impact and flexibility analysis on its revised regulations at 48 FR 49758, October 27, 1983. All of the information collection requirements contained in the Acquisition Circular stem from DOL requirements which have been approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 522

Government procurement.

Authority: 40 U.S.C. 486(c).

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

Dated: December 4, 1984.

General Services Administration Acquisition Regulation

Acquisition Circular AC-84-2: Supplement 1

December 4, 1984.

To: All GSA contracting activities

Subject: Implementation of the Department of Labor's (DOL) Revised Regulations on Labor Standards for Federal Service Contracts

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC-84-2.

2. *Effective date.* December 14, 1984.

3. *Expiration date.* The General Services Administration Acquisition Regulation Acquisition Circular AC-84-2 and this supplement will expire on June 14, 1985, unless canceled earlier.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 85-105 Filed 1-7-85; 8:45 am]
BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1140

[Ex Parte No. 402]

Reasonably Expected Costs

AGENCY: Interstate Commerce Commission.

ACTION: Modification of final rules.

SUMMARY: In response to a petition, we are modifying the regulations published at 49 FR 33703 August 4, 1982, and 49 FR 37385, September 24, 1984, governing the computation of reasonably expected costs under 49 U.S.C. 10705a. Specifically, we are revising the definition of overhead cost contained in the last sentence of the introductory text to paragraph (b) of § 1140.2 to indicate that interchange traffic is subject to surcharge only if it also originates or terminates on the line.

EFFECTIVE DATE: These modifications are effective on February 7, 1985.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245;

or

Tom Shick, (202) 275–7483.

SUPPLEMENTARY INFORMATION: On September 24, 1984, The Commission modified the regulations at 49 CFR Part 1140, *et seq.* governing the computation of reasonably expected costs in connection with light density line surcharges under 49 U.S.C. 10705a. Among other things, we modified the rules to reflect the statutory intent that only costs associated with traffic "originating or terminating on the branch" should be included in reasonably expected costs, and that all costs associated with "overhead" traffic should be excluded. In § 1140.2(b) we define overhead traffic as "all shipments that are not originated, terminated or handled in interchange with another carrier at any point on the surcharged line segment."

In a petition for clarification filed October 11, 1984, Illinois Central Gulf Railroad Company (ICG) contends that this definition is not consistent with the statute, 49 U.S.C. 10705a, insofar as it includes interchange traffic that originates or terminates on the line to be surcharged. We agree, and will modify the definition to read: "Overhead traffic shall include all shipments that are not originated or terminated at any point on the surcharged line segment."

This notice of modification to the final rules is issued under 49 U.S.C. 10321, 10362, and 10705a and 5 U.S.C. 553.

List of Subjects in 49 CFR Part 1140

Railroads, Uniform System of Accounts.

PART 1140—[AMENDED]

It is ordered:

§1140.2 [Amended]

Section 1140.2 of 49 CFR Part 1140 is amended by revising the last sentence of the introductory text of paragraph (b) to read as follows:

* * * * *

(b) Overhead traffic shall include all shipments that are not originated or terminated at any point on the surcharged line segment.

This decision is effective on February 7, 1985.

Decided: December 27, 1984.

By The Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Lamboley did not participate.

James H. Bayne,

Secretary.

[FR Doc. 85–487 Filed 1–7–85; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Part 1245

[No. 37025 (Sub-1)]

Revision to the Annual Report of Railroad Employees, Service and Compensation

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising Form ARSC, Annual Report of Railroad Employees, Service and Compensation. The new form is identical to Form QRSC, Quarterly Report of Railroad Employees, Service and Compensation. By adopting the new form, the Commission eliminates annual reporting of 112 individual job classifications and, in lieu thereof, requires reporting for six summary classifications.

In addition to adopting the new Form ARSC, we are also making several technical changes to the occupational classification system. These changes will allow more comparability with the occupational classification system used by the Equal Employment Opportunity Commission.

DATE: This action is to be effective upon approval by the Office of Management and Budget. A notice of that effective date will be issued at a later date.

FOR FURTHER INFORMATION CONTACT: Thomas A. Carter, (212) 275–7448.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll-free (800) 424–5403.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic impact on a substantial number of small entities. This decision directly affects only Class I railroads which have annual revenues of $50 million or more.

This final rule will not have a significant effect on the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1245

Railroad employees, reporting requirements, wages.

This rule is made under authority of 49 U.S.C. 10321 and U.S.C. 553.

Decided: December 21, 1984.

By Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Lamboley dissented with a separate expression.

James H. Bayne,

Secretary.

Appendix

PART 1245—CLASSIFICATION OF RAILROAD EMPLOYEES; REPORTS OF SERVICE AND COMPENSATION

§ 1245.5 [Amended]

1. In 49 CFR 1245.5, the entries under the column entitled "Typical titles" are amended as follows:

A. In Number 101, remove the titles "General Counsel" and "Chief Medical Officer".

B. In Number 102, remove the title "Assistant General Counsel".

C. In Number 103, add "Manager of Materials, Safety Inspector, Real Estate Agent, Real Estate Supervisor, Tax Agent, Buyer, Assistant Buyer, Sales Agent, Assistant Sales Agent" to follow "Division Engineer".

D. In Number 201, remove the title "Chief Draftsman" and add "General Counsel, Assistant General Counsel" at the beginning of the entry to precede "General Attorney" and add "Chief Medical Officer" to follow "Commerce Counsel".

E. In Number 204, remove the title "Manager of Materials".

F. In Number 210, remove the titles "Safety Inspector", "Real Estate Agent", "Real Estate Supervisor", and "Tax Agent".

G. In Number 301, add the title "Chief Draftsman" to follow "Master Carpenter".

2. In 49 CFR 1245.5, remove Number 211 and related entries under each column.

§ 1245.6 [Amended]

3. In 49 CFR 1245.6, the entries under the columns entitled "Job Title" and "SOC" are amended as follows:

A. In Number 101, remove the titles and SOC numbers "General Counsel . . . 211" and "Chief Medical Officer . . . 261".

B. In Number 102, remove the title and SOC number "Assist. General Counsel . . . 211".

C. In Number 103, add the following titles and SOC numbers to follow "Division Engineer . . . 1638 and 1342":

Manager of Materials	4525
Safety Inspector	1473
Real Estate Agent	1353
Real Estate Supv	1353
Tax Agent	1412
Buyer	1449
Assist. Buyer	1449
Sales Agent	4235
Assist. Sales Agent	4235

D. In Number 201, remove the title and SOC number "Chief Draftsman. . . 372" and add the titles and SOC numbers "General Counsel . . . 211" and "Assist. General Counsel . . . 211" to precede "General Attorney . . . 211" and add "Chief Medical Officer . . . 261" to follow "Commerce Counsel . . . 211".

E. In Number 204, remove the title and SOC number "Manager of Materials . . . 4525".

F. In Number 210, remove the title and SOC numbers "Safety Inspector . . . 1473", "Real Estate Agent. . . 1353", "Real Estate Supv . . . . 1353" and "Tax Agent . . . 1412".

G. Delete Number 211, Buyers and Sales Agent and the subheadings thereof.

H. In Number 301, add the title and SOC number "Chief Draftsman . . . 372" to follow "Master Carpenter . . . 6313".

[FR Doc. 85-488 Filed 1-7-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 31220-244]

Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Notice of squid specifications increase.

SUMMARY: NOAA issues this notice increasing the annual squid specifications under the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). Regulations governing the squid fisheries require publication of any specification adjustments, with reasons for such adjustments. This action is intended to facilitate achievement of the FMP's goal to create benefits for the United States fishing industry.

DATES: *Effective date:* January 7, 1985. Comments are invited until January 22, 1985.

ADDRESS: Send comments to Salvatore A. Testaverde, Northeast Regional Office, NMFS, State Fish Pier, Gloucester, MA 01930-3097. Mark on the outside of the envelope, "Comments on Notice of Squid Specifications."

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600, (ext. 273).

SUPPLEMENTARY INFORMATION: Section 655.21(b)(1)(v) of the implementing regulations states that initial optimum yield (IOY) squid specifications will be determined annually by the Director, Northeast Region, NMFS, in consultation with the Mid-Atlantic Fishery Management Council under § 655.22 (a) and (b) (49 FR 402, January 4, 1984). Section 655.22(f) states that any adjustments will be published in the **Federal Register**, with the reason for such adjustments. This action provides increased *Loligo* squid specifications which are effective immediately. Adjustment of TALFF and other specifications are being made because the representatives of Spanish vessels which fish in the Northwest Atlantic requested from both the Mid-Atlantic and the New England Fishery Management Councils, at the December 1984 meetings, an additional *Loligo* squid TALFF allocation of 5,200 metric tons (mt). In making their request, the Spanish vessel owners, through their U.S. representative, agreed to guaranteed shoreside purchases totaling no less than 1,500 mt of *Loligo* squid.

This modification increases the *Loligo* squid optimum yield to 30,125 mt and the *Loligo* squid TALFF to 12,250 mt for the 1984-1985 fishing year, which ends March 31, 1985. Squid and other species' bycatch specifications are adjusted accordingly; for squids at § 655.21(b)(1)(iv) (A) and (B), and (v); for Atlantic mackerel at § 655.21(b)(2)(i)(A); and for butterfish at § 655.21(b)(3)(iii). Because *Loligo* squid cannot be harvested without taking a bycatch, the following species' bycatch TALFF specifications will increase: *Illex* squid, 10 percent; Atlantic mackerel, 1 percent; and butterfish, 6 percent.

The Secretary of Commerce (Secretary) finds it necessary to apportion these additional amounts without affording a prior opportunity for public comment, in order to prevent premature termination of *Loligo* squid fishing by Spain. However, public comments are invited for 15 days after the effective date of the apportionment. The Secretary will consider all timely comments in deciding whether to continue, modify, or cancel an apportionment that has previously been made and will publish responses to those comments in the **Federal Register** as soon as practicable.

The following table lists the revised specifications for *Loligo* squid and other species' bycatch specifications in metric tons for the maximum optimum yield (Max OY), allowable catch (AC), allowable biological catch (ABC), current optimum yield (COY), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), Reserve, and total allowable level of foreign fishing (TALFF).

REVISED SPECIFICATIONS FOR FISHING YEAR—APR. 1, 1984, THROUGH MAR. 31, 1985

[In metric tons (mt)]

	Squid		Butterfish	Atlantic mackerel
	Loligo	Illex		
Max OY	44,000	30,000	[1] 16,000	67,000
AC				
ABC	44,000	30,000	[1] 16,000	
COY [2]	24,925	16,130	11,799	83,538
Proposed OY	30,125	16,650	12,111	83,590
DAH	17,875	13,500	11,000	26,500
DAP	13,000	5,000	7,300	11,000
JVP	4,875	8,500		[3] 13,500
Reserve	0	0	0	[4] 14,649
TALFF	[3] 12,250	[3] 3,150	[3] 1,111	[4] 42,351

[1] Up to figure given.
[2] Includes the 3,800 mt *Loligo* squid and other species' bycatch increases to TALFF because of Italian allocation (49 FR 47269, December 12, 1984).
[3] Estimated.
[4] Amounts reflect the proposed, January 1985 reallocations of the Atlantic mackerel reserve to TALFF.

List of Subjects is 50 CFR Part 655

Other Matters

Fisheries, reporting and record-keeping requirements, Foreign Relations.

This action is authorized by 50 CFR Part 655, and complies with E.O. 12291.

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

Dated: January 3, 1985.

J.W. Angelovic,

Deputy Assistant Administrator for Fisheries Resource Investigations, National Marine Fisheries Service.

[FR Doc. 85-545 Filed 1-7-85; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 5
Tuesday, January 8, 1985

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 OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Recordkeeping and Access to Facilities

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) has reviewed its regulations on recordkeeping and access to facilities. FGIS proposes to amend its regulations of Elevator and merchandising records required to be kept, by simplifying and relaxing the requirement that owners and operators of elevators, who have obtained or are obtaining official services, keep records on *all* receipts and shipments of grain. FGIS proposes to require that merchandisers and elevator owners and operators keep records only for those lots of grain for which they received official services. Also, FGIS proposes to reduce the record retention period from 3 years to 2 years. Additionally, FGIS proposes to add a provision regarding unauthorized disclosure of business information.

DATE: Comments must be submitted on or before March 11, 1985.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Avenue, SW., Washington, D.C., 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr. (address above), telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the inspection and weighing services do not meet the requirements for small entities.

Information Collection and Recordkeeping Requirements

In compliance with the Office Management and Budget (OMB) regulations (5 CFR Part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504(h) of this Act, the current information collection and recordkeeping requirements have been approved by OMB. The information collection and recordkeeping requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Agriculture, Room 3201, NEOB, Washington, D.C. 20503.

Regulatory Review

The regulatory review on Recordkeeping and Access to Facilities (7 CFR 800.25 and 800.26) included a determination of the continued need for and consequences of the regulations. The objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS' policy and authority. FGIS has determined that while these regulations, in general, are serving their intended purpose, are consistent with FGIS' policy and authority, and should remain in effect, FGIS' recordkeeping requirements can be revised to give regulatory relief to owners and operators of elevators and merchandisers.

Additionally, certain changes are proposed to clarify, condense, and simplify the regulations. All of the proposed changes would facilitate the use of the regulations.

FGIS proposes to amend § 800.25 by revising the section to:

1. Clarify and condense the provisions of paragraphs (a), (b), (c), and (d) into new paragraph (a); and clarify and condense paragraph (f) into new paragraph (b). Accordingly, the provisions relating to elevator recordkeeping and merchandiser recordkeeping, as well as their respective records, would be simplified and combined. Paragraph (e) relating to the preparation and maintenance of records would be deleted as unnecessary.

2. Change the requirement so that merchandisers and every person and every State or political subdivision of a States that owns or operates an elevator shall only have to keep such accounts, records, and memoranda, as fully and correctly disclose all transactions concerning the lots of grain for which they received official services; and

3. Change the retention period from 3 years plus up to an additional 3 years, if required by the Administrator, to 2 years and any additional time that may be required by the Administrator for effective administration and enforcement of the Act.

FGIS proposes to amend § 800.26 by:

1. Clarifying and condensing the provisions in paragraphs (a) Access to records and (b) Access to facilities, into new paragraph (a); and

2. Adding a new paragraph (b) which prohibits the unauthorized disclosure of business information acquired pursuant to the Act and regulations.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, and Grain.

PART 800—GENERAL REGULATIONS

Accordingly, it is proposed that §§ 800.25 and 800.26 be revised as follows:

§ 800.25 Required elevator and merchandising records.

(a) *Elevator and merchandiser recordkeeping.* Every person and every State or political subdivision of a State that owns or operates an elevator and any merchandiser that has obtained or

obtains official inspection or official weighing services other than (1) submitted sample inspection service, or (2) official sampling service, or (3) official stowage examination service, shall keep such accounts, records, and memoranda, as fully and correctly disclose all transactions concerning the lots of grain for which the elevator or merchandiser received official services, except as provided under § 800.19.

(b) *Retention Period.* Records specified in this section may be disposed of after a period of 2 years from the date of the official service; provided, the 2-year period may be extended if the elevator owner or operator, or merchandiser is notified in writing by the Administrator that specific records should be retained for a longer period for effective administration and enforcement of the Act. This requirement does not restrict or modify the requirements of any other Federal or State statute concerning recordkeeping.

(Approved by the Office of Management and Budget under control No. 0580–0011)

§ 800.26 Access to Records and Facilities.

(a) *Inspection of records and facilities.* Elevator operators and merchandisers, upon proper request, shall permit authorized representatives of the Secretary and the Administrator to enter its place of business during normal business hours and to examine records pertaining to its business subject to the Act, to make copies thereof and to inspect the facilities of such persons subject to the Act. Reasonable accommodations shall be made available to authorized representatives of the Secretary and the Administrator by elevator operators and merchandisers for such examination of records and inspection of facilities. Prior to the examinaton of records or inspection of facilities, the authorized representative shall contact or otherwise notify the elevator manager or the manager's representative of their presence and furnish proof of identity and authority. While in the elevator, the authorized representative shall abide by the safety regulations in effect at the elevator.

(b) *Disclosure of information.* FGIS employees or persons acting for FGIS under the Act shall not, without the consent of the elevator operator or merchandiser concerned, divulge or make known in any manner, any facts or information acquired pursuant to the Act and regulations except as authorized by the Administrator, by a court of competent jurisdiction, or otherwise by law.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: December 24, 1984.

D.R. Galliart,

Acting Administrator.

[FR Doc. 85–549 Filed 1–7–85; 8:45]

BILLING CODE 3410-EN-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135

[Docket No. 24418; Notice No. 85–1]

Flight Recorders and Cockpit Voice Recorders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to require additional flight recorder parameters for airplanes type certificated before 1969 operating in Part 121 operations. Post-accident examination, in many cases, no longer produces sufficient information to accurately assess the causal interrelationship between man, machine, and environment, particularly in the commuter industry. The additional requirements are necessary to ensure that all of the underlying causal factors of an accident are identified. This notice also proposes to require cockpit voice recorders (CVR) on newly manufactured multiengine, turbine-powered airplane certificated to carry six or more passengers, requiring two pilots by certification or operating rules for those operations conducted under Part 135. This notice also proposes that, for those operators conducting operations under Part 91 and Part 125 that have installed approved cockpit voice recorders, the Administrator will not use the record in any civil penalty or certificate action.

DATES: Comments must be received on or before March 2, 1985.

ADDRESSES: Comments on this notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 24418, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments delivered must be marked: Docket No. ——. Comments may be inspected in Room 916 weekdays between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: John Flavin, Office of Airworthiness, Aircraft Maintenance Division, Avionics Branch (AWS–350), 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–8177.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to docket number 24418." The postcard will be dated, time-stamped, and returned to the commenter. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for the comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591. Persons interested in being placed on a mailing list for future NPRM's also should request a copy of Advisory Circular 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

For those operations conducted under Parts 91 and 125 of the Federal Aviation Regulations (FAR), there are no requirements that either a flight recorder or a cockpit voice recorder (CVR) be installed. However, in the interest of safety, the FAA encourages the installation of approved flight recorders

and approved cockpit voice recorders in airplanes used in those operations. This notice proposes the same provisions for Parts 91 and 125 as are now in § 121.359(e) and § 135.151(b) that the Administrator will not use the cockpit voice recorder data in any civil penalty or certificate action.

Section 121.343 of the FAR requires operators to equip each turbine-powered airplane and each airplane certificated for operation above 25,000 feet with an approved flight recorder. For airplanes having an original type certificate issued before September 30, 1969, the flight recorder parameters must include time, altitude, airspeed, vertical acceleration, heading, and radio transmission keying. Airplanes having an original type certificate issued after September 30, 1969, also are required to have flight recorder parameters indicating pitch attitude, roll attitude, side-slip angle or lateral acceleration, pitch-trim position, control column or pitch control surface position, control wheel or lateral control surface position, rudder pedal or yaw control surface position, thrust of each engine, position of each thrust reverser, trailing edge flap or cockpit flap control position, and leading edge flap or cockpit flap control position.

The CVR provisions for Part 121 operators require a CVR for each large turbine-powered or large pressurized airplane with four reciprocating engines.

Part 135 does not require operators to have flight recorders, but it does require turbojet airplanes configured to carry ten passengers or more to have a cockpit voice recorder.

Since these provisions were adopted, there has been a dramatic change in the air carrier industry. Deregulation has contributed to that change by allowing existing carriers to pull out of short-to-medium-range markets, creating a demand being filled by a rapidly expanding commuter industry. To meet the equipment needs of the expanding commuter industry, manufacturers have developed new fuel-efficient airplanes, including derivatives of airplanes type certificated before September 30, 1969. These airplanes have an expected lifespan well into the next century.

The present rule allows these derivative airplanes to operate with flight recorder technology that dates back to the 1950's. In the past, cockpit voice recorders and flight recorders were not required by the commuter industry based on the premise that the public exposure was not great enough to justify installing the recorders. Increased operation of the short-to-medium-range airplanes by the regional carriers' expanding market, however, has placed them actuarially in a more severe operational environment than airplanes type certificated before September 30, 1969, creating the need for additional data collection.

Discussion

This notice proposed to revise § 91.35 and add a new § 125.202 which would provide that the administrator will not use the cockpit voice recorder record in any civil penalty or certificate action. The purpose is to encourage operators to voluntarily install cockpit voice recorders in airplanes that are used in those operations where they are not required. The installed equipment must be approved and it must continue to meet the airworthiness requirements under which the airplane is certificated and operated.

This notice also proposes substantive revisions to §§ 121.343 and 135.151. For operations conducted under Part 121, this proposed rule would require retrofitting all airplanes type certificated before September 30, 1969 (currently using a six-parameter foil-type flight recorders) with a six-parameter digital flight recorder within 2 years from the effective date of this proposed amendment. These flight recorders would have to be upgraded to 11 parameter digital flight recorders within 7 years after the effective date of this proposed amendment. The 11 parameters would consist of those currently required plus the following: (1) Pitch attitude; (2) roll attitude; (3) pitch trim position; (4) control column or pitch control surface position; and (5) thrust of each engine. They would be requierd to perform within the ranges, accruacies, and recording intervals specified in Appendix B of Part 121.

All newly manufactured airplanes having an original type certificate issued before September 30, 1969, would be required to have 17-parameter digital flight recorders installed after 2 years from the effective date of the amendment. The requirements for airplanes type certificated after September 30, 1969, would ot change.

For those operations conducted under Part 135, this proposal would require a CVR for all multiengine, turbine-powered airplanes certificated to carry six or more passengers and requiring two pilots by certification or operating rules, that are newly manufactured 2 years from the effective date of the final rule.

"Manufactured" means when the airplane inspection acceptance records reflect that the airplane is complete and meets the FAA-approved type design data. An airplane manufactured and then placed into storage prior to sale would be considered manufactured the date it is completed prior to being placed in storage.

Regulatory Evaluation

Background

In May 1983, Trans System Corporation completed a study for the FAA's Office of Aviation Safety entitled "Cockpit Voice and Flight Data Recorder (FDR) Evaluation." That study provided an overview of the CVR/flight recorder situation by examining various CVR and flight recorder equipment requirement options for aircraft operating under the various operating regulations of the FAR. The regulatory evaluation summarized here focuses on the specific provisions of this notice, and incorporates more recent information on the availability and cost of equipment which operators will need to comply with this proposal, as well as an updated fleet forecast. Both the Trans Systems study and the complete regulatory evaluation are available in the docket.

The regulatory evaluation encompasses the 15-year period between 1985 and 1999. Values are expressed in 1984 dollars, and present values have been calculated using the 10 percent discount rate prescribed by OMB.

Cost

1. Proposal to Amend Part 121 Flight Recorder Requirements

The major cost components of complying with the proposed amendments to Part 121 include the digital flight recorder, a flight data acquisition unit (FDAU) necessary to convert input signals into a digital format, signal sources (such as transducers, potentiometers, etc.) when none are presently available for the additional parameters to be recorded, labor costs for installation, and ground support equipment to maintain the digital flight recorders. Offsetting these retrofit and upgrade costs is the appreciable reduction in the cost of maintenance for a digital flight recorder in comparison to the older, electro-mechanical foil recorders.

For airplanes operated under Part 121, the present value total cost of the various digital flight recorder requirements proposed in this notice, after deducting maintenance savings, has been estimated to be $10.4 million. These costs are summarized in Table 1 below:

TABLE 1.—SUMMARY OF PART 121 FLIGHT RECORDER COSTS

[Present value—1984 dollars in thousands]

Initial retrofit with digital flight recorder	$16,776.0
Upgrade from 6 to 11 parameters	5,282.3
Newly manufactured aircraft	776.9
Ground support equipment	1,866.4
Total	24,703.6
Less maintenance savings	(14,270.5)
Total cost	10,433.1

The derivation of each cost component is discussed in the following section.

Conversion to digital equipment can be accomplished through various installation configurations of the flight recorder and FDAU components. Further, the number of parameters of information which can be recorded is determined primarily by the capacity of the FDAU, rather than the flight recorder itself. Flight recorders are available which include the signal conversion (FDAU) circuitry in the same unit as the recorder. In some of these single unit designs, the capacity of the built-in FDAU can be increased; in others, it is fixed and an external mini-FDAU must be added to increase capacity. In other types of installations, the FDAU and the flight recorder are completely separate units.

Because of crashworthiness considerations, flight recorders are usually located in the rear of the airplane, but FDAU's are usually located in the avionics bay in the forward part of the airplane. It is generally a simpler job to connect wires from signal sources to the avionics bay than to the rear of the airplane, and this affects installation costs when increasing the number of parameters recorded. FAA believes that all flight recorder retrofit modifications can be completed during regular maintenance intervals, therefore, no costs are expected to result from lost time in service.

Virtually all newly manufactured, pre-1969 type-certificated airplanes are delivered with digital flight recorders capable of recording at least six parameters. Therefore, the costs incurred to meet the 17-parameter requirement for newly-manufactured airplanes will be the cost differential for a 17-parameter vs. a six-parameter flight recorder/FDAU system, and installation costs for the additional 11 parameters during aircraft assembly. The cost differential will vary depending upon which flight recorder/FDAU configuration would have been used for the six-parameter system.

The costing assumptions used in this analysis, based upon equipment price quotations from flight recorder and FDAU manufacturers, and labor and signal source estimates from FAA Aircraft Maintenance Division staff, are summarized in Table 2 below:

TABLE 2.—SUMMARY OF ASSUMPTIONS USED IN ESTIMATING COSTS OF PROPOSED AMENDMENTS TO PART 121 FLIGHT RECORDER REQUIREMENTS

Equipment	Installation
1. Initial retrofit from foil flight recorder to digital flight recorder:	
Direct replacement, single unit digital flight recorder	
$14,000 combined FDAU/flight recorder unit.	$0
Separate flight recorder and FDAU (including 6 to 11 parameter upgrade)	
$10,000 flight recorder	$1225 labor (35 hrs. @ $35 per hour FDAU in avionics bay).
$10,000 mini-FDAU	750 signal source.
id	
20,000 total	1975 total.
2. Upgrade from 6 parameter digital to 11-parameter digital flight recorder:	
Direct replacement, flight recorder capable of recording 11-parameters as single-unit	
$2,000 Modification kit (when required).	$1,750 labor (50 hrs. @ $35 per hour, FDAU/flight recorder in rear of aircraft). 750 signal sources.
	2,500 total.
Direct replacement flight recorder requiring external mini-FDAU to record 11 parameters	
$10,000 mini-FDAU	$1,975 (same as separate FDAU and flight recorder installation above).
3. Installation of 17-parameter vs. 6-parameter digital flight recorder during assembly of newly manufactured aircraft: $4300 average FDAU/flight recorder cost differential over 6-parameter options.	
1225 labor (35 hrs. @ $35 per hour).	
1975 signal sources.	
7500 total.	

Digital flight recorders are much less expensive to maintain than the aging electro-mechanical foil flight recorders and, therefore, the costs of retrofit will be offset somewhat by savings on maintenance costs. Flight recorder manufacturers have provided estimates of annual maintenance savings ranging from $3,000 to over $5,000 per airplane. FAA has used a more conservative estimate of $2,500 per year per airplane. Further, FAA also assumes that the additional signal sources will require maintenance only infrequently, and that any resulting maintenance costs will be negligible in comparision to savings resulting from the digital conversion.

Finally, the unit cost of one set of ground support equipment for maintaining and testing digital flight recorders has been estimated to be $50,000.

Estimates of the number of pre-1969 type-certificated airplanes for most of the types which will be affected by the rule are primarily based upon the Pratt & Whitney Aircraft (P&W) forecast dated December 15, 1983. Boeing 707 airplanes and other pre-1969 jet transports which do not presently comply with Part 36 noise standards may not operate in the United States after January 1, 1985 and, therefore, have been excluded. FAA assumes that the availability of hush kits will result in BAC 111 airplanes remaining in service past the January 1, 1988 expiration date of the exemption from Part 36 noise standards provided in § 91.307 for these airplanes, and estimates that approximately half of the 36 BAC 111 airplanes currently operating will be operating at the end of the period covered by this analysis.

FAA estimates that approximately half of the 1983 fleet of various pre-1969 type-certificated turboprop transports (e.g., the L-188, CV-580/600, F-27/227, etc.) will still be operating in 1999 because of their suitability for many types of utility operations. Details of the assumptions used to forecast the Part 121 fleet affected by this proposal are presented in the full regulatory evaluation.

The proposal which would require six-parameter foil flight recorders to be replaced with six-parameter digital flight recorders within 2 years is expected to impact the active fleet at the end of 1986 (assuming that the proposed rule becomes effective in late 1984 or early 1985). However, many operators have already converted voluntarily because of maintenance cost savings, and newly manufactured airplanes are being delivered with digital flight recorders. Further, many carriers have postponed converting their older airplanes to digital equipment pending the outcome of this rulemaking proceeding. Therefore, FAA estimates that in the absence of this rulemaking, approximately 50 percent of the airplanes forecast to be active at the end of 1986 would have been equipped with digital flight recorders voluntarily (about one-third already are), and that only the remaining 50 percent, or approximately 1,025 airplanes, will be required to convert from foil to digital recorders as a result of this proposal.

FAA further assumes that half of this group will equip with a direct replacement, six-parameter single unit FDAU/flight recorder system capable of being upgraded to 11 parameters later; and that the remaining half will equip with a two unit system (separate FDAU and separate flight recorder), with all 11 parameters wired during the initial conversion. Following the issuance of this rule, no additional aircraft are expected to equip with the six-parameter, single unit FDAU/flight recorder which cannot be upgraded to 11 parameters unless an external mini-FDAU is added, although many aircraft currently are equipped with such units.

Based upon these assumptions, the present value costs of this initial retrofit have been estimated to be $16.8 million.

The proposal that all aircraft be equipped with digital flight recorders capable of recording 11 parameters within 7 years is expected to impact the Part 121 fleet at the end of 1991. All airplanes operated at that time, regardless of whether they were voluntarily converted to digital equipment or as a result of this proposal, will be subject to this requirement, except those airplanes newly manufactured after 1986, which must be equipped with 17-parameter digital flight recorders under the terms of this proposal.

After deducting the newly manufactured pre-1969 airplane forecast to be delivered between 1986 and 1991, FAA estimates that 1,609 of the airplanes remaining active in 1991 will be subject to the 11-parameter upgrade requirement.

Applying the costing values for the various installation configurations among these airplanes, and dividing the modification work evenly over the 5-year period between 1986 and 1991, yields a discounted present value cost of $5.3 million to comply with the 11-parameter upgrade requirement of this proposal.

Only one jet transport receiving an original type certificate before September 30, 1969, the Boeing 737, will be significantly affected by the proposal that newly manufactured airplanes be equipped with 17-parameter digital flight recorders. MD-80's are already being delivered with flight recorders that meet the proposed standard and all of the other pre-1969 transport type airplanes have either ceased production or are not expected to be delivered to Part 121 operators after 1986 in any significant numbers.

Applying the estimated $7,500 cost differential for a 17- vs. 6-parameter digital flight recorder installation to the 157 Boeing 737 airplanes forecast for delivery to U.S. operators yields a discounted present value total cost of approximately $777,000.

The maintenance savings expected to result from the conversion of foil to digital equipment has been estimated by applying the average annual maintenance savings of $2,500 per airplane to 50 percent of the active fleet for the first 5 years of the 15-year analysis period, to 40 percent during the second 5 years, and to 30 percent during the last 5 years, yielding $14.3 million in maintenance savings of $2,500 per airplane to 50 percent of the active fleet for the first 5 years of the 15-year analysis period, to 40 percent during the second 5 years, and to 30 percent during the last 5 years, yielding $14.3 million in maintenance savings. The proportion of remaining airplanes converted as a result of the proposal is expected to decrease with time because both those airplanes which were voluntarily converted and those airplanes recently delivered with digital flight recorders are expected to have longer remaining service lives.

FAA estimates that only one set of ground support equipment will be required for every 25 aircraft converted as a result of this proposal because carriers with mixed fleets will already own digital ground support equipment, and because operators frequently contract maintenance work such as this out to other carriers or repair shops. The total cost (discounted present value) of purchasing 41 sets at $50,000 each for the 1,025 airplanes initially converted following implementation of the proposal has been estimated at $1.9 million.

Summation of the various costs for the Part 121 flight recorder proposal yields a present value total of $10.4 million.

2. Proposal to Require Cockpit Voice Recorders on Certain Newly-Manufactured, Turbine-Powered Airplanes Operated Under Part 135

The equipment which would required to comply with this proposal includes the approved cockpit voice recorder, the control unit with area microphone, and the vibration mounts, connectors, and other hardware required for installation. The manufacturer of the least expensive unit available indicates that this equipment could be purchased by an airframe manufacturer for approximately $6,750 per set. Adding 15 hours of labor at $35 per hour for installation, the total cost of equipping a newly manufactured airplane with a CVR has been estimated to be $7,275.

The maintenance cost of a CVR is approximately $125 per 1,000 hours of operation. Based upon a maximum utilization of 2,200 hours per year, annual maintenance costs are estimated to be $275.

Estimating the number of multi-engine, turbine-powered airplanes certificated to carry six or more passengers and requiring two pilots, which will be manufactured during the 15-year period of this analysis and operated under Part 135, is extremely difficult because the communter market is undergoing a major transition.

A new generation of airplane developed specifically for the expanding commuter industry will begin to enter service this year. The majority of these airplanes will have more than 30 seats and will, therefore, operate under Part 121. It is difficult to predict the exact impact these new airplanes will have on the future market share of the older generation commuter airplanes, most of which have less than 30 seats and operate under Part 135.

The Trans Systems Corporation's study forecasts that an average of approximately 240 turbine-powered airplanes subject to this proposal would be manufactured each year during the 15-year period of this analysis. However, trends predicted in a recent forecast of turboprop airplane sales prepared by Fairchild Industries, a major manufacturer of commuter airplanes, suggest that new airplanes subject to the proposal will be delivered at approximately half the rate indicated in the Trans Systems Corporation study. Therefore, a range of costs has been estimated based upon low rate of 120 airplanes and a high rate of 240 airplanes delivered per year. Applying the cost values discussed previously to these delivery rates and discounting yields present value total costs which range from $8.6 million to $17.2 million.

Benefits

Estimating the benefits of flight recorders and cockpit voice recorders is difficult because a flight recorder is an investigative tool, and unlike other airborne safety devices, the absence of a flight recorder or a cockpit voice recorder cannot be considered the cause of or a contributing factor to an accident involving that airplane.

Therefore, the benefit of flight recorders and cockpit voice recorders can only be measured in abstract terms: that is, how the recorder's contribution to determining the cause of one accident can lead to corrective measures to prevent other similar accidents, or, in other words, what is the opportunity cost of lost information. This benefits analysis examines the types of accidents in which flight records and cockpit voice recorders have been or could have been the key element in determining the cause of an accident, and to the extent existing data permits, quantifies benefits.

The discussions which follow concerning the utility of flight recorders and cockpit voice recorders are based upon information provided to the FAA Office of Aviation Policy and Plans by the National Transportation Safety Board (NTSB) Bureau of Technology.

1. Proposal to Amend Part 121 Flight Recorder Requirements

Expanded parameter flight recorders have been effective in the determination

of an aircraft structural, mechanical or systems failure leading directly to corrective actions such as aircraft modifications or changes in operating procedures which will prevent future accidents.

For example, on May 25, 1979, a DC-10 airplane crashed after takeoff from O'Hare Airport in Chicago when the number 1 engine and pylon assembly separated from the wing, killing the 273 persons on board. The expanded 17-parameter digital flight recorder on board provided evidence that the loss of control was a direct result of the unwanted retraction of the airplane's left outboard leading edge slats, not the engine separation itself. As a result of this finding, pilot procedures were changed to prevent a recurrence of an accident from slat retraction. The DC-10 slat system was subsequently modified to prevent further occurrences.

The determination that an accident was *not* caused by an airplane mechanical, structural or systems problem can also be quite beneficial because costly but unnecessary design analyses or modifications to an airplane prompted by hypotheses rather than conclusive evidence can be prevented. Similarly, use of expanded parameter flight recorders could prevent an unnecessary suspension of an airworthiness certificate and avert economic losses to passengers and carriers alike. Although such costs are difficult to quantify, the benefits of avoiding these costs must be recognized.

Another benefit resulting from the determination of accident cause through explanded parameter flight recorders is the ability to define more precisely those operational problems which need to be addressed by research and development programs.

One excellent example of such a problem is windshear. Windshear has been a cause of accidents throughout the history of aviation; however, until the early to mid-1970's the aviation community, including accident investigators, did not fully appreciate that some of these accident producing windshears were impassable to a low-flying airplane. This realization was made possible solely from the analysis of data from engine, flight control, and aerodynamic parameters recorded on the expanded 17-parameter digital flight recorders on the newer wide-bodied airplanes.

As a direct result of these analyses, government and industry combined efforts to develop ground-based and airborne windshear detection systems, improved flight guidance systems, much needed training techniques, and other corrective actions which are now beginning to be implemented to prevent a continuation of potentially catastrophic accidents. National Transporation Safety Board (NTSB) data show that there have been at least 15 major accidents accounting for 440 fatalities attributable to windshear encounter since 1970, some of which might have been prevented had windshear been more fully understood earlier.

In August 1979, a Boeing 727 operated under Part 121 found itself in a windshear situation and narrowly avoided an accident. The flightcrew stated that had it not been for the special technique which they had learned as a result of the windshear program, they would not have been able to avoid a crash. Unfortunately, in the case of the July, 1982, crash of a Boeing 727 near New Orleans, the cause was attributable to an intense windshear, but the absence of an expanded parameter flight recorder precluded any determinations concerning the flightcrew's reaction to the situation and possible refinement of the techniques taught to pilots for coping with windshear.

A probability analysis has been utilized to estimate quantitatively the potential benefits which might result from the proposal to increase the parameters of information recorded on flight recorders. This anaylsis generates a range of benefit values and a probability distribution of achieving these benefits which can then be compared to the estimated cost of the proposal.

Expanded 17-parameter digital flight recorders have been installed in all aircraft receiving original type certificates after September 30, 1969. The advances made in understanding windshear as a result of these flight recorders provide a clear-cut example of the advantages of expanded parameter flight recorders over the relatively limited six-parameter recorders. The windshear experience suggests that in a 15-year period, at least one random unknown, such as a hazardous phenomenon or other safety factor, might be discovered as a result of expanded parameter flight recorders. In probability analyses, a Poisson distribution provides a realistic model for predicting many random phenomena, and it is frequently used in safety studies. A Poisson distribution based upon a mean of 1 has been used in this analysis to estimate the probability distribution of discovering random unknown safety hazards which could lead to prevented accidents.

Once an unknown hazard has been discovered, an estimate must be made concerning the potential number of accidents which might be averted as a result of its discovery. In the relatively few years since windshear has been better understood, at least one potential accident has definitely been prevented, and it is reasonable to assume that others have been avoided by simple actions such as a more aware pilot postponing a takeoff or landing until the conditions conducive to windshear dissipated. Further, of the 15 windshear accidents identified by the NTSB since 1970, all but one occurred before 1978, indicating that windshear accidents dropped substantially once the new knowledge had been developed and disseminated throughout the aviation community. For the purpose of this study, FAA will conservatively assume that during the 15-year period of this analysis, between 0 and 4 accidents will be prevented for each significant unknown that is discovered, and that this range will be distributed normally about a mean of 2.

To determine the benefits which will result from preventing an accident, it is necessary to estimate the average cost expected to be associated with an accident. Utilizing traffic data tabulated in the *FAA Statistical Handbook of Aviation*, FAA estimates that an average of 100 persons are carried aboard a typical Part 121 passenger operation, including flight deck and cabin crew. Assuming a catastrophic accident involving the loss of the airplane and all persons on board, FAA estimates a total accident cost of $40,316,556, after discounting over the 15-year period of the analysis. The cost has been estimated using the standard value of $670,000 per statistical fatality used in FAA regulatory evaluations, the standard average air carrier hull value of $8,00,000 for a destroyed aircraft, and the standard NTSB major accident investigation cost of $783,000. (See *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs*, (Report # FAA-APO-81-3) and *Economic Analysis of Investment and Regulatory Decisions—A Guide Report* # FAA-APO-82-1), FAA Office of Aviation Policy and Plans. Values have been adjusted for inflation as prescribed in these guides.)

Based upon the Poisson distribution for discovering random unknowns, and the assumptions discussed above concerning the number of accidents which might be prevented as a result of the discovery, a probability distribution of potential benefits has been calculated for the expanded parameter flight recorder proposal and is presented in

Table 3 below. The expected benefit value, equal to the sum of the products of each possible benefit value and its associated probability, has also been calculated, and represents an average of all of the possible benefit outcomes weighted by their respective probabilities.

TABLE 3.—PROBABILITY DISTRIBUTION OF BENEFITS RESULTING FROM THE PART 121 FLIGHT RECORDER PROPOSAL

[Present Value—1984 Dollars]

Benefit (dollars in millions)	Probability[1]
0	100
26.9	62
134.5	22
215.0	10
483.8	0

Expected Benefit Value = $80.6 million

[1] Probability that the expanded parameter flight recorder proposal will equal or exceed the benefits shown at left (in percent).

2. Proposal to Require Cockpit Voice Recorders on Certain Newly-Manufactured, Turbine-Powered Airplanes Operated Under Part 135

The benefits which will result from the Part 135 proposal to require cockpit voice recorders on all newly manufactured multiengine, turbine-powered airplanes certificated to carry six or more passenger and requiring two pilots are very similar to those achieved from flight recorders on Part 121 airplanes. Part 135 operations have grown significantly since airline deregulation in 1978 opened up the commuter industry, yet only turboject airplanes equipped with 10 or more seats are currently required to have CVR's (§ 135.151). Implementation of this proposal would eventually result in all turbine-powered airplanes operated by the commuter industry being equipped with a recorder of some type—a CVR for those smaller airplanes with 30 seats or less operated under Part 135, and both a CVR and flight recorder for those larger airplanes with between 31 and 60 seats operated under Part 121. Therefore, the traveling public would benefit from the learning opportunities which more thorough investigations would allow.

Prototype airplanes are now being developed with innovative design features such as canards, extensive structural use of composite materials, and tilt rotors. Airplanes with these new features will eventually enter commerical service, including Part 135. CVR's would aid significantly in the analysis of any accidents which might be experienced by this emerging technology, and a better understanding of the factors contributing to any accidents experienced will reduce the possibility of aircraft being unnecessarily grounded. Further, occasionally a particular aircraft type will experience a series of accidents which are difficult to resolve and the possibility of this is greater when new technology is introduced.

CVR's are particularly useful for human factors analysis. Although an aircraft system malfunction, weather situation, or other causal factor can frequently be identified, without the CVR it is difficult to ascertain whether or not the flightcrew responded to the emergency situation appropriately. The lack of this information makes it difficult to develop techniques which could benefit future operations. CVR's also can pick up other information useful to investigators, such as engine sounds, audio alarms and signals, and the sounds of switches and control activation.

Although statistical data are not available which would allow a more thorough quantitative analysis, NTSB data indicate that since 1975 there have been 10 multi-engine airplane accidents involving piston-powered airplanes operating under Part 135 for which no probable cause could be determined. In addition, there have been accidents of turbine-powered airplanes operating under both Parts 91 and 135 for which no probable cause could be determined. Implementation of the proposed Part 135 CVR requirement will help prevent future unresolved accidents which may eventually repeat themselves.

Comparison of Costs and Benefits

1. Proposal to Amend Part 121 Flight Recorder Requirements

The probability distribution of potential benefits has been compared to the point estimate of costs developed for the Part 121 flight recorder proposal, providing probability distributions of the benefit/cost ratios which could result from the proposal. The probability of achieving benefits equal to or greater than the cost of the proposal has been identified in this manner. Further, the expected benefit value has been compared to the estimated cost, providing an expected benefit/cost ratio and an expected net benefit for the proposal. The expected benefit/cost ratio and expected net benefit represent the average of the possible benefit/cost ratios and net benefit outcomes which may be realized by the proposal, weighted by the probability associated with each outcome.

Comparison of the benefits and costs of the Part 121 flight recorder proposal indicates that the proposal has a 62 percent chance of achieving benefits equal to or greater than $26.9 million, with an expected benefit/cost ratio of 7.7 and an expected net benefit of $70.2 million. The probability distribution of the potential benefit/cost ratios for this proposal is presented in Table 4 below:

TABLE 4.—PROBABILITY DISTRIBUTION OF BENEFIT/COST RATIOS FOR THE PART 121 FLIGHT RECORDER PROPOSAL

Benefit (dollars in millions)	Benefit and cost ratios	Probability[1] that the Flight Recorder Proposal will Equal or Exceed the Benefit/Cost Ratios Shown at Left (in percent)
0	0	100
26.9	2.6	62
134.5	12.9	22
215.0	20.7	10
483.8	46.6	0

Expected Benefit/Cost Ratio = 7.7
Expected Net Benefit = $70.2 million (based on an expected benefit of $80.6 million)

[1] Probability that the flight recorder proposal will equal or exceed the benefit/cost ratios shown at left (in percent).

2. Part 135 Proposal For Cockpit Voice Recorders in Certain Turbine-Powered Airplanes

The total cost of the proposal to install a cockpit voice recorder in certain newly-manufactured turbine-powered airplanes operated under Part 135 has been estimated to range between $8.6 and $17.2 million. This cost can be fully recovered if between 2.12 and 4.24 accidents are prevented as a result of the CVR requirement during the 15-year period following implementation of the rule. This determination is based upon the assumption that a typical Part 135 accident in a multiengine, turbine-powered airplane would involve the loss of six passengers and two crewmembers, as well as the airplane itself. Values which have been used to develop this estimate are $670,000 per statistical fatality as prescribed in *Economic Values*, $1.5 million for the destroyed airplanes, and $783,000 in accident investigation costs. These costs have been discounted as a uniform series of payments over the 15-year period of this analysis.

International Trade Impact Analysis

The proposals, if adopted, would have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the U.S. The proposals will affect only U.S. air carriers because foreign air carriers are not subject to Part 121 or Part 135. Foreign air carriers are prohibited from operating between points within the

United States, therefore they will not gain any competitive advantage over the domestic operations of U.S. carriers. In international operations, foreign air carriers are not expected to realize any cost advantages over U.S. air carriers because many foreign countries have even more stringent recorder requirements than those proposed in this notice. Therefore, there will essentially be no trade impact.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not necessarily and disproportionately burdened by government regulations. FAA Order 2100.14, *Regulatory Flexibility Criteria and Guidance* (dated July 15, 1983), prescribes standards for determining whether or not a rule will result in "a significant economic impact on a substantial number of small entities" as required by the RFA.

The small entities affected by the proposal are the small air carriers operating under 14 CFR Part 121 and 135. FAA Order 2100.14 stipulates a size threshold at nine or fewer operating aircraft as the standard for small air carriers. Based upon the costing assumptions discussed previously, and the criteria of FAA Order 2100.14, the FAA has determined that none of the small entities operating under Part 121, or operating scheduled services under Part 135, will incur costs which exceed the cost thresholds for "significant economic impact" for their respective operations. Further, the FAA has determined that an insufficient number of small entities utilize turbine-powered aircraft in nonscheduled operations under Part 135 to meet the criteria of "substantial number of small entities" stipulated in FAA Order 2100.14. Therefore, this proposal is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA. This determination is fully discussed in the regulatory evaluation of the rulemaking, available in the docket.

Conclusion

For the reasons discussed in the preamble and found in the Regulatory Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment located in the docket, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, (2) is a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11064; February 26, 1979), and (3) it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A copy of the evaluation may be obtained by contacting the person identified in the **"FOR FURTHER INFORMATION CONTACT"** paragraph.

List of Subjects

14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Liquor, Narcotics, Pilots, Airspace, Air transportation, Cargo, Smoking, Airports, Airworthiness directives and standards.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air traffic control, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Pilots, Transportation, Common carriers.

14 CFR Part 125

Aircraft, Airplanes, Air traffic control, Airworthiness, Pilots.

14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxi, Pilots, Airmen, Aircraft, Transportation, Airplanes.

The Proposed Amendments

Accordingly, the FAA proposes to amend Parts 91, 121, 125 and 135 (14 CFR Parts 91, 121, 125 and 135) as follows:

PART 91—[AMENDED]

1. By amending § 91.35 by designating the introductory paragraph as (a); redesignating paragraphs (a), (b), (c), and (d) as (a) (1), (2), (3), and (4); and by adding a new paragraph (b) to read as follows:

§ 91.35 Flight recorders and cockpit voice recorders.

* * * * *

(b) In the event of an accident or occurrence requiring immediate notification of the National Transportation Safety Board under Part 830 of its regulations, which results in the termination of the flight, any operator who has installed approved flight recorders and approved cockpit voice recorders shall keep the recorded information for at least 60 days or, if requested by the Administrator or the Board, for a longer period. Information obtained from the record is used to assist in determining the cause of accidents or occurrances in connection with investigations under Part 830. The Administrator does not use the cockpit voice recorder record in any civil penalty or certificate action.

2. By revising § 121.343 to read as follows:

§ 121.343 Flight recorders.

(a) No person may operate a large airplane that is certificated for operations above 25,000 feet altitude or is turbine-engine powered unless it is equipped with one or more approved flight recorders that record data from which the following may be determined within the ranges, accuracies, and recording intervals specified in Appendix B of this Part:

(1) Time.
(2) Altitude.
(3) Airspeed.
(4) Vertical acceleration.
(5) Heading.
(6) Time of each radio transmission to or from air traffic control.

(b) Large airplanes type certificated before September 30, 1969 for operations above 25,000 feet altitude, and turbine-engine powered airplanes certificated before the same date, must have installed before (date 2 years after the effective date of the amendment) one or more approved flight recorders that utilize a digital method of recording and storing data, and a method of readily retrieving that data from the storage medium. With regard to that system, the following information must be able to be determined within the ranges, accuracies, and recording intervals specified in Appendix B of this part:

(1) Time.
(2) Altitude.
(3) Airspeed.
(4) Vertical Acceleration.
(5) Heading.
(6) Time of each radio transmission to or from air traffic control.

(c) Airplanes specified in paragraph (b) of this section must have installed, before (date 7 years after the effective date of the amendment), one or more approved flight recorders that utilize a digital method of recording and storing data, and a method of readily retrieving that data from the storage medium. With regard to that system, the following information must be able to be determined within the ranges, accuracies and recording intervals specified in Appendix B of this part:

(1) Time.
(2) Altitude.
(3) Airspeed.
(4) Vertical Acceleration.
(5) Heading.
(6) Time of each radio transmission to or from air traffic control.
(7) Pitch attitude.

(8) Roll attitude.
(9) Pitch trim position.
(10) Control column or pitch control surface position.
(11) Thrust of each engine.

(d) Airplanes specified in paragraph (b) of this section that are manufactured after (date 2 years after the effective date of the amendment), as well as airplanes specified in paragraph (a) of this section that have been type certificated after September 30, 1969, must have installed one or more approved flight recorders that utilize a digital method of recording and storing data, and a method of readily retrieving that data from the storage medium. With regard to that system, the following information must be able to be determined within the ranges, accuracies, and recording intervals specified in Appendix B of this Part:

(1) Time.
(2) Altitude.
(3) Airspeed.
(4) Vertical Acceleration.
(5) Heading.
(6) Time of each radio transmission to or from air traffic control.
(7) Pitch attitude.
(8) Roll attitude.
(9) Sideslip angle or lateral acceleration.
(10) Pitch trim position.
(11) Control column or pitch control surface position.
(12) Control wheel or lateral control surface position.
(13) Rudder pedal or yaw control surface position.
(14) Thrust of each engine.
(15) Position of each thrust reverser.
(16) Trailing edge flap or cockpit flap control position.
(17) Leading edge flap or cockpit flap control position.

For the purpose of this section, "manufactured" means the point in time at which the airplane inspection acceptance records reflect that the airplane is complete, and meets the FAA-approved type design data.

(e) Whenever a flight recorder required by this section is installed, it must be operated continuously from the instant the airplane begins the takeoff roll until it has completed the landing roll at an airport.

(f) Except as provided in paragraph (g) of this section, and except for recorded data erased as authorized in this paragraph, each certificate holder shall keep the recorded data prescribed in paragraph (a), (b), (c), or (d) of this section, as appropriate, until the airplane has been operated for at least 25 hours of the operating time specified in § 121.359(a). A total of 1 hour of recorded data may be erased for the purpose of testing the flight recorder or the flight recorder system. Any erasure made in accordance with this paragraph must be of the oldest recorded data accumulated at the time of testing. Except as provided in paragraph (g) of this section, no record need be kept more than 60 days.

(g) In the event of an accident or occurrence that requires immediate notification of the National Transportation Safety Board under Part 830 of its regulations and that results in termination of the flight, the certificate holder shall remove the recording media from the airplane and keep the recorded data required by paragraph (a), (b), (c), or (d) of this section, as appropriate, for at least 60 days or for a longer period upon the request of the Board or the Administrator.

(h) Each flight recorder required by this section must be installed in accordance with the requirements of § 25.1459 of this chapter in effect on August 31, 1977. The correlation required by § 25.1459(c) need be established only on one airplane of any group of airplanes—

(1) That are of the same type;
(2) On which the model flight recorder and its installation are the same; and
(3) On which there is no difference in the type design with respect to the installation of those first pilot's instruments associated with the flight recorder. The most recent instrument calibration, including the recording medium from which this calibration is derived, and the recorder correlation must be retained by the certificate holder.

(i) Each flight recorder required by this section that records the data specified in paragraph (a), (b), (c), or (d) of this section, as appropriate, must have an approved device to assist in locating that recorder under water.

PART 125—[AMENDED]

3. By amending Part 125 by adding new § 125.202 to read as follows:

§ 125.202 Flight recorders and cockpit voice recorders.

In the event of an accident or occurrence requiring immediate notification of the National Transportation Safety Board under Part 830 of its regulations, which results in the termination of the flight, any operator who has installed approved flight recorders and approved cockpit voice recorders shall keep the recorded information for at least 60 days or, if requested by the Board, for a longer period. Information obtained from the record is used to assist in determining the cause of accidents or occurrences in connection with investigations under Part 830. The Administrator does not use the cockpit voice recorder record in any civil penalty or certificate action.

PART 135—[AMENDED]

4. By amending § 135.151 paragraph (a) introductory text; by redesignating paragraph (b) as (c) and adding a new paragraph (b) to read as follows:

§ 135.151 Cockpit voice recorders.

(a) No person may operate: (1) A turbojet airplane having a passenger seating configuration, excluding any pilot seat, of 10 seats or more, or (2) a multiengine, turbine-powered airplane that has been manufactured after (date 2 years after the effective date of the amendment), certificated to carry six or more passengers and requiring two pilots by certification or operating rules, unless it is equipped with an approved cockpit voice recorder that—

* * * * *

(b) For the purpose of this section, "manufactured" means the point in time at which the airplane inspection acceptance records reflect that the airplane is complete and meets the FAA-approved type design data.

* * * * *

(Sec. 313, 314, 601, 603(c), 605, 606, 609, and 610 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, 1421, 1423(c), 1425, 1428, 1429, and 1430); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 21, 1983); and 14 CFR 11.45)

Issued in Washington, D.C., on December 31, 1984.

Joseph A. Pontecorvo,
Acting Director, Office of Airworthiness.

[FR Doc. 85-492 Filed 1-7-85; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Geological Survey

18 CFR Parts 501, 502, 503, 504, 505, 506, 507, and 508

30 CFR Part 401

State Water Research Institute Program

AGENCY: U.S. Geological Survey, Office of Water Resources Research, Interior.

ACTION: Proposed rule.

SUMMARY: The purpose of this action is to establish procedures that will enable the Department of the Interior to meet its responsibilities in administering the program of State water research institutes that was reauthorized by the Water Resources Research Act of 1984

(Pub. L. 98–242, 98 Stat. 97). The rules and regulations now in effect (18 CFR Parts 501 through 508) were issued in 1964 and are not consistent with the new legislation. They will be revoked upon final issuance of this new rule. The rulemaking proposed by this notice primarily addresses matters of: location of administrative responsibility within the Department; designation of the academic institutions hosting the institutes; the new cost-sharing requirements and evaluation process required by the Act; and application and reporting procedures. The rulemaking action is intended to provide clear and consistent administrative direction to both the granting agency and the grantees.

DATES: Comments must be received on or before March 11, 1985.

ADDRESSES: Comments should be addressed to the Chief Hydrologist, U.S. Geological Survey, 424 National Center, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Madge O. Ertel, 703–860–7921.

SUPPLEMENTARY INFORMATION:

Background

18 CFR Chapter IV, Parts 501 through 508, which this action proposes to revoke and vacate, established the Office of Water Resources Research (OWRR) as the administering agency for the programs authorized by the Water Resources Research Act of 1964 (Pub. L. 88–379, 78 Stat. 331) including the program of water research institutes located at colleges and universities in the States. The procedures set out in those rules and regulations also served to guide the institute program when OWRR became part of the new Office of Water Research and Technology (OWRT) in 1974 and under authorizing legislation, the Water Research and Development Act of 1978 (Pub. L. 95–467, 92 Stat. 1305). In 1982, a Secretarial Order terminated OWRT and transferred the institute program to the Office of Water Policy (OWP). Congressional appropriation language for fiscal year 1984 directed the abolishment of OWP and the transfer of the institute program to the U.S. Geological Survey (USGS). In March of 1984, Congress reauthorized the program by means of a new Water Resources Research Act (Pub. L. 98–242, 98 Stat. 97) and included in the Act specific language calling for new rules and regulations to be promulgated pursuant to the new legislation and superseding the ones previously enacted. This proposed action responds to that direction and confirms the Department's intention to maintain administrative continuity for the program within the USGS. The proposed revocation action removes form the Code of Federal Regulations all references to research programs no longer in existence. The proposed new rule governing the continued existence of the institute program is placed in Title 30, Chapter IV for consistency with placement of all regulations relating to programs of the USGS.

Required Analyses

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291, and therefore a regulatory impact analysis is not required. Enactment of new regulations to guide the institute program will promote efficiency and economy and have an estimated economic impact of significantly less than $100 million. Additionally, this action is not expected to increase costs or prices of goods and services in the private sector or have any other adverse economic impacts which require a regulatory impact analysis under the provisions of the Executive Order.

It has also been determined that the proposed regulations do not have a significant economic impact on a substantial number of small entities. Consequently, a regulatory flexibility analysis is not required by the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1170). Small entities, as defined in the Regulatory Flexibility Act, are not applicants or grantees under this program.

The administrative procedures proposed in the action have no potential for significant environmental impact and are categorically excluded from the requirements for compliance with the National Environmental Policy Act of 1969, as amended (Pub. L. 91–190, 83 Stat. 852).

Paperwork Reduction Act of 1980

Information collection requirements contained in § 401.11 and § 401.19 have been sent to the Office of Management and Budget (OMB) for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by OMB. Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue, NW, Washington, D.C. 20503. Attention: Desk Officer, Department of the Interior.

Interested persons are encouraged to submit written comments, suggestions or objections regarding the proposed rule to the location identified in the Addresses section of this preamble.

The Principal author of this proposed rule is Madge O. Ertel of the Water Resources Division, U.S. Geological Survey.

The Catalog of Federal Domestic Assistance program affected is No. 15.805, Assistance to State Water Research Institutes.

List of Subjects in 18 CFR Parts 501 through 508 and 30 CFR Part 401

Colleges and universities, Grant programs—natural resources Research, Water resources.

For the reasons set out in the preamble, it is proposed to amend Chapter IV of Title 18 and Chapter IV of Title 30 of the Code of Federal Regulations as follows:

(1) Title 18 is amended by removing and vacating Chapter IV, Parts 501 through 508.

(2) Title 30, Chapter IV is amended by adding Part 401 to read as follows:

PART 401—STATE WATER RESEARCH INSTITUTE PROGRAM

Subpart A—General

Sec.
401.1 Purpose.
401.2 Delegation of authority.
401.3 Definitions.
401.4–401.5 (Reserved)

Subpart B—Designation of Institutes; Institute Programs

401.6 Designation of institutes.
401.7 Programs of institutes.
401.8–401.10 (Reserved)

Subpart C—Application and Management Procedures

401.11 Applications for grants.
401.12 Program management.
401.13–401.18 (Reserved)

Subpart D—Reporting

401.19 Reporting procedures.
401.20–401.25 (Reserved)

Subpart E—Evaluation

401.26 Evaluation of institutes.

Authority: Sec. 104, Pub. L. 98–242, 98 Stat. 97 (42 U.S.C. 10303).

Subpart A—General

§ 401.1 Purpose.

The regulations in this part are issued pursuant to Title I of the Water Research Act of 1984 (Pub. L. 98–242, 98 Stat. 97) which authorizes appropriations to, and confers authority upon, the Secretary of the Interior to promote a national program of water-resources research.

§ 401.2 Delegation of authority.

The State Water Research Institute Program, as authorized by Section 104 of the Act, has been established as a component of the USGS. The Secretary of the Interior has delegated to the Director of the USGS authority to take the actions and make the determinations that, under the Act, are the responsibility of the Secretary.

§ 401.3 Definitions.

"Act" means the Water Resources Research Act of 1984 (Pub. L. 98–242, 98 Stat. 97).

"Fiscal year" means a 12-month period ending on September 30.

"Director" means the Director of the USGS or a designee.

"Grant" means the funds made available to an institute in a particular fiscal year pursuant to Section 104 of the Act and the regulations in this chapter.

"Grantee" means the college or university at which an institute is established.

"Granting agency" means the USGS.

"Institute" means a water resources research institute, center, or equivalent agency established in accordance with Title I of the Act.

"Region" means any grouping of two or more institutes mutually chosen by themselves to reflect a commonality of water-resources problems.

"Scientists" means individuals engaged in any professional discipline, including the life, physical or social sciences, and engineers.

"Secretary" means the Secretary of the Interior or a designee.

"State" includes each of the 50 States, as well as Puerto Rico, the Virgin Islands, the District of Columbia, Guam, American Samoa, the Commonwealth of the Mariana Islands, and the Trust Territory of the Pacific Islands.

§ 401.4–401.5 [Reserved]

Subpart B—Designation of Institutes; Institute Programs

§ 401.6 Designation of institutes.

(a) As a condition of application for an initial grant under the provisions of this Chapter, each institute shall provide to the Director written evidence that it conforms to the requirements of subsection 104(a) of the Act, in that:

(1) The institute is established at the college or university in the State that was established in accordance with the Act of July 21, 1862 (12 Stat. 503), *i.e.*, a "land-grant" institution, or;

(2) If established at some other institution, the institute is at a college or university that has been designated by act of the legislature for the purposes of the Act, or;

(3) If there is more than one "land-grant" institution in the State, and no designation has been made according to paragraph (a)(2) of this section, the institute has been established at the one such institution designated by the Governor of the State to participate in the program, or;

(4) The institute has been designated as an interstate or regional institute by two or more cooperating States as provided in the Act.

(b) The certification of designation made pursuant to paragraph (a) of this section shall originate following the issuance of these regulations and be signed by the highest ranking officer of the college or university at which the institute is established.

(c) Any institute not previously established under the provisions of the Water Resources Act of 1964 (Pub. L. 88–379, 78 Stat. 331) or the Water Research and Development Act of 1978 (Pub. L. 95–467, 92 Stat. 1305) shall also, in addition to the annual program application specified in § 401.11 of this chapter, submit to the Director the following information:

(1) Evidence of the appointment by the governing authority of the college or university of an officer to receive and account for all funds paid under the provisions of the Act and to make annual reports to the granting agency on work accomplished; and

(2) Evidence satisfactory to the Director that it has the capability of conducting and effective interdisciplinary water research program and of promoting the application of the results of that research.

§ 401.7 Programs of institutes.

(a) Release of grant funds to participating institutes is conditioned on the ability of each receiving institute to plan, conduct, or otherwise arrange for:

(1) Competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to water resources;

(2) Promotion of the dissemination and application of the results of these efforts; and

(3) Assistance in the training of scientists in relevant fields of endeavor to water resources through the research, investigations, and experiments.

(b) Such research, investigations, experiments and training may include:

(1) Aspects of the hdyrologic cycle;

(2) Supply and demand;

(3) Demineralization of saline and other impaired waters;

(4) Conservation and best use of available supplies of water and methods of increasing such supplies;

(5) Water reuse;

(6) Depletion and degradation of ground-water supplies;

(7) Improvements in the productivity of water when used for agricultural, municipal, and commercial purposes;

(8) The economic, legal, engineering, social, recreational, biological, geographical, ecological, or other aspects of water problems;

(9) Scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific research on water resources problems, and

(10) Providing means for improved communication of research results, having due regard for the varying conditions and needs of the respective States and regions.

(c) An institute may also plan for research, investigations, and experiments to be conducted as part of the institute's program at colleges and universities other than the one at which it has been established. For purposes of financial management, reporting, and other research program management and administration activities, the institute shall be responsible for performance of the activities of other participating institutions.

(d) Each institute shall cooperate closely with other institutes and other research organizations in the region to increase the effectiveness of the institutes, to coordinate their activities, and to avoid undue duplication of effort.

§ 401.8–401.10 [Reserved]

Subpart C—Application and Management Procedures

§ 401.11 Applications for grants.

(a) Subject to the availability of appropriated funds, but not to exceed a total of $10 million, an equal amount of dollars will be available to each qualified institute in each fiscal year to assist it in carrying out the purposes of the Act. The granting agency may retain an amount up to 15 percent of the total appropriation for administrative costs. If the full amount of the available grant funds for any fiscal year has not been requested as of the closing date for receipt of applications, the remaining funds shall be made available to the institutes for amended applications containing additional projects of high priority concern. Selection and approval of such projects shall be based on criteria to be determined by the Director. Any funds which fail to be obligated by the close of the fiscal year for which they were appropriated shall be transferred by the Secretary for use

during the succeeding fiscal year under the terms of section 106 of the Act.

(b) The granting agency will annually make available to qualified institutes instruction for the submittal of application for grants. The instructions will include information pertinent only to a single fiscal year, such as the closing date for applications and the amount of funds initially available to each institute. They will also include notification of the provisions and assurances necessary to ensure that administration of the grant will be conducted in compliance with this chapter and other Federal laws and regulations applicable to grants to institutions of higher learning.

(c) In making its application for funds to which it is entitled under the Act, each institute shall use and follow the standard form for Federal assistance (SF 424, Federal Assistance). No preapplication is required. The institute shall include in Section IV of Standard Form 424 evidence that its application was:

(1) Developed in close consultation and collaboration with the director of the State's department of water resources or similar agency, other leading water resources officials within the State, and interested members of the public;

(2) Coordinated with other institutes in the region for the purposes of avoiding duplication of effort and encouraging regional cooperation in research areas of water management, development, and conservation that have a regional or national character; and

(3) Reviewed for technical merit of its research components by qualified scientists.

(d) Each application shall further include:

(1) A financial plan relating expenditures to scheduled activity and rate of effort to be expended and indicating the times at which there will be need for specified amounts of Federal funds; and

(2) A description of the institute's arrangements for development, administration, and technical oversight of the research program.

(e) Each annual program application is to include separately identifiable project porposals for conduct of research to meet the needs of the State and region. Such proposals must set forth for each project:

(1) The nature, scope and objectives of the project to be undertaken;

(2) Its importance to the State, region, or Nation; its relation to other known research projects already completed or in progress; and the anticipated applicability of the research results;

(3) The period during which it will be pursued;

(4) The names and qualifications of the senior professional personnel who will direct and conduct the project;

(5) Its estimated costs, with a breakdown of the costs per year; and

(6) The extent to which it will provide opportunity for the training of scientists.

(f) Each program application shall contain a plan for disseminating information on the results of research and promoting their application. Plans which require the use of grant funds shall contain:

(1) Definition of the topics for dissemination;

(2) Identification of the target audiences for dissemination;

(3) Strategies for accomplishing the dissemination;

(4) Duties and qualifications of the personnel to be involved;

(5) Estimated costs of each identifiable element of the plan; and

(6) Identification of cooperating entities.

(g) The application shall provide assurance that non-Federal dollars will be available to share the costs of the proposed program. The Federal funds are to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal years ending September 30, 1985, and September 30, 1986, one and one-half non-Federal dollars for every Federal dollar during the fiscal years ending September 30, 1987, and September 30, 1988, and two non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1989.

(h) The granting agency will evaluate the proposals for consistency with the provisions of its instructions and this chapter and within no more than 120 days request any revisions and additions necessary for such consistency.

§ 401.12 Program management.

(a) Upon approval of each fiscal year's proposed program, the granting agency will transmit to the grantee an award document which will incorporate the application and assurances.

(b) The grant is effective and constitutes an obligation of Federal funds in the amount and for the purpose stated in the award document at the time of the Director's signature.

(c) Acceptance of the award document certifies the grantee's assurance that the grant will be administered in compliance with the regulations, policies, guidelines, and requirements of the following OMB circulars, copies of which shall be available from the granting agency:

(1) No. A–21, revised, "Cost Principles for Educational Institutions;"

(2) No. A–67, "Coordination of Federal Activities in the Acquisition of Certain Water Data;"

(3) No. A–88, revised, "Indirect Cost Rates, Audit and Audit Followup at Educational Institutions;"

(4) No. A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations;" and

(5) No. A–124, "Patents—Small Business Firms and Nonprofit Organizations."

§ 401.13–401.18 [Reserved]

Subpart D—Reporting

§ 401.19 Reporting procedures.

(a) The institutes are encouraged to publish, as technical reports or in the professional literature, the findings, results, and conclusions relating to separately identifiable research projects undertaken pursuant to the Act.

(b) Each institute shall submit to the granting agency, by a date to be specified in the award document, an annual program report which provides:

(1) A statement concerning the relationship of the institute's program to the water problems and issues of the State;

(2) A synopsis of the objectives, methods, and conclusions of each project completed within the period covered;

(3) A progress report on each project continuing into the subsequent fiscal year;

(4) Citations of all reports, papers, publications or other communicable products resulting from each project completed or in progress;

(5) A description of all activities undertaken for the purpose of promoting the application of research results;

(6) A description of cooperative arrangements with other educational institutions, State agencies, and others.

(c) One manuscript of reproducible quality and two copies of the annual program report shall be furnished to the granting agency. One copy of a complete report on the objectives, methods, and conclusions of each research project shall be maintained by the institute and open to inspection.

(d) Appropriate acknowledgment shall be given by institutes to the granting agency's participation in financing activities carried out under provisions of the Act. Such acknowledgment shall be included in all reports, publications,

news releases, and other information media developed by institutes and others to publicize, describe, or report upon accomplishments and activities of the program.

(e) An original and two copies of the final "Financial Status Report," SF 269, shall be furnished to the granting agency within 90 days of completion of the grant period.

§ 401.20–401.25 [Reserved]

Subpart E—Evaluation

§ 401.26 Evaluation of institutes.

(a) Within 2 years of the date of its certification according to the provisions of § 401.6, each institute will be evaluated for the purpose of determining whether the national interest warrants its continued support under the provisions of the Act. That determination shall be based on:

(1) The quality and relevance of its water research as funded under the Act;

(2) Its effectiveness as an institution for planning, conducting, or arranging research, including that supported by sources other than the Act;

(3) Its demonstrated performance in making research results available to users in the State and elsewhere; and

(4) Its demonstrated record in providing for the training of scientists through student involvement in its research program.

(b) Teams of evaluators shall be selected by the granting agency on the basis of their knowledge of water research and administration. Each team is to include at least one individual from the following categories:

(1) Employees of the Department of the Interior;

(2) University faculty or administrators with relevant experience in the conduct or administration of water resources research;

(3) Directors of water research institutes from States other than the one being evaluated;

(4) State or local water-resources agency personnel from the State of the institute being evaluated; and

(5) Private citizens who are familiar with water problems and issues of the State.

(c) The granting agency may request recommendations for team selections from the National Research Council/National Academy of Science and from other organizations whose members include the types of individuals cited in paragraph (b) of this section.

(d) The granting agency shall, as an administrative cost, provide the funds for travel and per diem expenses of team members, within the maximum limits allowable under Federal travel regulations.

(e) The granting agency has the right to select dates for the evaluation visits, and notice of the team's visit shall be provided to the institute being evaluated at least 60 days in advance.

(f) It shall be the responsibility of each institute to provide such documentation of its activities and accomplishments as the evaluation team may reasonably request.

(g) Criteria to be used by the evaluation team in making its determination as to the institute's effectiveness shall include:

(1) Accreditation in sufficient disciplines to successfully mount an interdisciplinary research program;

(2) Sufficient resources, including laboratory, library, computer and other such facilities to support the research program;

(3) A sufficiently close administrative realtionship and physical proximity to the university and to all the parts of it needed to provide an effective working relationship with researchers in a wide range of disciplines; and

(4) A demonstrated institutional commitment to the support and continuation of a effective water research program.

(h) Each team shall, within 10 days after completion of its evaluation, submit a written report of its finding to the granting agency for transmittal to the institute. If a institute is found to have deficiencies in meeting the objectives of the Act, it shall be allowed 1 year to correct them and to report such action to the granting agency. The decision as to the institute's eligibility to receive further funding will rest with the granting agency.

(i) After the initial evaluation, each institute shall be reevaluated at least every 4 years.

Dated: December 12, 1984.

Robert N. Broadbent,

Assistant Secretary for Water and Science.

[FR Doc. 85–505 Filed 1–7–85; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[Notice No. 552; Ref: Notice No. 362]

Use of "Natural" in the Labeling and Advertising of Alcohol Beverages

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Withdrawal of "Natural" issue from notice of proposed rulemaking.

SUMMARY: ATF is issuing this notice of withdrawal to inform interested persons that ATF is not pursuing rulemaking defining the term "natural," as originally proposed in Notice No. 362. However, ATF will discuss the current policy on use of the term in a forthcoming ATF ruling. All other issues discussed in Notice No. 362 have been or will be addressed in other documents.

EFFECTIVE DATE: February 7, 1985.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Bureau of Alcohol, Tobacco and Firearms, FAA, Wine and Beer Branch, 1200 Pennsylvania Avenue NW., Washington, DC 20026 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1980, ATF issued Notice No. 362 (45 FR 83530), proposing, *inter alia*, a definition of and standard for use of the word "natural." In essence, ATF believed that the public "assumed" that a "natural" product was one that had been minimally processed and contained no artificial additives. The Bureau took the position that any process other than fermentation constituted more than minimal processing. However, the blending of wines would not constitute more than minimal processing. Due to the distillation process, distilled spirits could not be referred to as "natural."

Comments on Notice No. 362

Of 344 comments received in response to Notice No. 362, 33 addressed the "natural" issue. ATF's belief as to what the public "assumes" the term "natural" conveys, was questioned in the comments. As one commenter aptly put it, "If the goal is to prevent deception of the public, BATF should of course try to conform its definitions to the meanings and usages generally accepted and employed by consumers of alcoholic beverages."

The ATF proposed standard for "natural" was based primarily on the Federal Trade Commission's (FTC) definition of "natural," which was part of their overall Trade Advertising Rule, dating back to 1974 (39 FR 39842, Nov. 11, 1974). Consequently, ATF re-examined the FTC rulemaking record on this issue, from its inception until its termination by FTC in 1983 (48 FR 23276, May 24, 1983).

As a result, ATF now believes that consumers, in general, are confused by the term "natural," and that there is no consensus as to a meaning for the word

This was brought out in the comments received in response to Notice No. 362. For example, some commenters felt that a wine could be labeled as "natural," even with the addition of preservatives. Regarding malt beverages, some commenters agreed with ATF's proposed definition of "natural," specifically, in regard to "minimal processing," while other commenters agreed that "fermentation is only one step in a series of steps in the production of beer. It occurs in the middle of the overall production process, and therefore, *no* beer could be designated as natural." Concerning distilled spirits, one commenter wrote, "distilled spirits are as natural as beer and wine." This confusion over the meaning of the term "natural" was obvious throughout the comments.

FDA Position

On December 21, 1979 (44 FR 76012), the Food and Drug Administration (FDA) published in the **Federal Register**, its comments regarding "natural" claims on food labels. At that time, FDA did not attempt to restrict "natural" claims, since they believed "the development and enforcement of standards in this area would be difficult and might unjustifiably imply to consumers that food labeled 'organic' or 'natural' is inherently superior to other foods in nutrient content and safety," especially since the term is ambiguous and conveys different meanings to consumers. Since that time, FDA has permitted "natural" claims on food products, provided the statements do not imply that such a product is inherently superior in nutrient content or safety. This is also the current position of the Federal Trade Commission.

Conclusion

The Federal Alcohol Administration Act (FAA Act) vests broad authority in the Department of the Treasury to prescribe regulations which will, in part, "prohibit deception of the consumer." To preclude deception, ATF should know how "natural" is understood by consumers. ATF believes the record indicates there is not consensus among consumers, food technologists and nutritionists, as to a meaning for the term. Further, ATF concurs with FTC and FDA, in that no additional regulations should be promulgated addressing the "natural" issue.

Therefore, ATF is terminating further rulemaking on "natural," and is withdrawing all references to the term as proposed in Notice No. 362. However, ATF will discuss the current policy on use of the term in a forthcoming ATF ruling.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and wine.

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors and packaging and containers.

27 CFR Part 7

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports and Labeling.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205, the Director has issued this notice.

Signed: November 7, 1984.

W.T. Drake,

Acting Director.

Approved: December 21, 1984.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 85-543 Filed 1-7-85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Parts 2510 and 2550

Proposed Regulation Relating to the Definition of Plan Assets

AGENCY: Department of Labor.

ACTION: Notice of proposed rulemaking and withdrawal of proposed rule.

SUMMARY: This document contains a proposed regulation that describes what constitute assets of an employee benefit plan for purposes of certain provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act) and the related prohibited transaction provisions of the Internal Revenue Code (the Code). At this time the Department is also withdrawing most of the provisions of two prior notices of proposed rulemaking that dealt with the definition of "plan assets." There has been uncertainty regarding what constitutes "plan assets" for purposes of ERISA, and the regulation, if adopted, will provide guidance to fiducaries of employee benefit plans, participants and beneficiaries of plans, and other affected parties.

DATES: Written comments concerning the proposed regulation must be received by March 11, 1985.

A public hearing on the proposed regulation will be held on April 10 and (if necessary) April 11, 1985.

If adopted, the regulation would be effective for purposes of identifying plan assets at any time on or after 90 days from the date of its publication as a final regulation. The proposed regulation also contains certain transitional provisions.

ADDRESS: Written comments on the proposed regulation (preferably three copies) should be submitted to: Office of Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, Washington, D.C. 20210, Attention: "Proposed Plan Assets Regulation."

The public hearing will be held in the Auditorium, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John S. Hunter, Office of Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, (202) 523-8671, or William A. Schmidt, Plan Benefits Security Division, Office of the Solicitor, (202) 523-9592, U.S. Department of Labor, Washington, D.C. 20210, or Richard A. Ippolito, Assistant Administrator, Office of Policy Planning and Research, Office of Pension and Welfare Benefit Programs, (202) 523-7933 (with respect to matters concerning Executive Order 12291, the Regulatory Flexibility Act or the Paperwork Reduction Act).

SUPPLEMENTARY INFORMATION: Under Title I of ERISA, a person who engages in certain described activities with respect to the assets of an employee benefit plan is considered a "fiduciary" of the plan.[1] In addition, plan administrators and others who manage the assets of employee benefit plans have extensive reporting obligations with respect to the assets of the plan.[2] Thus, the issue of what consititue "plan assets" is central to the provisions of Title I of the Act. However, the statute does not define that term, although it does specifically describe property that

[1] See section 3(21) of ERISA.

[2] See section 101-111 of ERISA.

is *not* considered to be an asset of a plan.[3]

In August, 1979 the Department of Labor (the Department) proposed regulations dealing with the definition of plan assets and with the requirement of ERISA that plan assets be held in trust (the 1979 proposal).[4] In response to that notice, the Department received a great number of comments from interested members of the public, and a public hearing was held on the proposal.[5] The Department reproposed a portion of the regulation in June, 1980 (the 1980 proposal).[6] Additional comments were received by the Department in response to that proposal.

In May, 1982, the Department published final regulations describing the assets that a plan is considered to own when it acquires certain "guaranteed governmental mortgage pool certificates," and dealing with the trust requirement.[7] In the notice adopting those regulations, the Department indicated that it intended to address separately the remaining issues under the 1979 and 1980 proposals.

After further consideration of the issues involved in identifying the assets of an employee benefit plan, the Department has decided that, as discussed below, substantial changes should be made to the portion of the proposed regulation that relates to plan investments in other entities. Moreover, the Department also believes that additional participation by interested members of the public would be helpful and appropriate. Accordingly, the Department is withdrawing the 1980 proposal and most of the provisions of the 1979 proposal and is proposing a new regulation dealing with the definition of "plan assets."

The discussion below summarizes the major issues that have arisen in the context of plan investments in other entities, and describes the way in which the Department proposes to deal with those issues.

Discussion of the Proposal

A. *Scope of the Regulation*—1. *Matters addressed.* Although the most controversial provision of the 1979 proposal was paragraph (e), which dealt with plan investments in equity securities, that proposal contained a comprehensive definition of the term "plan assets." The general rule in that proposal stated that the assets of an employee benefit plan include any property in which a plan has a beneficial ownership interest. In addition, the 1979 proposal contained a series of specific rules in addition to the provision relating to equity securities. These included a provision describing when property held by a plan sponsor would be considered plan assets, a provision relating to certain interest-bearing obligations of the United States (or an agency or instrumentality of the United States), a provision relating to employee contributions to a plan, and a provision relating to insurance contracts.

Many of the issues relating to the government obligations provision of the 1979 proposal were addressed in the Department's final regulation relating to guaranteed governmental mortgage pool certificates. In addition, the Department is separately considering what action to take with respect to the portion of the 1979 proposal that relates to employee contributions.

The new proposal addresses only issues relating to plan investments in other entities. The Department has decided to withdraw the remaining portions of the 1979 proposal (other than the portion relating to employee contributions) because it has concluded that it is inappropriate to attempt to describe what constitute "plan assets" in every conceivable case. In most cases, plan fiduciaries and other interested persons should be able to identify the assets of a plan based on ordinary notions of property rights under non-ERISA law and the terms of any contract to which the plan is a party. Those few remaining cases where the substance of an arrangement under which a plan gives money or other property to another person is such that the money or property should, for purposes of ERISA, be considered "plan assets" in the hands of that person will be dealt with under the Department's existing procedures, including, to the extent necessary, separate additional rulemaking proceedings.

2. *Statutory provisions to which the proposal is applicable.* The regulation that is being proposed by this notice, if adopted, would apply to all provisions of subtitle A and Parts 1 and 4 of subtitle B of Title I of ERISA. Thus, the regulation will be relevant to issues arising under the definitions in section 3 of ERISA as well as issues under the reporting and disclosure and fiduciary responsibility provisions of the Act. It would not be relevant to "minimum standards" issues, such as matters relating to vesting and funding.

The proposed regulation, if adopted, would also apply to section 4975 of the Code (relating to excise taxes with respect to certain prohibited transactions).[8]

With respect to the reporting and disclosure provisions of ERISA, the Department also intends to publish a proposed alternative method of compliance (discussed in K below) for reporting information regarding certain plan investments.

B. *Background of the New Proposal*—1. *Collective investment funds.* In the preambles to both the 1979 proposal and the 1980 proposal, the Department noted that in many cases a plan, although nominally investing its assets in a separate entity, is, as a practical matter, retaining the persons who manage the entity to provide investment management services. Accordingly the proposed regulation contained a "look through" rule which provided that (except in the case of an investment company registered under the Investment Company Act of 1940) where a plan acquires an equity security its assets would be deemed to include the assets of the issuer of the security (as well as the security itself), unless one of the exceptions specified in the proposal applied.[9]

---

[3] Section 401(b)(1) of ERISA provides that, in the case of a plan which invests in any security issued by an investment company registered under the Investment Company Act of 1940, the assets of such plan shall be deemed to include such security, but shall not, solely by reason of such investment, be deemed to include any assets of such investment company. Under section 401(b)(2) of ERISA, when a "guaranteed benefit policy" (as defined in section 401(b)(2)(B)) is issued to a plan by an insurer, the assets of the plan are deemed to include such policy, but do not, solely by reason of the issuance of such policy, includes any assets of the insurer.

[4] 44 FR 50363, August 28, 1979.

[5] Notice extending the period for public comment were published on October 26 and December 18, 1979 (44 FR 61618, 74858). The public hearing on the proposal was held on February 27 and 28, 1980 (see 45 FR 7521, February 1, 1980). The record of the hearing was held open until March 28, 1980, in order to allow interested persons to make additional submissions (transcript of hearing, at 507).

[6] 45 FR 38084, June 6, 1980.

[7] 47 21241, May 18, 1982.

[8] Section 102 of Reorganization Plan Number 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue regulations under most provisions of section 4975 of the Code, including those provisions to which the definition of the term "plan assets" is relevant, to the Secretary of Labor.

[9] The exceptions in the 1979 proposal were for securities issued by companies engaged primarily in the provision, production or sale of a product or service other than the investment of capital (operating companies) and securities that are widely held, freely transferrable and registered pursuant to certain provisions of the Federal securities acts. The 1980 proposal also excluded from the general rule securities issued by companies engaged directly in the management or development of real estate and securities issued by certain venture capital companies.

The Department received many comments regarding the proposed rule for plan investments in equity securities. The commentators expressed concern regarding the practical consequences of characterizing the underlying assets of an entity in which a plan invests as "plan assets" and also raised questions regarding the relationship between the proposed equity security rule and certain other requirements of ERISA. The following discussion addresses many of the issues that were raised by the commentators.

Normally, when an employee benefit plan invests in another entity, it has exchanged an asset (usually cash) for another asset (usually a security issued by the entity) that gives the plan certain rights with respect to the underlying assets of the entity. With respect to most investments, the assets that a plan is considered to have acquired by reason of an investment are determined by reference to the terms of the instrument and applicable non-ERISA law. This general principle was first recognized by the Department in Interpretive Bulletin 57–2,[10] which states that, generally, investment by a plan in securities of a corporation of partnership will not, solely by reason of such investment, be considered to be an investment in the underlying assets of such corporation or partnership so as to make such assets of the entity "plan assets."

Although the new proposal recognizes that the assets of a employee benefit plan generally do *not* include the underlying assets of an entity in which a plan invests, the Department does not believe that this principle can apply in all cases. ERISA itself clearly contemplates that the assets of employee benefit plans will, in certain circumstances, be managed collectively. For example, the reporting and disclosure provisions of ERISA provide special rules for cases where some or all of the assets of a plan or plans are held in a common or collective trust fund maintained by a bank or similar institution or in a separate account maintained by an insurance carrier.[11] In addition, as noted above, ERISA also contains a special rule that provides that the underlying assets of an investment company registered under the Investment Company Act of 1940 are not "plan assets" merely because an employee benefit plan invests in the company.[12] The Conference Report explanation of this provision indicates that the special rule for investment companies was premised on the existence of other Federal regulation and the fact that interests in mutual funds are broadly held.[13] Thus, this provision, too, suggests that the underlying assets of some entities in which a plan may invest should be characterized as "plan assets" so that persons with authority or control over such assets would have fiduciary obligations under ERISA with respect to the investing plans.

2. *Fiduciary duties of fund managers.* The duties of a person who is a fiduciary by reason of his management of assets of a collective investment fund in which employee benefit plans participate are the same as those of any other fiduciary. Among other things, ERISA requires that a fiduciary discharge his duties with respect to the plan solely in the interest of the participants and beneficiaries of the plan and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. In addition, a fiduciary must diversify the investments of the plan so as to minimize the risk of large losses, unless it is clearly prudent not to do so.[14]

By assuming fiduciary obligations, however, the manager of a collective investment fund does not assume full responsibility for the management of the plan itself. Rather, his responsibilities to the investing plans under ERISA would normally be limited to the performance, in accordance with the fiduciary responsibility provisions of the Act, of those investment management services which the plans (by participating in the fund) have in effect retained him to provide.[15] Further, the manager of a collective investment fund may, in appropriate cases, take into account the specialized nature of the fund and the specialized role that a plan's investment in the fund plays in the plan's investment protfolio taken as a whole.[16] For example, a limited partnership whose assets include "plan assets" may have the stated objective of investing in a select group of small business enterprises which involve a high degree of risk. Although the investments of the partnership, taken alone, might be viewed as highly speculative and undiversified, the manager of the partnership could manage its assets in accordance with those stated objectives consistently with the fiduciary responsibility provisions of ERISA if the manager of the partnership is relying on information supplied by each investing plan that demonstrates that investment in the fund would not be inconsistent with the plan's overall investment strategy and which the manager has no reason to believe to be false.[17]

3. *Factors underlying the general rule.* As discussed above, the 1979 proposal and the 1980 proposal were issued because the Department was concerned that, in many cases, when a plan invests in another entity, it is, as a practical matter, retaining the management of the entity to provide investment management services to the plan. Under the new proposal, three factors are relevant in determining whether a particular plan investment is a vehicle for the provision of such investment management services. These are: (1) The nature of the plan's investment; (2) The business activities of the entitly in which the plan invests; (3) The character of other investors in the entity.

With respect to the first factor—the nature of the plan's investment—the Department has tentatively concluded that a plan investment can serve as a vehicle for the indirect provision of

---

[10] 29 CFR 2509.75–2.

[11] Section 103(b)(3)(C) of ERISA.

[12] Section 401(b)(1) of ERISA.

[13] H.R. Rep. No. 1280, 93d Cong., 2d Sess. 296 (1974) (hereafter, "Conference Report").

[14] *See* section 404(a)(1) of ERISA.

[15] *Cf.* 29 CFR 2510.3–21(c)(2) (indicating that a person who is a fiduciary of a plan by reason of rendering investment advice is a fiduciary only with respect to those assets of the plan with respect to which he renders investment advice or over which he exercises discretionary authority or control).

[16] The Department's regulations under section 404 of ERISA make it clear that a person who is an "investment manager" (as defined in section 3(38) of the Act) may rely on, and act on the basis of, information pertaining to a plan provided by or at the direction of the appointing fiduciary, if such information is provided for the stated purpose of assisting the manager in the performance of his investment duties and if the manager does not know and has no reason to know that the information is incorrect. 29 CFR 2550.404a–1. Although this regulatory provision by its terms applies only to persons who are described in section 3(38) of ERISA, that regulation is in the nature of a "safe harbor," and the Department believes that a similar rule applies in the case of other persons who are fiduciaries by reason of providing investment advice or investment management services. Despite such reliance on information furnished by a plan fiduciary, section 405 of ERISA imposes co-fiduciary liability in certain circumstances. Liability under section 405, however, generally is limited to cases where a fiduciary has knowledge of a breach, or has, by reason of his own failure to comply with the fiduciary responsibility provisions of the Act, enabled another fiduciary to commit a breach.

[17] With respect to the collective investment of plan assets, the Department notes that section 403(a) of ERISA provides that plan trustees must have exclusive authority and discretion to manage and control the assets of the plan, except to the extent that the management of plan assets has been properly delegated to one or more duly appointed investment managers or to the extent the trustees are subject to the proper instructions of a named fiduciary.

investment management services only in cases where it provides the plan with an opportunity to participate to a substantial degree in the earnings of the entity to which the investment relates. Thus, the new proposal makes it clear that when a plan acquires a debt instrument its assets include the instrument, but do not include an interest in the underlying assets of the issuer of the instrument.

With respect to the second factor—the business activities of the entity in which the plan invests—the Department continues to believe that it is essential to examine the business activities of an entity's management in order to determine whether it is, in effect, providing investment management services to persons who invest in the entity. Thus, the new proposal retains the "operating company" concept that appeared in the 1979 and 1980 proposals.

Two considerations underlie the third factor—the character of other investors in the entity. First, the Department has tentatively concluded that the management of an entity should not be charged with fiduciary responsibilities under ERISA merely because a plan happens to invest in the entity without any special solicitation on the part of the entity's management. This principle was reflected in the "publicly-offered" exception in the 1979 and 1980 proposals and is extended here. The Department has also tentatively concluded, however, that the fact that employee benefit plans and certain similar investors have acquired a significant portion of a class of equity interests in an entity suggests that the interests have been offered especially to such investors. Where there is such significant plan participation in an investment fund, it is also likely that the investing plans will expect that the assets of the entity will be managed in furtherance of their investment objectives. In such cases, the Department believes that the management of the entity should be held to the standards of an ERISA fiduciary.

C. *General Rule Relating to Plan Investments.*—1. *Description of the general rule.* The proposed regulation recognizes that, as a general matter, when a plan invests in another entity, its assets include its investment, but do not, solely by reason of such investment, include any of the underlying assets of the entity. This position is consistent with Interpretive Bulletin 75–2. The proposed regulation also contains a special rule, however, that is applied when a plan acquires an equity interest in an entity that is neither a publicly-offered security (as defined in paragraph (b) of the proposal) nor a security issued by an investment company registered under the Investment Company Act of 1940. Where this special rule is applicable, the investing plan's assets are considered to include both its investment and an undivided interest in each of the underlying assets of the entity to which the investment relates unless it is established that the entity is an "operating company" (as described in paragraph (c) of the proposal) or that equity participation in the entity by "benefit plan investors" is not "significant" (under the tests set forth in paragraph (d)). The proposal also makes it clear that when a plan does acquire an interest in the underlying assets of an entity in which it invests, then persons with authority or control respecting the management or disposition of such underlying assets, and persons who provide investment advice with respect to such assets for a fee (direct or indirect), are fiduciaries of the investing plan.

The Department intends that, under the proposed regulation, the burden of showing that a particular investment is one to which the special rule applies is to be assigned to the person asserting that managers of an entity are fiduciaries. Thus, the person asserting fiduciary status would have the burden of showing that a particular investment is an "equity interest" and that it is not "publicly-offered." Once it is shown that the special rule applies, however, the Department intends that the burden of showing that the entity is an operating company, or that equity participation in the entity is not significant, is to be assigned to the person who is seeking to avoid fiduciary status.

2. *Organization of the New Proposal.* Paragraph (a) of the new proposal contains the general rule that is applicable to most plan investments in other entities. Paragraphs (b)–(d) define certain terms that are used in paragraph (a). Paragraph (e) of the proposal describes how the general rule of paragraph (a) is to be applied when a plan acquires a joint ownership interest in property or where the value of a plan's interest in an entity is determined solely with reference to identified property or the entity. Paragraph (f) of the new proposal identifies certain entities whose assests always include plan assets by reason of the plan's investment. Paragraph (g) of the new proposal incorporates the rule relating to guaranteed governmental mortgage pool certificates that now appears at 29 CFR 2550.401b–1. Paragraph (h) contains several examples showing the operation of the proposed regulation. Paragraph (i) contains the proposed effective date of the regulation.

D. *Definitions.*—1. *Equity interests.* Under the proposal, the assests of a plan do not include an undivided interest in the assets of an entity in which it invests unless the plan acquires an *equity* interest in the entity. As defined in paragraph (b)(1) of the new proposal, the term "equity interest" includes any interest in an entity other than an instrument that is treated as indebtedness under local law and which has no substantial equity features. Although the question whether the equity features of an instrument are substantial is a factural one, an instrument will not fail to be a debt instrument merely because it has certain equity features—such as additional variable interest and conversion rights—that are incidental to the primary fixed obligation. [18]

The new proposal also specifically provides that a beneficial ownership interest in a trust, a profits interest in a partnership, and a plan's interest in property that it jointly owns with others are equity interests.

2. *"Publicly-offered security."* The term "publicly-offered security" is defined in paragraph (b)(2) of the new proposal to include those securities that were described in an exception to the "look-through" rule of the 1979 proposal—*i.e.* securities that are widely-held, freely transferable and registered pursuant to certain provisions of the Federal securities laws. In this respect, a number of comments were received in response to the 1979 proposal which urged the Department to specifically indicate whether various restrictions on transferability of securities (particularly restrictions relating to limited partnership interests) would cause the securities to fail to be "freely transferable." In general, the Department believes that the extent to which particular restrictions will affect the free transferability of an instrument is a factual question to be resolved on a case-by-case basis. [19]

---

[18] Section 385 of the Code authorizes the Secretary of the Treasury to issue regulations describing whether an interest in a corporation is treated as stock or indebtedness. The characterization of a particular instrument under any regulations that are issued under section 385 may be relevant in determining the characterization to be given the instrument under the regulation being proposed here.

[19] The Department ordinarily will not issue advisory opinions on inherently factual questions. *See* section 5 of ERISA Proc. 76–1 (41 FR 36281, August 27, 1976), the Advisory Opinion Procedure.

The Department has also specifically indicated in the new proposal that a security is not a "publicly-offered security" if it is part of an offering that is directed primarily to tax-exempt entities. Whether a security is offered primarily to tax-exempt entities is also a factual matter to be resolved on a case-by-case basis. Nonetheless, a registered security would be considered to be offered primarily to such investors if it is subject to restrictions on transfer that result, or are likely to result, in the security being acquired primarily by tax-exempt entities, or if the disclosure materials relating to the offering indicate that the investment is intended primarily for such entities. If an equity security is not a "publicly-held security," the consequences of a plan's investment in the security would be evaluated under the special rule for non-public equity interests that was discussed above.

3. "*Operating company.*" a. *Generally.* The definition of "operating company" is substantially the same as one of the exceptions to the general "look through" rule in the 1979 proposal (as modified in the 1980 proposal). The term includes any company that is primarily engaged, either directly or through a majority-owned subsidiary or subsidiaries, in the production or sale of a product or service other than the investment of capital. Since a company is an "operating company" unless it is primarily engaged in the *investment* of capital, certain kinds of entities are operating companies even thought they engage in some of the same activities as an investment manager. For example, a broker-dealer may purchase and sell securities both as agent and for its own account, but such a company would normally be considered an operating company since it is not engaged primarily in the business of acquiring securities for investment. The mere fact that the management of an entity actively manages an investment portfolio, however, is not sufficient to make the entity an operating company. Thus, as illustrated in one of the examples in paragraph (h), a limited partnership that is primarily engaged in investing and reinvesting in securities would not be considered an operating company.

b. *Venture capital companies.* The new proposal also specifically provides that a "venture capital operating company" described in paragraph (c)(2) is to be treated as an "operating company." Under the proposal, a "venture capital operating company" is an entity at least 84 percent of whose assets are invested in venture capital investments (and certain related investments) which, in the ordinary course of its business, actually exercises management rights with respect to one or more of its venture capital investments.

A venture capital investment is defined in the proposal as an investment in an enterprise with respect to which the investor has or obtains the right to substantially participate in, or be substantially influence the conduct of, the enterprise's management. In addition, for purposes of applying the 85 percent test described above, an entity may take into account the value of certain securities acquired in exchange for a venture capital investment and the value of certain investments with respect to which management rights have lapsed as a result of a public offering of securities.

A determination whether an entity meets the 85 percent test for treatment as a venture capital operating company would be made on an annual basis, taking into account the fair market value of all of the entity's assets.

In the Department's view, the 85 percent "bright line" test is a way of clearly identifying those companies that have made a substantial ongoing commitment to the venture capital business and will also give interested persons more certainty in making determinations whether a particular entity is a venture capital operating company. The Department recognizes that the extent to which a venture capital company makes non-venture capital investments may be influenced by transient business or economic conditions, and believes that the test has provisions which take this in account. The Department specifically invites comments, however, on whether the test described above is appropriate in the context of determining whether an entity is a venture capital company. Specifically, the Department invites comments addressing the issue whether a lower percentage figure—such as 80 percent or 75 percent—would be sufficient to assure that only those companies which have a substantial ongoing commitment to venture capital activities would be treated as "venture capital operating companies."

In addition, althought the Department believes that the use of the fair market value of an entity's assets in applying the percentage test will most accurately reflect the actual extent of a company's venture capital activities, it also recognizes that venture capital investments may present difficult valuation problems. Thus, the Department also invites comments on the issue whether other valuation methods—such as the use of book value—would be appropriate in the context of the percentage test.

Under the proposal, the question as to what constitutes a right to substantially participate in or substantially influence the conduct of the management of operating enterprises, and the question of what constitutes participation in or influencing the conduct of the management of operating enterprises, would be determined under the facts and circumstances of each case. The Department is also considering, however, whether it is possible to identify specific characteristics that are indicative of "venture capital investments" (that is, investments with respect to which the holder has rights to "participate in, or influence the conduct of," the management of the entity to which the investment relates) which could be used in developing a more precise and easily applied definition of the term venture capital operating company. For example, it appears that the fact that the holder of corporate securities has the right to appoint one or more directors of the corporation would indicate that the securities are venture capital investments, as would the fact that a representative of the holder of such securities serves as a corporate officer. Other factors may also indicate that an investment is a venture capital investment. These might include the fact that the investment is an equity investment acquired directly from an issuer who does not have outstanding any publicity-offered securities during its formative or "start-up" period, the fact that the investment constitutes a significant portion of the equity capitalization of a nonpublic issuer, and the fact that the holder of an investment has special rights to examine the books and records of the nonpublic entity to which the investment relates. The Department specifically invites comments that address this issue. Such comments should also address the issue whether it would be appropriate to use a higher percentage figure in the definition of the term "venture capital operating company" in the event a more precise method of identifying venture capital investments is developed and included in the final regulation.

Examples in the new proposal illustrate the definition of the term "venture capital operating company." First, as indicated in the example in paragraph (h)(7), a venture capital operating company must acquire rights with respect to the management of its portfolio companies that are more significant than those normally

negotiated by institutional investors with respect to investments in established, credit-worthy companies. These rights may be acquired in connection with debt or equity investments in portfolio companies (as illustrated in paragraph (h)(8)), but may not exist only as a matter of form (example (h)(10)).

A company that acquires the right to substantially participate in, or influence, the conduct of the management of its portfolio companies must also exercise those rights in the ordinary course of its business in order to be considered a venture capital company of the kind described in the new proposal. Nonetheless, it is not necessary under the venture capital provision that the venture capital company actually exercise its rights to influence the management of each company in which it invests. As indicated in the example in paragraph (h)(6), it is sufficient that the venture capital company actually participates in the management of only one company, provided it devotes substantial resources to that effort.

c. *Real estate operating companies.* The new proposal, like the 1980 proposal, also makes it clear that a company that is primarily engaged directly in the management or development of real estate is to be treated as an operating company. The Department anticipates that this provision would operate in a similar way to the specific provision relating to venture capital companies. Accordingly, both the nature of the interests in real estate acquired by the company and the character of its activities with respect to the property would be taken into account in determining whether the entity is a real estate operating company. In addition, the proposed definition of the term "real estate operating company" contains an 85 percent bright line test that is similar to that used in the definition of "venture capital operating company."

With respect to the nature of the interests in real estate acquired by the company, the example in paragraph (h)(12) makes it clear that the entity need not have acquired actual ownership interests in real estate in order to be a real estate operating company, provided its investment gives the company an opportunity to participate in the earnings from the real estate and any appreciation in its value, and provided also that the company obtains and exercises the right to participate in, or influence, the management of the real estate.

With respect to the character of the company's activities, another example (paragraph (h)(11)) makes it clear that the company must actively participate in, or influence, management decisions with respect to the properties in which it has an interest; the mere fact that the company bears the risks associated with ownership of an equity interest in real estate would not cause the company to be considered a real estate operating company. As in the case of venture capital companies, a real estate operating company must in fact devote substantial resources to its management or development activities (see paragraph (h)(13)).

4. *Significant participation by benefit plan investors*—a. *Benefit plan investors.* Under the new proposal, if the entity in which a plan invests is not an operating company, the assets of the entity include plan assets only if equity participation in the entity by "benefit plan investors" is "significant" (under the standard described below). As defined in paragraph (d) of the new proposal, the term "benefit plan investor" includes not only employee benefit plans that are subject to regulation under Title I of ERISA, but also certain order investors that may be expected to have investment objectives similar to those of employee benefit plans. These investors include any plan that is described in section 4975(e)(1) of the Code (whether or not it is also an "employee benefit plan" under Title of ERISA [20]), government plans, and church plans.

In addition, any entity whose assets are considered to include "plan assets" under the new proposal is considered to be a benefit plan investor.

It is important to note that, although the extent of equity participation in an entity on the part of "benefit plan investors" that are not subject to ERISA may be relevant in determining whether assets of the entity include "plan assets," the special rule of the new proposal would be applicable only to investments by plans that *are* subject to Title I of ERISA, or which are described in section 4975 of the Code, or both. Accordingly, the management of an entity which holds plan assets under the rules of the new proposal would have fiduciary obligations under ERISA only to those plans that are subject to the Act. This is illustrated in an example which appears in paragraph (h)(2).

b. *Significant equity participation.* As discussed above, the new proposal provides that the assets of an entity do not include "plan assets" by reason of a plan's investment in the entity if equity participation in the entity by benefit plan investors is not "significant." This provision functions as a "safe harbor" because it will permit a determination to be made that the assets of many entities do not include plan assets without consideration of the essentially factual question of whether the entity is an operating company.

In the Department's view, when benefit plan investors do not hold more than 20 percent of any class of equity interests in an entity, it is reasonable to conclude that no special solicitation of investments by such investors has been made and that there is no substantial expectation that the assets of the entity will be managed in furtherance of the investment objectives of the plan investors. Thus, paragraph (d)(1) of the new proposal provides that equity participation in an entity by benefit plan investors is "significant" on any date, if, immediately after the most recent acquisition of any equity interest in the entity, benefit plan investors in the aggregate hold 20 percent or more of the value of any class of equity interests in the entity.

The Department intends that only the interests of those investors who are independent of the management of an entity would be taken into account for purposes of the test described above. Thus, the new proposal also provides that equity interests in the entity held by any person (other than a benefit plan investor) who would be a fiduciary if the assets of the entity were considered to include plan assets, and any equity interests held by an affiliate of such a person, are to be disregarded in applying the 20 percent test.

E. *Joint ownership of property and related rules.* The new proposal also provides that, where the return on a plan's investment is determined with reference to specific property or where property is jointly owned by a plan with others, that property is to be considered as the sole asset of a separate entity.

The rule relating to joint ownership of property will provide plan officials and other interested persons with a way of analyzing plan assets issues that arise where a plan acquires a shared ownership interest in property. The Department has tentatively concluded that such an investment is analogous to the acquisition of an equity interest in another entity and accordingly should be treated in a similar way.

The rule relating to special classes of securities is intended to assure that only those assets that affect the value of a plan's investment will be taken into

[20] *See* section 3(3) of ERISA and regulations thereunder, 29 CFR 2510.3-3. For example, the term "employee benefit plan" does not include a plan under which only partners or only a sole proprietor are participants under the plan. 29 CFR 2510.3-3(b), (c).

account in determining whether an entity is an operating company.

The new proposal contains two examples illustrating the operation of the special rule described above, one of which deals with a bank participation certificate (paragraph (h)(14)), and one of which deals with a class of equity securities issued by an operating company (paragraph (h)(15)).

F. *Entities that are always considered to hold plan assets.* Paragraph (f) of the new proposal identifies certain entities which, by their nature, are maintained as vehicles for the collective investment of assets held by a financial institution in a fiduciary capacity. Those entities are group trusts, bank collective trust funds, bank common trust funds, insurance company separate accounts, and certain entities that provide benefits described in sections 3(1) and 3(2) of ERISA.

A group trust is exempt from taxation because, under the principles of Rev. Rul. 81–100,[21] it is considered to be part of the qualified employee pension benefit plans that participate in the trust. In addition, under that revenue ruling, each participating plan must adopt the trust as part of the plan in order for the trust to be qualified as a tax-exempt entity. Given this requirement, a group trust must necessarily operate as an investment vehicle for those plans. For example, collective trust funds of banks are maintained as group trusts and, accordingly, the assets of such funds would be considered to be "plan assets" under the new proposal.[22]

Similarly, a common trust fund described in section 584 of the Code is exempt from taxation (and its income is taxable, if at all, to be participants in the fund) because such a fund is, by definition, maintained by a bank "exclusively for the *collective investment and reinvestment* of moneys contributed by the bank" in a fiduciary capacity. [Code Section 584(a)(1)] (emphasis supplied).

Separate accounts of an insurance company are established for the purpose of providing investment alternatives for employee benefit plans that are not influenced by the investment experience of the insurance company with respect to its general assets and are similar to common and collective trust funds. Accordingly, under the proposed regulation, any plan that invests in an insurance company separate account would ordinarily acquire an interest in each of the underlying assets of the separate account by reason of its investment in the account.[23]

The proposed regulation also provides that when a plan acquires an interest in any entity (other than an insurance company licensed to do business in a State) that is established or maintained for the purpose of offering or providing any benefit described in paragraph 3(1) of the Act (relating to welfare plans) or 3(2) of the Act (relating to pension plans), its assets include its interest in the entity and an undivided interest in each of the underlying assets of the entity. The Department has included this provision because it has concluded that in cases where a plan has effectively delegated responsiblity for the activity which causes it to be a plan—*i.e.* providing benefits—by participating in a separate entity that is neither a plan nor an insurance company, the persons who manage that entity should be subject to the provisions of Title I of ERISA, including the fiduciary responsibility provisions of the Act. Thus, for example, the assets of a multiple employer trust in which a plan participates would include "plan assets."[24]

The Department notes that the provision in the new proposal relating to entities that are benefit providers applies only to cases where a plan acquires an interest in an entity, for example where a plan subscribes to an agreement to participate in a trust. The rule does *not* apply to contractual agreements between a plan and another entity pursuant to which the entity provides services to the plan, or directly to its participants and beneficiaries. For example, the new proposal would have no relevance to an agreement between a plan and a health maintenance organization pursuant to which the organization agrees to provide health services to the participants in the plan, and the consideration paid by a plan pursuant to such an agreement would not be considered to be plan assets in the hands of the health maintenance organization. There may, however, be cases where the particular circumstances surrounding an arrangement that is nominally a service contract would require that the amounts paid by the plan to the entity pursuant to the arrangement be characterized as "plan assets." These issues are outside the scope of the proposed regulation.

Finally, the new proposal provides that when a plan owns all of the outstanding equity interests in an entity, the assets of the plan include those equity interests and all of the underlying assets of the entity. This provision reflects the Department's tentative conclusion that when a plan is the sole owner of an entity there is no meaningful difference between the assets of the entity and the assets of the plan.[25] It should be noted that this special rule applies without regard to the nature of the business activities that are conducted by the entity in question. Thus, the assets of an operating company that is owned entirely by a plan would be considered plan assets, and the managers of such an entity would be considered to be ERISA fiduciaries.

G. *Guaranteed Governmental Mortgage Pool Certificates.* In the notice that was published in May, 1982, adopting the final regulation dealing with governmental mortgage pools, the Department indicated that it intended to redesignate that regulation and to incorporate it in any subsequent regulation dealing with the definition of plan assets. Thus, paragraph (g) of the new proposal sets forth the rule relating to governmental mortgage pools that now apears at 29 CFR 2550.401b–1.

H. *Effective Date and Transitional Rule.* As provided in paragraph (i), the new proposal would be effective for purposes of identifying plan assets at

[21] 1981–1 C.B. 326.

[22] See Prohibited Transaction Exemption Application, D–784, dated May 9, 1977, filed by the American Bankers Association (the exemption requested in that application was later granted as Prohibited Transaction Exemption 80–51 (45 FR 49709, July 25, 1980)). This treatment is consistent with regulations of the Comptroller of the Currency authorizing national banks to invest funds collectively "[i]n a fund consisting solely of *assets* of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from taxation under the Internal Revenue Code." 12 CFR 9.18 (emphasis supplied).

[23] *Cf.* Conference Report, at 298–7 (indicating that amounts held by an insurance company under separate account contracts are to be considered as plan assets). The provision relating to insurance company separate accounts specifically excludes interests in those separate accounts that are investment companies registered under the Investment Company Act of 1940 and separate accounts that are maintained in connection with certain fixed obligations of an insurance company which are similar to debt.

[24] Many multiple employer trusts are not themselves plans because they are not established or maintained by either an employee organization (within the meaning of section 3(4) of ERISA) or an employer (within the meaning of section 3(5) of ERISA). The Department also notes that the special rule relating to arrangements that provide benefits described in sections 3(1) and 3(2) of ERISA, also includes, but is not limited to, "multiple employer welfare arrangements, as defined in section 3(40) of ERISA (added by Act of January 14, 1983, Pub. L. 97–475, section 302) in which employee benefit plans participate.

[25] Interpretive Bulletin 75–2 provides in part that if a plan may, by itself, require a corporation or partnership to engage in a transaction with a party in interest that would be prohibited if the transaction were entered into directly by the plan, then such transaction ordinarily would be prohibited. As discussed below, that portion of the Interpretive Bulletin would not be affected by the proposed regulation.

any time on or after 90 days from the date of its publication as a final regulation. The new proposal also provides, however, that the regulation would not apply to plan investments in entities that are in existence on the date of this proposal if no employee benefit plan acquires an interest in the entity from an issuer or an underwriter at any time after May 8, 1985, except pursuant to a binding contract in effect on that date. Determinations of what constitute plan assets with respect to plan investments in entities described in the special transitional rule would be made without regard to the provisions of the regulation, and the characterization of such investments would not be affected by the adoption of a final regulation. Thus, the manager of an entity who wishes to assure that plan investments in the entity will always be evaluated without regard to the regulation may do so by refraining from offering interests in the entity to plans at any time after 120 days from the date of this proposal. In addition, even in cases where the transitional rule does not apply, determinations of what constitute plan assets (and thus determinations of fiduciary status) for periods before the effective date of the final regulations would be made without regard to the regulation. For example, if an allegation is made that the manager of an entity has breached his ERISA fiduciary duties to an investing plan as a result of conduct prior to the effective date of the *final* regulation, a determination whether the assets of the entity included "plan assets" at the time of the alleged breach, and thus a determination whether the entity's manager was an ERISA fiduciary at that time, would be made without regard to the provisions of the regulation.

Several factors are relevant in making determinations of what constitute plan assets with respect to plan investments to which the regulation will never apply as a result of the operation of the transitional rule and in making determinations of what constitute plan assets during periods prior to the effective date of the final regulation. These include the provisions of ERISA itself, the legislative history of ERISA, the Department's rules and regulations under ERISA (including Interpretive Bulletin 75–2, discussed below) and relevant judicial decisions.[26]

I. *Anticipated Revision and Clarification of Interpretive Bulletin 75–2.* As noted above, that portion of Interpretive Bulletin 75–2 which discusses the consequences of a plan's investment in a corporation or partnership is relevant in identifying the assets of a plan during periods prior to the date of this proposal. In addition, the remainder of the Interpretive Bulletin, which discusses certain prohibited transactions under section 406 of ERISA (and section 4975 of the Code), is not affected by the proposed regulation. For example, the Interpretive Bulletin states that where a plan makes an investment in an entity with the expectation that the entity will then lend money to a party in interest, such a transaction is prohibited because the plan't investment has been used indirectly for the benefit of a party in interest.

The Department intends to revise the Interpretive Bulletin at the time of publication of a final "plan assets" regulation to clearly indicate that the rules established by that final regulation apply only for purposes of identifying plan assets on or after the effective date of the regulation and that the Interpretive Bulletin is effective for periods prior to that date and for investments that are subject to the transitional rule.

J. *Prohibited Transaction Considerations.* The effect of the new proposal, if adopted, would be to treat certain entities as pooled funds for collective investment of plan assets. The Department recognizes that when plan assets are invested collectively special problems arise in complying with the prohibited transactions restrictions of section 406 of ERISA (and section 4975 of the Code), and the Department has granted class exemptions from some of the prohibited transaction restrictions for certain pooled investment funds.[27] The Department is prepared to consider similar exemptive relief for those entities whose assets would include plan assets under the rules in the new proposal. In addition, the Department is prepared to consider exemptive relief for those ordinary business transactions involving operating companies whose assets would be considered plan assets under paragraph (f)(2) of the new proposal (relating to cases where an entity is wholly owned by a plan).

The Department is not proposing specific exemptions at this time because it does not believe that it has sufficient information regarding the potential impact of the prohibited transaction provisions of ERISA on the activities of companies whose assets would include plan assets under the new proposal. Accordingly, the Department specifically invites comments that address: (i) The kind of relief that is appropriate in this area, and (ii) the kinds of protective conditions which should be included in an exemption.

K. *Reporting and Disclosure.* As discussed above, the new proposal would apply for purposes of the reporting and disclosure requirements of ERISA as well as the definitional provisions of the Act and its fiduciary responsibility provisions. Since special difficulties are presented in reporting transactions involving collective investment funds whose assets include plan assets, the Department intends to publish, in the near future, a proposed alternative method of complaince that will permit a plan to report only the value of its interest in an entity whose assets include plan assets, provided the entity itself makes certain reports. This proposal would provide for a procedure resembling that under the statutory and regulatory provisions now governing reporting for plan assets held in bank collective trust funds, insurance company separate accounts and master trusts.

Regulation Relating to the Requirement That Plan Assets Be Held in Trust

The 1979 proposal included a proposed regulation under section 403 of ERISA (relating to the requirement that plan assets be held in trust). Most of the issues that were raised by the proposed trust regulation were addressed in the notice adopting a final regulation under section 403 that was published in May, 1982.[28] However, at that time, the Department deferred addressing issues relating to the limited exemption from the trust requirement for employee contributions to welfare plans that was included in the 1979 proposal, and issues relating to an additonal exemption for certain plans maintained as non-stock corporations under section 501(c)(9) of the Code that was suggested by one of the commentators on the 1979 proposal.

The Department has decided that it is not appropriate at this time to repropose a separate exemption from the trust requirement for employee contributions

[26] The Department also recognizes that some plans and entity managers may have structured transactions in reliance on certain provisions of the 1979 proposal and the 1980 proposal; the Department is issuing simultaneously with this proposal a release which indicates that it will generally not assert, in an enforcement proceeding arising out of conduct before May 8, 1985, that the assets of an entity include "plan assets" as a result of plan investment in the entity, provided the assets of the entity would not have included plan assets under the terms of the 1979 proposal or the 1980 proposal and provided the entity in fact relied in good faith on the terms of those proposals.

[27] See Prohibited Transaction Exemptions 78–19 (43 FR 59915, December 22, 1978 (relating to life insurance company pooled separate accounts) and 80–51 (see note 22, above).

[28] 29 CFR 2550.403a–1, 2550.403b–1.

to welfare plans because the issues relating to that exemption are closely related to the issues involved in determining when amounts withheld by, or paid to, an employer as employee contributions should be considered "plan assets." Thus, the Department intends to deal with the proposed exemption at the same time it takes action on the employee contributions portion of the plan assets regulation.

The Department has also decided not to propose an exemption from the trust requirement for non-stock corporations maintained under section 501(c)(9) of the Code because it does not have sufficient information regarding such organizations to determine whether an exemption is appropriate.

Regulatory Flexibility Act

The proposed regulation would not have any significant impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, the Department has defined "small entities" as employee benefit plans covering fewer than 100 persons. While some larger employers have small plans, in general, most small plans are maintained by small businesses. Therefore, assessing the regulation's impact on small plans is an appropriate substitute for evaluating its effect on small business entities. Based on this definition, 90 percent of the pension plans (covering ten percent of all participants) and 99 percent of the welfare plans (covering 40 percent of all participants) are small entities. The Department believes that the proposal will, in effect, not substantially alter existing practices and thus not significantly impact on small or larger plans.

The Department also does not believe that this regulation will substantially affect investment in small entities. Very few of the investments affected by this regulation would be made in small entities in any case. Available data indicates that approximately $1 billion in plan monies are invested in entities affected by the regulation. While the range of total dollars (pension and nonpension) invested per entity varies from $1 million to over $500 million, the available information seems to indicate that few entities handling pension assets would fall within the lower dollar ranges ($1 million to $10 million). Therefore, the undersigned certifies that this regulation will not have a significant effect on a substantial number of small entities.

Executive Order 12291

The Department has determined that the proposed regulatory action would not constitute a "major rule" as that term is used in Executive Order 12291 because the action would not result in: an annual effect on the economy of $100 million; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or 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.

The proposed regulatory action, if adopted, would impose only minor costs, if any, on employee benefit plans. The Department estimates that the net effect of potentially increased investments in certain entities may actually reduce costs for some employee benefit plans.

Paperwork Reduction Act

The proposed plan assets regulation does not contain any new information collection requirements and does not modify any existing requirements. Some plans which have invested in entities affected by the regulation may have additional reporting requirements by virtue of the underlying assets of the entities clearly being considered plan assets; others may have less than they do currently. Since these burdens have on average already been included in the burden for the annual report (form 5500 series), the Department does not feel any additional burden will be realized by plans.

Statutory Authority

The proposed regulation would be adopted pursuant to the authority contained in section 505 of ERISA (Pub. L. 93–406, 88 Stat. 894; 29 U.S.C. 1135) and under section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979); 3 CFR 1978 Comp., 332.

Withdrawal of Proposed Regulation

Paragraphs (a)(1)–(3) and (b)–(e) of the proposed regulation relating to the definition of plan assets (proposed 29 CFR 2550.401(a)(1)–(3), (b)–(e)) that was published in the **Federal Register** on August 28, 1979 (44 FR 50363), are hereby withdrawn. The Notice of Proposed Rulemaking published on June 6, 1980 (45 FR 38084), is also hereby withdrawn.

Written Comments and Public Hearing

The Department invites interested persons to submit written data, views or arguments regarding the proposed regulation. Such written comments (preferably 3 copies) should be submitted to: Office of Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room C–4526, 200 Constitution Avenue, NW, Washington, D.C. 20210, Attention: "Proposed Plan Assets Regulation." All submissions will be open to public inspection in the Public Documents Room, Office of Pension and Welfare Benefit Programs, Room N–4677, 200 Constitution Avenue, NW, Washington, D.C.

The Department has also scheduled a public hearing on the proposed regulation. This hearing will be held on April 10 and (if necessary) April 11, 1985, beginning at 10:00 AM in the Auditorium, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, D.C. Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by 3:30 PM on April 1, 1985: (1) A written request to be heard, and (2) an outline (preferably five copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompanying outline should be submitted to the Office of Regulations and Interpretations at the address given above, but should be marked: "Attention: Plan Assets Hearing."

The Department will prepare an agenda indicating the order of presentation of oral comments. In the absence of special circumstances, each commentator will be alloted 10 minutes in which to complete his presentation. Information about the agenda may be obtained on or after April 8, 1985, by telephoning John S. Hunter, Washington, D.C. (202) 523–8671. Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The public hearing will be transcribed.

List of Subjects

29 CFR Part 2510

Employee benefit plans, Employee Retirement Income Security Act, Pensions.

29 CFR Part 2550

Employee benefit plans, Employee Retirement Income Security Act, Employee Stock Ownership Plans, Exemptions, Fiduciaries, Investments, Investments foreign, Party in interest, Pensions, Prohibited transactions, Real

estate, Securities, Surety bonds, Trusts and trustees.

Proposed Regulation

For the reasons stated above, Chapter XXV, Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2510—[AMENDED]

1. Part 2510 is proposed to be amended by adding a new § 2510.3–101 in the appropriate place to read as follows:

§ 2510.3–101 Definition of "plan assests"—plan investments.

(a) *In general.* (1) This section describes what constitute assets of an employee benefit plan with respect to a plan's investment in another entity for purposes of Subtitle A, and Parts 1 and 4 of Subtitle B, of Title I of the Act and section 4975 of the Internal Revenue Code. Paragraph (a)(2) contains a general rule relating to plan investments. Paragraphs (b) through (d) define certain terms that are used in the general rule. Paragraph (e) describes how the rules in this section are to be applied when a plan owns property jointly with others or where it acquires an equity interest whose value relates solely to identified assets of an issuer. Paragraph (f) contains special rules relating to particular kinds of plan investments. Paragraph (g) describes the assets that a plan acquires when it purchases certain guaranteed mortgage certificates. Paragraph (h) contains examples illustrating the operation of this section. The effective date of this section is set forth in paragraph (i).

(2) Generally, when a plan invests in another entity, its assets include its investment, but do not, solely by reason of such investment, include any of the underlying assets of the entity. However, when a plan acquires an equity interest in an entity that is neither a publicly-offered security nor a security issued by an investment company registered under the Investment Company Act of 1940 its assets include both the equity interest and an undivided interest in each of the underlying assets of the entity, unless it is established that—

(i) The entity is an operating company, or

(ii) Equity participation in the entity by benefit plan investors is not significant.

Therefore, any person who has authority or control respecting the management or disposition of such underlying assets, and any person who provides investment advice with respect to such assets for a fee (direct or indirect), is a fiduciary of the investing plan.

(b) *"Equity interests" and "publicly-offered securities."* (1) The term "equity interest" means any interest in an entity other than an instrument that is treated as indebtedness under applicable local law and which has no substantial equity features. A profits interest in a partnership, an undivided ownership interest in property and a beneficial interest in a trust are equity interests.

(2) (i) A "publicly-offered security" is a security that is widely held, freely transferable, and either—

(A) Part of a class of securities registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934, or

(B) Sold to the plan of an offering of securities to the public pursuant to an effective registration statement under the Securities Act of 1933 and the class of securities of which such security is a part is registered under the Securities Exchange Act of 1934 within 120 days (or such later time as may be allowed by the Securities and Exchange Commission) after the end of the fiscal year of the issuer during which the offering of such securities to the public occurred.

(ii) A security is not a "publicly-offered security" if it is offered primarily to tax-exempt entities.

(c) *"Operating company."* (1) An "operating company" is an entity that is primarily engaged, directly or through a majority owned subsidiary or subsidiaries, in the production or sale of a product or service other than the investment of capital. The term "operating company" includes an entity which is not described in the preceding sentence, but which is a "venture capital operating company" described in paragraph (c)(2) or a "real estate operating company" described in paragraph (c)(3).

(2)(i) An entity is a "venture capital operating company" during the 12 month period beginning on a valuation date described in paragraph (c)(4) if:

(A) On such valuation date at least 85 percent of the fair market value of its assets (other than short term investments of funds pending long term commitment) are invested in venture capital investments described in paragraph (c)(2)(ii)(A) or derivative investments described in paragraph (c)(2)(iii), and

(B) During such 12 month period the entity, in the ordinary course of its business, actually exercises management rights of the kind described in paragraph (c)(2)(ii)(B) with respect to one or more of the enterprises in which it invests.

(ii)(A) A venture capital investment is an investment in an enterprise as to which the investor has or obtains managment rights.

(B) For purposes of this paragraph (c)(2), the term "management rights" means rights to substantially participate in, or substantially influence the conduct of, the management on an enterprise.

(iii)(A) An investment is a derivative investment for purposes of this paragraph (c)(2) if it is—

(*1*) A venture capital investment as to which the investor's management rights have lapsed as a result of a public offering of securities of the enterprise to which the investment relates, or

(*2*) An investment that is acquired by a venture capital operating company in the ordinary course of its business in exchange for an existing venture capital investment in an entity in connection with a public offering of securities of the enterprise to which the investment relates.

(B) An investment ceases to be a derivative investment on the earlier of:

(*1*) The initial date (if any) fixed for the distribution of the assets of the entity holding the investment, or,

(*2*) 10 years from the date of the acquisition of the original venture capital investment to which the derivative investment relates.

(3) An entity is a "real estate operating company" during the 12 month period beginning on a valuation date described in paragraph (c)(4) if on such valuation date at least 85 percent of the fair market value of its assets (other than short term investments pending long term commitment) are devoted directly to the management or development of real estate.

(4) For purposes of paragraphs (c)(2) and (c)(3), the term "valuation date" means a pre-established date, occurring once every 12 months, on which the fair market value of the assets of an entity is determined. A valuation date, once established, may not be changed except for good cause unrelated to a determination pursuant to paragraphs (c)(2) or (c)(3).

(d) *Participation by benefit plan investors.* (1) Equity participation in an entity by benefit plan investors is "significant" on any date if, immediately after the most recent acquisition of any equity interest in the entity, 20 percent or more of the value of any class of equity interests in the entity is held by benefit plan investors (as defined in paragraph (d)(2)). For purposes of determinations pursuant to this paragraph (d), the value of any equity interests held by a person (other than a benefit plan investor) who has

discretionary authority or control with respect to the assets of the entity or any person who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person, shall be disregarded.

(2) A "benefit plan investor" is any of the following—

(i) Any employee benefit plan (as defined in section 3(3) of the Act), whether or not it is subject to the provisions of Title I of the Act,

(ii) Any plan described in section 4975(e)(1) of the Internal Revenue Code;

(iii) Any entity whose underlying assets include plan assets by reason of a plan's investment in the entity.

(3) An "affiliate" of a person includes any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person. For purposes of this paragraph (d)(3), "control," with respect to a person other than an individual, means the power to exercise a controlling influence over the management or policies of such person.

(e) *Joint ownership.* For purposes of this section, where a plan jointly owns property with others, or where the value of a plan's equity interest in an entity relates solely to identified property of the entity, such property shall be treated as the sole property of a separate entity.

(f) *Specific rules relating to plan investments.* Notwithstanding any other provision of this section—

(1) When a plan acquires or holds an interest in any of the following entities its assets include its investment and an undivided interest in each of the underlying assets of the entity:

(i) A group trust which is exempt from taxation under section 501(a) of the Internal Revenue Code pursuant to the principles of Rev. Rul. 81–100, 1981–1 C.B. 326,

(ii) A common or collective trust fund of a bank,

(iii) Any separate account of an insurance company other than—

(A) A separate account that is maintained solely in connection with fixed contractual obligations of the insurance company under which the amounts payable, or credited, to the plan and to any participant or beneficiary of the plan (including an annuitant) are not affected in any manner by the investment performance of the separate account; or

(B) A separate account which is registered as an investment company under the Investment Company Act of 1940,

(iv) Any entity (other than an insurance company licensed to do business in a State) which is established or maintained for the purpose of offering or providing any benefit described in section 3(1) or section 3(2) of the Act to participants or beneficiaries of the investing plan.

(2) When a plan owns all of the outstanding equity interests in an entity, its assets include those equity interests and all of the underlying assets of the entity.

(g) *Governmental mortgage pools.* (1) Where an employee benefit plan acquires a guaranteed governmental mortgage pool certificate, as defined in paragraph (g)(2), the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate.

(2) A "guaranteed governmental mortgage pool certificate" is a certificate backed by, or evidencing an interest in, specified mortgages or participation interests therein and with respect to which interest and principal payable pursuant to the certificate is guaranteed by the United States or an agency or instrumentality thereof. The term "guaranteed governmental mortgage pool certificate" includes a mortgage pool certificate with respect to which interest and principal payable pursuant to the certificate is guaranteed by:

(i) The Government National Mortgage Association;

(ii) The Federal Home Loan Mortgage Corporation; or

(iii) The Federal National Mortgage Association.

(h) *Examples.* The principles of this section are illustrated by the following examples:

(1) A plan, P, acquires debentures issued by a corporation, S, pursuant to a private offering. S is engaged primarily in investing and reinvesting in precious metals on behalf of its shareholders, all of whom are benefit plan investors. By its terms, the debenture is convertible to common stock of S at P's option. At the time of P's acquisition of the debentures, the conversion feature is incidental to S's obligation to pay interest and principal. Although S is not an operating company, P's assets do not include an interest in the underlying assets of S because P has not acquired an *equity* interest in S. However, if P exercises its option to convert the debentures to common stock, it will have acquired an equity interest in S at that time and (assuming that the common stock is not a publicly-offered security and that there has been no change in the composition of the other equity investors in S) P's assets would then include an undivided interest in the underlying assets of S.

(2) A plan, P, acquires a limited partnership interest in a limited partnership, T, which is established and maintained by A, a general partner in T. T has only one class of limited partnership interests. T is engaged in the business of investing and reinvesting in securities. Limited partnership interests in T are offered privately pursuant to an exemption from the registration requirements of the Securities Act of 1933. P acquires 15 percent of the value of all the outstanding limited partnership interests in T, and, at the time of P's investment, a governmental plan owns 10 percent of the value of those interests. T is not an operating company because it is engaged primarily in the investment of capital. In addition, equity participation by benefit plan investors is significant because immediately after P's investment such investors hold more than 20 percent of the limited partnership interests in T. Accordingly, P's assets include an undivided interest in the underlying assets of T, and A is a fiduciary of P with respect to such assets by reason of its discretionary authority and control over T's assets. Although the governmental plan's investment is taken into account for purposes of determining whether equity participation by benefit plan investors is significant, nothing in this section imposes fiduciary obligations on A with respect to that plan.

(3) Assume the same facts as in paragraph (h)(2), except that P acquires only 5 percent of the value of all the outstanding limited partnerhsip interests in T, and that benefit plan investors in the aggregate hold only 10 percent of the value of limited partnerhsip interests in T. Under these facts, there is no significant equity participation by benefit plan investors in T, and, accordingly, P's assets inlcude its limited partnership interest in T, but do not include any of the underlying assets of T. Thus, A would not be a fiduciary of P by reason of P's investment.

(4) Assume the same facts as in paragraph (h)(3) and that the aggregate value of the outstanding limited partnership interests in T is $10,000 (and that the value of the interests held by benefit plan investors is thus $1,000). Also assume that an affiliate of A owns limited partnership interests in T having a value of $5,500. The value of the limited partnership interests held by A's affiliate are disregarded for purposes of determining whether there is significant equity participation in T by benefit plan investors. Thus, the percentage of the aggregate value of the limited partnership interests held by benefit plan investors in T for purposes of such a determination is approximately 22.2% ($1,000/$4,500). Therefore there is significant benefit plan investment in T.

(5) A plan, P, invests in a limited partnership, U, pursuant to a private offering. There is signficant equity participation by benefit plan investors in U. U acquires equity positions in the companies in which it invests, and, in connection with these investments, U negotiates terms that give it the right to participate in or influence the management of those companies. On its most recent valuation date, more than 85 percent of the fair market value of U's assets consisted of investments with respect to which U obtained management rights of the kind described above. U's managers routinely consult informally with, and advise, the management of its portfolio companies. U is a venture capital operating company and

therefore P has acquired its limited partnerhsip investment, but has not acquired an interest in any of the underlying assets of U. Thus, none of the managers of U would be fiduciaries with respect to P solely by reason of its investment.

(6) Assume the same facts as in paragraph (h)(5) and the following additional facts: U has invested in 10 portfolio companies and has obtained the right to substantially participate in, or to substantially influence, the conduct of the management of each company. U in fact routinely consults with and advises the management of only one company, although it devotes substantial resoureces to its consultations with that company. With respect to the other 9 portfolio companies, U relies on the managers of other entities to consult with and advise the companies' management. In this situtation, the mere fact that U does not participate in or influence the management of all its protfolio companies does not affect its characterization as a venture capital operating company.

(7) Assume the same facts as in example (h)(5), except that U invests primarily in debt instruments with respect to which it negotiates only those restrictive covenants that are typical of debt instruments of established, creditworthy companies that are purchased privately by institutional investors. Accordingly U has no right to, and does not, substantially participate in, or substantially influence, the management of entities in which it invests. U is not a venture capital operation company. Therefore, P has acquired an undivided interest in each of U's assets and persons with discretionary control over those assets (or who render investment advice with respect to such assets for a fee) are fiduciaries of P.

(8) Assume the same facts as in paragraph (h)(5) and the following additional facts: U invests in debt securities as well as equity securities of its protfolio companies. In some cases U makes debt investments in companies in which it also has an equity investment; in other cases U only invests in debt instruments of the portfolio company. U's debt investments are acquired pursuant to private offerings and U negotiates covenants that give it the right to substantially participate in or to substantially influence the conduct of the management of the companies issuing the obligations. These covenants give U more significant rights with respect to the portfolio companies' management than the coventants ordinarily found in debt instruments of established, creditworthy companies that are purchased privately by institutional investors. U routinely consults with and advises the management of its portfolio companies. The mere fact that U's investments in portfolio companies are debt, rather than equity, will not cause U to fail to be a venture capital operating company, provided it actually obtains the right to substantially participate in or influence the conduct of the management of its portfolio companies and provided that in the ordinary course of its business it actually exercises those rights.

(9) Assume the same facts as in example (h)(5), except that U's managers do not routinely consult with or advise the management of its portfolio companies. U will, however, consult with the management of its portfolio companies if such consultations are requested. Such consultations are in fact sporadic and usually relate to specific transactions. U is not a venture capital operating company. Therefore, P has acquired an undivided interest in each of U's assets and persons with discretionary control over those assets (or who render investment advice with respect to such assets for a (fee) are fiduciaries of P.

(10) Assume the same facts as in example (h)(5) except that on U's most recent valuation date 80 percent of its assets were invested in enterprises with respect to which U clearly has rights to substantially participate in, or substantially influence the management of such enterprises and that another 10 percent of U's assets were invested in securities of a corporation with respect to which U obtained similar rights, including the right to appoint a director to the corporation's board. At the time it acquired those securities, however, U assured the management of the corporation that it did not intend to actually exercise its management rights and that if it did exercise the right to appoint a director, it would instruct the director to vote in accordance with the wishes of the company's inside directors. For purposes of applying the 85 percent test in paragraph (c)(2)(i)(A), investments with respect to which the holder obtains management rights that exist as a matter of form only are not treated as venture capital investments. Thus, U has failed to meet the requirements of paragraph (c)(2)(i)(A) on its most recent valuation date and therefore, it is not a venture captial operating company. Accordingly, P has acquired an undivided interest in each of U's assets and persons with discretionary control over those assets (or who render investment advice with respect to such assets for a fee) are fiduciaries of P.

(11) A plan, P, invests (pursuant to a private offering) in a limited partership, V, that is engaged primarily in investing and reinvesting assets in equity positions in real property. The properties acquired by V are subject to long-term leases under which substantially all management and maintenance activities with respect to the property are the responsibility of the lessee. V is not engaged in the management or development of real estate merely because it assumes the risks of ownership of income-producing real property, and V is not a real estate operation company. If there is significant equity participation in V by benefit plan investors, P will be consider to have acquired an undivided interest in each of the underlying assets of V.

(12) A plan, P, acquires a limited partnership interest in W pursuant to private offering. There is significant equity participations in W by benefit plan investors. W is engaged in the business of making "convertible loans" which are structured as follows: W lends a specified percentage of the cost of acquiring real property to a borrower who provides the remaining capital needed to make the acquisition. This loan is secured by a mortgage on the property. Under the terms of the loan, W is entitled to receive a fixed rate of interest payable out of the initial cash flow from the property and is also entitled to that portion of any additional cash flow which is equal to the precentage of the acquisition cost that is financed by its loan. Simultaneously with the making of the loan, the borrower also gives W an option to purchase an interest in the property for the original principal amount of the loan at the expiration of its initial term. W's percentage interest in the property, if it exercises this option, would be equal to the percentage of the acquisition cost of the property which is financed by its loan. the parties to the transaction contemplate that the option ordinarily will be exercised at the expiration of the loan term if the property has appreciated in value. W and the borrower also agree that, if the option is exercised, they will form a limited partnership to hold the property. W negotiates loan terms which give it rights to substantially influence, or to substantially participate in, the management of the property which is acquired with the proceeds of the loan. These loan terms give W significantly greater rights to paticipate in the management of the property than it would obtain under a conventional mortgage loan. In addition, under the terms of the loan, W and the borrower ratably share any capital expenditures relating to the property. On its most recent valuation date, more than 85 percent of the fair market value of W's assets consisted of real estate investment of the kind described above. W, in the ordinary course of its business, routinely exercises its management rights and frequently consults with and advises the borrower and the property manager. Under these facts, W is a real estate operating company. Thus, P's assets include its interest in W, but do not include any of the underlying assets of W.

(13) A plan, P, buys stock in a corporation, X, which is acquired pursuant to a private offering. In the ordinary course of its business, X purchases commercial properties which it actively manages as well as undeveloped land which it develops for commercial use. X also manages properties owned by others. On its most recent valuation more than 85 percent of the fair market value of X's assets are devoted to these management and development activities. X maintains a staff of employees who preform management and development services, but X also retains independent contractors to perform some tasks. Under these facts, X is a real estate operating company. Thus, P's assets include its interest in X, but do not include any of the underlying assets of X.

(14) In a private transaction, a plan, P, acquires a 25 percent participation in a debt instrument that is held by a bank. Since the value of the participation certificate relates solely to the debt instrument, that debt instrument is, under paragraph (e), treated as the sole asset of a separate entity. Equity participation in that entity by benefit plan investors is significant since the value of the plan's participation exceeds 20 percent of the value of the instrument. In addition, the hypothetical entity is not an operating company because it is primarily engaged in

the investment of capital (*i.e.* holding the debt instrument). Thus, P's assets include the participation and an undivided interest in the debt instrument, and the bank is a fiduciary of P to the extent it has discretionary authority or control over the debt instrument.

(15) In a private transaction, a plan, P, acquires 25% of the value of a class of equity securities issued by an operating company, Y. These securities provide that dividends shall be paid solely out of earnings attributable to certain tracts of undeveloped land that are held by Y for investment. Under paragraph (e), the property is treated as the sole asset of a separate entity. Thus, even though Y is an operating company, the hypothetical entity whose sole assets are the undeveloped tracts of land is not an operating company. Accordingly, P is considered to have acquired an undivided interest in the tracts of land held by Y. Thus, Y would be a fiduciary of P to the extent it exercises discretionary authority or control over such property.

(16) A medical benefit plan, P, acquires a beneficial interest in a trust, Z, that is not an insurance company licensed to do business in a State. Under this arrangement, Z will provide the benefits to the participants and beneficiaries of P that are promised under the terms of the plan. Under paragraph (f)(1)(iv), P's assets include its beneficial interest in Z and an undivided interest in each of its underlying assets. Thus, persons with discretionary authority or control over the assets of Z would be fiduciaries of P.

(i) *Effective date and transitional rules.* This section is effective for purposes of identifying the assets of a plan on or after [90 days after publication of a final rule]. However, this section shall not apply to investments in an entity existing on January 4, 1985 if no employee benefit plan acquires an interest in the entity from an issuer or an underwriter at any time after May 8, 1985, except pursuant to a binding contract with an issuer or underwriter to acquire an interest in the entity in effect on May 8, 1985.

PART 2550--[AMENDED]

§ 2550.401b-1 [Removed]

2. Part 2550 is proposed to be amended by removing § 2550.401b-1.

(Sec. 505, ERISA (Pub. L. 93-406, 88 Stat. 894; 29 U.S.C. 1135), Sec. 102, Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979); 3 CFR 1978 Comp., 332)

Signed at Washington, D.C., this 2d day of January 1985.

Robert A.G. Monks,

Administrator, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-504 Filed 1-7-85; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Delaware Water Gap National Recreation Area; Pennsylvania and New Jersey

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; with request for comments.

SUMMARY: This rulemaking pertains to fees charged to commercial vehicles operated on U.S. Highway 209 within Delaware Water Gap National Recreation Area, Pennsylvania. Pub. L. 98-63 provided for the establishment of a fee schedule for commercial vehicles exempted from the prohibition found in National Park Service general regulations. The Service published an Interim Final Rule in the **Federal Register** on October 14, 1983 (48 FR 46779), establishing a per trip, one way fee schedule ranging from $0.50 for two axle cars/vans or pickups to $5.00 for a five or more axle vehicle. After an analysis of commercial vehicle use and National Park Service operating costs, the Service is now proposing to increase the fees for authorized commercial vehicles which will range from $1.00 for two axle cars/vans or pickups to $10.00 for a five or more axle vehicle. This proposed increase is intended to recover a larger proportion of the estimated costs of management, operations, maintenance and construction activities related to U.S. Highway 209.

DATE: Written comments will be accepted until February 7, 1985.

ADDRESS: Comments should be addressed to: Superinterdent, Delaware Water Gap National Recreation Area, Bushkill, PA 18324.

FOR FURTHER INFORMATION CONTACT: Albert A. Hawkins, Superintendent, Delaware Water Gap National Recreation area, Telephone: 717/588-6637.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1983, Pub. L. 98-63 was enacted restricting commercial vehicle use on U.S. Highway 209 and mitigating the conditions of 36 CFR 5.6, which otherwise would be applicable. Pub. L. 98-63 authorized certain commercial vehicles to use the highway and directed that fees be established, not to exceed $10.00 per trip, for certain commercial vehicle operations on U.S. Highway 209. On October 14, 1983, the National Park Service published in the **Federal Register**, special regulations codified as 36 CFR 7.71 (d) and (e) to implement Pub. L. 98-63.

The commercial vehicles authorized to operate within the boundaries by the 1983 special regulations are those vehicles: (i) Operated by businesses based wtihin the recreation area; (ii) operated by businesses that, as of July 30, 1983, operated a commercial vehicular facility in Monroe, Pike or Northampton Counties, Pennsylvania, when the vehicular operation originates or terminates at such facilitiy; or (iii) operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area.

In accordance with Pub. L. 98-63, the National Park Service also published, as part of § 7.71 (e) (i), a fee schedule based on the number of axles of lightweight, and heavy commercial vehicles. By law, the fees collected are for the management, operation, construction, and maintenance of U.S. Highway 209 within the boundary of the recreation area.The interim fees were based on the probable impact of vehicles on road structure. Rates were calculated for four-wheel vehicles and four-wheel vehicles with trailers at $.25 per axle and for vehicles with more than four wheels at $1.00 per axle. The interim fees were determined as follows:

$.50—two axle car, van or pickup
$1.00—two axle—four wheel vehicle with trailer
$2.00—two axle—six wheel vehicle
$3.00—three axle vehicle
$4.00—four axle vehicle
$5.00—five or more axle vehicle

The closure and exceptions provisions of Pub. L. 98-63, absent any additional Congressional action, were to terminate on December 31, 1983. Congress directed in Pub. L. 98-63 that, in the interim, a commission be established to make recommendations to Congress by October 30, 1983, regarding a permanent transportation improvement program in the affected area. The 209 Commission was directed, among other things, to evaluate the statutory closure and exceptions. Their report was transmitted to Congress on October 30, 1983.

The statutory closure of U.S. Highway 209 was amended and extended until December 31, 1985 by passage of Pub. L. 98-151 on November 14, 1983. In addition to the exemptions established by Pub. L. 98-63, Pub. L. 98-151 also provided for exemptions to the closure for up to 150 northbound and 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York.

The National Park Service has now analyzed the information concerning the permitted commerical use of U.S. Highway 209. This analysis indicates that the interim fees as published on October 14, 1983 are too low. Consequently, the decision was made to propose to increase these fees based on the following:

The recommendation of the Congressionally mandated 209 Commission (U.S. 209 Congressional Commission Report, October, 1983), to continue collecting a toll not to exceed $10.00 per trip. In fact, the 209 Commission, in their deliberations following the public input process, expressed their intent that the fees should be increased to the $10.00 maximum per trip.

Revised estimates of costs for the management, operation, construction and maintenance of U.S. Highway 209. These revised estimates currently exceed the projected revenues to be collected even under the proposed fee schedule. Additional costs include increased personnel requirements for fee collection and administrative tasks, operation and maintenance costs of the vehicle contact stations, repair of bridges, roadway and shoulders, and removal of snow and ice.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to offer the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections to the address noted at the beginning of this rulemaking.

Drafting Information

The principal author of this rulemaking is Paul R. Anderson, Delaware Water Gap National Recreation Area, National Park Service, Bushkill, Pennsylvania 18324.

Paperwork Reduction Act

The rulemaking contains no provision that would entail the collection of information or require compliance with 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

An Environmental Assessment and Finding of No Significant Impact has been prepared on the imposition of the fee schedule. The revision of the fee schedule is within the range of alternatives initially discussed, and does not constitute a significant deviation from the original proposed action. The final EIS on the management of U.S. Highway 209 (September 1982) addresses the impacts of commercial vehicular traffic on U.S. Highway 209 and the diversion of that traffic. Copies of these documents are available at the address noted at the beginning of this notice. The Department has determined that it is not necessary to prepare any additional documents concerning this regulation in order to comply with the National Environmental Policy Act (42 U.S.C. 4321 *et. seq.*).

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5, U.S.C. 601 *et seq.*). The rule will affect about 200 small businesses. Using U.S. Highway 209 and paying the proposed fee is less costly than using an alternative route; therefore, the net economic effect is positive.

Authority: 16 U.S.C. 1 and 3 and Pub. L. 98-63.

List of Subjects in 36 CFR Part 7

National parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend 36 CFR, Chapter I as follows:

1. In § 7.71, paragraph (e)(1) is revised to read as follows:

§ 7.71 Delaware Water Gap National Recreation Area.

* * * * *

(e) *Commercial vehicle fees*—(1) *Fee Schedule:* Fees will be charged for those commercial vehicular use as described in paragraphs (d) (i), (ii) and (iii) of this section, based upon the number of axles and wheels on the vehicle, regardless of load or weight, as follows:

(i) Two axle cars/vans or pickups	$1.00
(ii) Two axle 4-wheel vehicle with trailer	2.00
(iii) Two axle 6-wheel vehicle	4.00
(iv) Three axle vehicle	6.00
(v) Four axle vehicle	8.00
(vi) Five or more axle vehicle	10.00

The fees charged are for one trip, one way.

* * * * *

Dated: December 6, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-502 Filed 1-7-85; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD-FRL-2753-1]

Stack Height Regulation; Corrections and Clarifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of corrections and clarifications to proposed rule.

SUMMARY: This notice identifies two errors published in the notice of proposed rulemaking on November 9, 1984 (49 FR 44878), concerning revisions to EPA's stack height regulation and provides corrections and clarifications.

DATES: The public comment period for proposed revisions to the stack height regulation will end on January 9, 1985. A public hearing will be held on January 8, 1985, at 9:00 a.m., as noted in the announcement published on December 11, 1984, at 49 FR 48202. The hearing record and a supplemental comment period will be held open until January 24, 1985.

ADDRESS: Background material for this action is located in Docket A-83-49, West Tower Lobby Gallery, EPA, 401 M Street, SW., Washington, D.C. 20460. The docket may be examined between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for photocopying. All written comments should be submitted (in triplicate, if possible) to: Central Docket Section, Docket A-83-49, EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Eric O. Ginsburg, Office of Air Quality Planning and Standards, Control Programs Development Division, (MD-15), EPA, Research Triangle Park, North Carolina 27711, (919) 541-5540.

SUPPLEMENTARY INFORMATION: On November 9, 1984, in response to a decision by the U.S. Court of Appeals for the D.C. Circuit (719 F.2d 436), EPA proposed revisions to the stack height regulation that was promulgated on February 8, 1982 (47 FR 5864). Further information on the court decision and specific revisions to the regulations are contained in the November 9, notice.

Two corrections to the notice of proposed rulemaking are needed. Footnote 1 to the text of the proposed regulation on page 44887 states that "The language in parentheses would be added if the second option under 'Nearby' is adopted." That footnote should have read, "The language in parentheses would be added if the

second option under '*Excessive Concentrations*' is adopted."

On page 44882, column 2, the notice states that "EPA also conducted several modeling exercises using the Industrial Source Complex (ISC) Model in an effort to better define the reliability of the [good engineering practice (GEP)] formula. The results of this modeling indicated that when emission limitations are calculated based on controlling atmospheric stabilities other than downwash, and using a GEP formula stack, the predicted concentrations in all cases were greater than or equal to the NAAQS under downwash conditions." This statement was to have been deleted from the notice prior to publication, but was inadvertently included. While the statement is not inaccurate, it was EPA's opinion that additional ISC modeling should be conducted prior to drawing any conclusions from the study. That modeling has been completed, but the final report will not be available for inclusion in the docket to the notice of proposed rulemaking. Consequently, EPA is not relying on, or planning to rely on, ISC modeling in its conclusions about the validity of the (GEP) formula at this time.

Individuals wishing to modify their comments on the proposed revisions to the stack height regulation to reflect the above corrections will be allowed to do so until January 24, 1985, when the hearing record and supplemental comment period ends.

List of Subjects in 40 CFR Part 51

Administrative practice and procedures, air pollution control, intergovernmental relations, reporting and recordkeeping requirements, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, hydrocarbons, carbon monoxide.

Dated: January 3, 1985.

Joseph A. Cannon,

Assistant Administrator for Air and Radiation.

[FR Doc. 85-583 Filed 1-7-85; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-10-FRL-2746-8]

Approval and Promulgation of State Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to invite public comment on EPA's proposal to approve amendments to the Oregon Department of Environmental Quality (ODEQ) rules for municipal incinerators and open field burning as revisions to the Oregon State Implementation Plan (SIP). These amended rules were submitted on January 16, 1984 and March 14, 1984 by ODEQ, after adequate opportunity for public, private and industry input.

DATE: Comments will be accepted until February 7, 1985.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Air Programs Branch (10A-84-5), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, 522 SW. Fifth, Yeon Building, Portland, Oregon 97207

Comments should be addressed to:

Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-8577, (FTS) 399-8577.

SUPPLEMENTARY INFORMATION:

I. Plan Revisions

On January 16, 1984 ODEQ submitted amendments to its rules for refuse burning equipment (OAR 340-21-005, 025, and 027), which revise the emission limits applicable to small to medium-size municipal waste incinerators in the coastal areas of Oregon. These amendments relax emission limits for incinerators with capacities between 2.4 and 50 tons per day and tighten emission limits for incinerators with capacities greater than 50 tons per day. These new emission limits are consistent with the current actual emissions of the affected incinerators. On May 23, 1984 ODEQ submitted modeling results demonstrating that, under worst-case assumptions, the new allowable emission limits would not result in violations of the National Ambient Air Quality Standard or Prevention of Significant Deterioration increments for total suspended particulates (TSP). EPA is therefore proposing to approve the amended rules.

On March 14, 1984 ODEQ submitted amendments to its rules for open field buring in the Willamette Valley (OAR 340-26-001 through 045). These amendments completely restructure and revise the existing rules. However, the revisions are strictly procedural, and do not affect the amount of acreage allowed to be burned or the controls embodied in the EPA-approved smoke management plan. EPA is therefore proposing to approve the amended rules.

II. Summary of Action

EPA has determined that the amended rules satisfy the requirements of the Act and is therefore proposing to approve the following as revisions to the Oregon SIP:

(1) Amended emission limitations for municipal waste incinerators in the coastal areas of Oregon, specifically: the addition of new definitions OAR 340-21-005(1) and (4); an amendment to OAR 340-21-025(2)(b); and the addition of new emission limitations in OAR 340-21-027; and

(2) Amended rules for open field burning in the Willamette Valley, specifically: the addition of new secs. 340-26-001 "Introduction," 340-26-003 "Policy," 340-26-031 "Burning by Public Agencies (Training Fires)," 340-26-035 "Experimental Burning," 340-26-040 "Emergency Burning, Cessation," and 340-26-045 "Approved Alternative Methods of Burning (Propane Flaming); revisions to sections 340-26-005 "Definitions," 340-26-013 "Acreage Limitations, Allocations," 340-26-015 "Daily Burning Authorization Criteria," 340-26-025 "Civil Penalties," and 340-26-030 "Tax Credits for Approved Alternative Methods and Approved Alternative Facilities; "the deletion of the existing section 340-26-010 "General Provisions" and replacing it with a new section 340-26-010 "General Requirements;" the deletion of the existing section 340-26-012 "Registration and Authorization of Acreage to be Open Burned" and replacing it with a new section 340-26-012 "Registration, Permits, Fees, and Records;" and the deletion of sections 340-26-011 "Certified Alternative to Open Field Burning," and 340-26-020 "Winter Burning Season Regulations."

Interested parties are invited to comment on all aspects of these proposed revisions to the Oregon SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by February 7, 1985 will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under secs. 110, 161, and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 40 CFR Part 52

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

(Secs. 110(a) and 301(a) of the Clean Air Act (42 U.S.C. 7410(a) and 7601(a)))

Dated: December 4, 1984.

Nora L. McGee,

Acting Regional Administrator.

[FR Doc. 85-546 Filed 1-7-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 62

[CC Docket No. 84-1330; FCC 84-627]

Applications to Hold Interlocking Directorates; Amendment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice, the Commission proposes to revise existing Rules dealing with applications for authorizations to serve on interlocking directorates. It would forbear from requiring non-dominant carriers to file such applications, and would require dominant carriers to continue to file applications pursuant to simplified rules. This action continues implementation of the Commission's forbearance policy, and will greatly reduce administrative burdens.

DATES: Comments are due by February 6, 1985 and replies by February 21, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gay Ludington, Enforcement Division, Common Carrier Bureau (202) 632-4887. Deborah Lerner, Enforcement Division, Common Carrier Bureau (202) 632-4890.

SUPPLEMENTARY INFORMATION: The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission

List of Subjects in 47 CFR Part 62

Communications common carriers, Radio, Telegraph, Telephone.

Proposed Rulemaking

In the matter of amendment of Part 62 of the Commission's Rules; CC Docket No. 84-1330; FCC 84-627.

Adopted: December 12, 1984.
Released: December 31, 1984.

By the Commission.

I. Introduction

1. We are instituting a rulemaking proceeding in order to clarify and simplify the rules contained in 47 CFR Part 62 implementing section 212 of the Communications Act, 47 U.S.C. 212, which deals with interlocking directorates.[1] Our purpose in initiating this proposed rulemaking is to assure that the burden imposed by these Rules is commensurate with our statutory oversight obligations in the context of the current industry environment. We propose, in this Notice, to continue our efforts to remove regulatory burdens that are no longer necessary to protect against unjust, unreasonable or discriminatory rates and practices on the part of the carriers. It is our intention to eliminate rules which no longer serve the purpose for which they were designed and to apply the remaining rules, as revised, with reduced informational requirements, only in circumstances which clearly warrant regulatory scrutiny.

2. Section 212 prohibits any person from holding the position of officer or director of more than one carrier subject to the Act without obtaining prior Commission authorization.[2] Presently, an individual seeking to hold positions with more than one non-affiliated carrier is required under section 212 to file a detailed application in conformance with 47 CFR 62.3(a) and 62.11. Authorization may be granted upon a showing by the applicant that neither public nor private interests will be harmed. To determine whether this will occur, the Commission presently considers several factors including, but not limited to, the potential for anticompetitive conduct, diminution in the ability of each involved carrier to act independently, and the possibility of conflicts of interest on the part of common directors or officers in violation of the fiduciary duties imposed upon them. *See In re Application of Walter S. Gifford,* 2 FCC 741 (1935).[3] Section 212 also provides that the Commission may authorize interlocking directorates between carriers, without being required to determine whether there will be any adverse effect, where if finds that one of the two or more carriers directly or indirectly owns more than 50 percent of the stock of the other(s), or that 50 percent or more of the stock of all such carriers is directly or indirectly owned by the same person.[4] An applicant seeking a finding that carriers are "commonly owned" as defined in 47 CFR 62.2(c) is required to file a brief application, pursuant to 47 CFR 62.3(b) and 62.12.

3. Commission regulation of proposed interlocks under section 212 was historically utilized to protect against anticompetitive behavior by carriers in what was an environment generally devoid of competition. We have recently entered into an era of competition in which numerous carriers provide an array of desired communications services. The vast majority of these carriers lack sufficient market power to

[1] The full text of section 212 reads: After sixty days from the enactment of this Act it shall be unlawful for any person to hold the position of officer or director of more than one carrier subject to this Act, unless such holding shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission that neither public nor private interests will be adversely affected thereby: Provided, That the Commission may authorize persons to hold the position of officer of director in more than one such carrier, without regard to the requirements of this section, where it has found that one of the two or more carriers directly or indirectly owns more than 50 per centum of the stock of the other or others, or that 50 per centum or more of the stock of all such carriers is directly or indirectly owned by the same person. After this section takes effect it shall be unlawful for any officer of director of any carrier subject to this Act to receive for his own benefit directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carriers, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such carriers from any funds properly included in capital account.

[2] We note that we have received applications which show that positions had been assumed prior to receiving Commission approval under section 212. We stress that, if these proposed rules are adopted, in those instances in which authorization to hold interlocking directorates will still be required, applicants must obtain authorization prior to assuming dual or multiple positions with carriers.

[3] A stated intend of Congress in enacting section 212 was to eliminate common directors from competing companies, an arrangement which then was felt to restrain competition. Congressional Hearings and Reports on Communications, 73rd Cong. 2d Sess., page 288 (1934). The Bureau, in considering applications to hold interlocking directorates, has looked favorably upon efforts of the applicant to safeguard against misuse of the interlock, such as recusal from voting on issues affecting one carrier before the other (File No. E-I-D-425).

[4] This proviso, added by Congress in 1956, thus allows the Commission to approve interlocks between or among integrated communications companies under common ownership and control, recognizing that dual holdings of positions within a commonly owned system do not harm either public or private interests.

engage in predatory or other unjust pricing practices, either alone or in combination with other carriers. With growing competition, and the emergence of increased numbers of service providers, the ability of carriers to engage in anticompetitive behavior such as price fixing or other collusive activities via interlocking of their managers and directors is now curbed by the telecommunications marketplace itself. In effect, if any entities engage, via their interlocking arrangements, in concerted activities to set prices or restrain competition, other service providers will step in to keep prices at a competitive level or to provide the desired service. Further, the competitive market will establish the optimum service price and thus preclude predatory pricing practices. Thus, while we remain concerned about the ability of some carriers to engage in collusive or discriminatory conduct, the Commission need no longer police these activities for carriers lacking market power: the marketplace generates this protective function.

4. As discussed fully below, we propose in this Notice the following changes to our current handling of section 212 applications to reflect the impact of the growing competitive environment. First, we propose to forbear from our practice of requiring the filing of applications to hold interlocking directorates for positions with non-dominant carriers.[5] We believe, given the emerging economic climate and fragmentation in the telecommunications industry, that such arrangements are increasingly less likely to restrain competition. In this Notice we seek comment on whether authorizing interlocking directorates between or among non-dominant carriers (as defined in our *Competitive Carrier Rulemaking* proceeding)[6] will have an adverse effect on any public or private interests and, if not, whether there is any continued need to require individual section 212 applications and authorizations for such interlocks. Because of the strength and dynamism of the market forces at work in domestic telecommunications, we question whether our present section 212 regulatory structure need be applied to non-dominant carriers at all: whether the interposition of the section 212 filing requirement and approval process in fact impedes the development in the industry of desirable and self-regulating economic efficiencies; and whether forbearance from applying those regulations as to non-dominant carriers and to cellular licensees operating in different geographic markets is in the public interest.[7] Second, we propose to reduce the amount of information which must be provided in the remaining applications. Compliance with the present level of detail required may temporarily impede carrier decisional flexibility necessary for growth and the prompt and innovative provision of services in this fast-changing competitive environment. We wish to diminish or eliminate this problem. Finally, we wish to clarify the applicability of section 212 to the remaining applications for positions on: (1) The parent or holding company of a carrier, (2) a carrier partnership, or (3) a connecting carrier. Some other minor editorial changes, including renumbering of certain sections, are also proposed. The text of the proposed changes is set forth in the Appendix to this *Notice*.

II. Discussion

5. *Filing Requirements for Dominant and Non-Dominant Carriers.* As stated above, we believe that interlocks between or among non-dominant carriers, as defined in our *Competitive Carrier Rulemaking* proceeding (*see* n. 6, *supra*), generally do not have an adverse impact upon public or private interests. We found in the *Competitive Carrier Rulemaking* that non-dominant carriers lack market power and thus do not possess the ability to charge and maintain unjust or discriminatory prices. *Fifth Report and Order*, para. 2. There are a wide range of non-dominant carriers which, even if they merged, would not have the power to raise or fix prices or to affect competition. We therefore see no continued need to require section 212 applications from non-dominant carriers.[8] Indeed, interlocks among such carriers, to the extent they tend to foster economic efficiencies such as better management and quicker reaction to market changes, may be desirable since the net effect to the consumer could be greater service choices of better quality at lower cost. In addition, such interlocks may help create the economic strength non-dominant carriers need in order to compete with dominant carriers, thus generating a double benefit. If a non-dominant interlocked carrier decides to forego an opportunity to provide a new service in favor of a carrier with which it is interlocked, this decision would not necessarily adversely affect competition. To the extent the provision of service is deemed attractive or financially advantageous, there will be other non-interlocked entities willing to provide it in competition with the interlocked companies. Interlocks in these situations will not necessarily be able to spawn anticompetitive pricing strategies or reductions in available services to consumers because, due to ease of market entry, other companies can provide the same or substitutable services. Any delays inherent in the regulatory process required to obtain section 212 authorizations impose economic costs on the public (*e.g.* depriving carriers of chosen managers until authorization is obtained and injecting uncertainty into carrier managerial affairs) which are not outweighed by measurable benefits. Significantly, in virtually none of the applications filed over the past several years have comments, let alone opposing comments, been filed regarding requested interlock authorizations. This absence of objection to requested interlocks persuades us that there is little likelihood or regulatory problems from forbearance applied to positions on non-dominant carriers. Further, to the extent

[5] Non-dominant carriers are those lacking enough market power to engage in pricing contrary to the goals of the Communications Act of 1934. Competitive Carrier Rulemaking, n. 6, *infra*, Fourth Report and Order, 95 FCC 2d 554 (1983).

[6] Policies and Rules Concerning Rates and Facilities Authorizations for Competitive Carriers Services (CC Docket 79-252), Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979), First Report and Order, 85 FCC 2d 1 (1980); Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981), Second Report and Order, 91 FCC 2d 59 (1982), *recon. denied*, 93 FCC 2d 54 (1983), Second Further Notice of Proposed Rulemaking, FCC No. 82-187, released April 21, 1982, Third Further Notice of Proposed Rulemaking, 48 FR 28,292 (June 21, 1983), Fourth Report and Order, 95 FCC 2d 554 (1983), Fourth Further Notice of Proposed Rulemaking, 49 FR 11,656 (March 28, 1984), Fifth Report and Order, FCC 84-394, released August 27, 1984, Sixth Report and Order, FCC 84-566, released January 4, 1985. (Competitive Carrier Rulemaking).

[7] We have received petitions seeking clarification as to the necessity of requiring section 212 filings in all cases. *See* Petition for Declaratory Ruling, ENF-84-37, filed by M/A-COM, Inc., asking whether applicants for dual positions upon non-dominant carriers may be exempted from the requirements of section 212; *See also* Request for Advisory Opinion, ENF-85-5, filed by Metromedia, Inc. and Yankee Telecom Corp., asking whether cellular operations fall within the scope of section 212. Since we are considering the merits of both the Application and the Request in this *Notice*, we need not entertain separate proceedings on the same issues. We therefore dismiss these petitions.

[8] In the Competitive Carrier Rulemaking, n. 6, *supra*, Fifth Report and Order, para 10, we chronicled some of the benefits of forbearance, including reducing costs and delay for a carrier to introduce new services or change rates, stimulating competition by facilitating entry, decreasing prices and improving offerings, among others. Because of the input from officers and directors in implementing these actions, we believe that forbearance from requiring filings for approval of interlocking directorates in such cases will generate many of these benefits.

the marketplace fails to dissuade any non-dominant carrier from engaging in anticompetitive conduct generated by interlocking arrangements, these carriers remain subject to the Commission's complaint process, 47 U.S.C. 208–209. Because we believe the marketplace, together with the complaint process, will adequately protect against any adverse effect which might occur when non-dominant carriers interlock, we believe that the Commission's present stringent section 212 filing and approval oversight is no longer necessary.

6. In sum, we propose to forbear from imposing the section 212 filing requirement upon persons seeking interlocking positions solely on non-dominant carriers as defined in 47 CFR 61.12(e), based upon a finding after completion of this proceeding that such arrangements do not adversely affect private or public interests. Such interlocks will be presumed lawful and authorization need not be sought therefor. However, applications must be filed for positions with all non-dominant carriers where the other carrier sought to be interlocked is a dominant carrier as defined in 47 CFR 61.12(c), such as AT&T or an exchange carrier. We do not propose at this time to relieve from section 212 filing requirements applicants for positions upon carriers not found to be non-dominant, with the exception of cellular licensees operating in different geographic markets. We are inclined to believe that Commission regulation of interlocks among these cellular licensees, unlike other carriers not found to be non-dominant, is unnecessary because the structure of cellular radio precludes competition between licensees in different markets. We request comments on the degree, if any, of Commission regulation required for cellular interlocks in different markets, and on the degree, if any, to which this proposed position regarding forbearance as to positions on cellular entities should be modified. Finally, to facilitate the complaint process, we propose that all persons holding interlocking positions on any carrier must report to the Commission the title of the position held for each carrier represented, within one month of assumption of office.

7. We recognize that the potential benefits generated by the lessened regulatory burden described above may potentially be offset by interlocks which reduce competition between or among the interlocked carriers in ways which we have not envisioned.[9] Therefore, in addition to the foregoing, we specifically request comments as to: (1) Whether, and, if so, how, interlocks between or among non-dominant carriers in the present competitive environment can have an adverse impact on public or private interests, (2) the extent to which marketplace mechanisms, our complaint process, or other remedies are available to regulate such interlocks which would be effective and more efficient substitutes for formal §212 governmental oversight, (3) whether, and if so, how, interlocks between non-dominant carriers can increase competition against dominant carriers, (4) whether there is a continued need for individual scrutiny of interlocks between or among non-dominant carriers under section 212, and if so, why, (5) whether section 212 applications should be required for certain service providers (*e.g.* those providing Digital Electronic Message Service or nationwide paging), (6) whether we should treat non-dominant carriers owned by a dominant carrier differently than other non-dominant carriers, and (7) whether, and if so, how, our treatment of forbearance should be extended to applications for interlocks between or among non-dominant carriers filed under present § 62.12 of the Rules. Comments need not, however, be restricted to these issues.

8. *Application of section 212 to positions with parent or holding companies of common carriers, carrier partnerships, and connecting carriers.*

A. *Parent or Holding Companies.* The statute and rules do not expressly refer to parent or holding companies of common carriers. However, the Commission has required the parent or holding company of a carrier to comply with the requirements of section 212.[10] We therefore propose to add subsection (d) to § 62.2 of the Rules to make it clear that section 212 applies to individuals where positions are sought with parent or holding companies of carriers subject to the Act.

B. *Carrier Partnerships.* The formation of carrier partnerships appears to have proliferated in part as a result of situations in which competing applicants join together by agreeing to provide service in a given area through a commonly owned and managed entity. The Bureau has, in past rulings, treated partnerships as covered by section 212.[11] Any other interpretation would permit section 212 to be circumvented by the simple practice of organizing carriers in a non-corporate form. Further, it is clear from the broad definition of "officer" as set forth in 47 CFR 62.2(a) that the requirement for section 212 authorization stems from the duties, and not the title, of the office. Since sections 153(h) and (i) of the Act, 47 CFR 153(h)

[9] However, analyses performed in our Competitive Carrier Rulemaking proceeding of the effects of our forbearance policy lead us to believe that this would not be the case. *See* Competitive Carrier Rulemaking, n.6, *supra*; Second Report and Order, paras. 12–15; Fourth Report and Order, paras. 6, 38; Fifth Report and Order, paras. 10, 18, 23–24.

[10] *See* CML Satellite Corporation, 51 FCC 2d 14, 35, n.33 (1975). Further, the Bureau has, on a number of occasions, required Section 212 authorizations in applications under § 62.11 of the Rules where at least one of the positions sought was upon a parent or holding company of a carrier. *See, e.g.*, Applications of Dwyer, E-I-D-388, released February 9, 1981; Marous, E-I-D-394, released April 8, 1982; Schwartz, E-I-D-398, released November 16, 1981; Goeken, E-I-D-407, released December 10, 1981; Leventhal, E-I-D-409, released April 8, 1982; Knight, E-I-D-411, released February 19, 1982; Casey, E-I-D-419, released June 17, 1982; deWindt, E-I-D-420, released September 9, 1982, *recon. granted* November 16, 1982; Evans, E-I-D-425, released December 1, 1982; Telling, E-I-D-436, released May 16, 1983. The rationale behind this position was more fully set forth in a Bureau letter dated June 30, 1981 in the Application of Marous, E-I-D-394, in which it was explained that any other interpretation would allow the purpose or section 212 to be defeated. The Bureau relied in part on an ICC decision applying section 20a(12) of the ICC Act, now 49 U.S.C. 11322, upon which section 212 was modelled, to positions upon parent companies. (Application of James Boyd, 333 ICC 815 (1968)). In Boyd, it was explained that the purpose of the statute requiring authorization prior to assuming dual positions with carriers was to protect public and private interests, by preventing the possible operation of one carrier for the benefit of another. The ICC concluded that whether the management of carriers is direct or indirect was immaterial: "It is not the form or manner in which such management or influence is exercised, but the fact of such management or influence that was sought to be regulated." 333 ICC at 817. *See also G.T.E.–Telenet Merger*, 70 FCC 2d 2249 (1979), *recon.* 72 FCC 2d 91 (1979), in which the Commission interpreted section 214 of the Act as applying to the non-carrier parent company of a common carrier subject to the Act, on the basis that to do otherwise would allow a company to insulate itself from FCC jurisdiction simply by the particular form of ownership utilized.

[11] *See* January 21, 1979 letter ruling in File I-D-370-2 and January 29, 1979 letter ruling in File No. I-D-371-2. Applicants have recently sought authorizations to sit on partnership committees which operate cellular radio licensees. *See, e.g.* Request for Declaratory Ruling, n.7, *supra*; Applications of Wayne N. Schelle, E-I-D-457; Martin Cohen, E-I-D-460; and Peter T. Lewis, E-I-D-461, orders in these applications released September 21, 1984. In the case of cellular partnership management committees, which were the subjects of the latter three proceedings, the Bureau reasoned that section 212 authorization was required because the committees constituted a type of non-carrier parent company subject to section 212 and further that section 212 applies specifically to carrier partnerships. We note that until the Bureau Orders in E-I-D-457, 460 and 461, it was apparently unclear to potential applicants as to whether persons wishing to sit on cellular partnership management committees were obligated to file for section 212 authorizations. Because of this confusion, we wish to make clear that a failure to file in the past based on these circumstances will not be interpreted as reflecting on the licensee's qualifications under the Act.

and (i), already define "carrier" to include entities such as partnerships, we need not amend Part 62 in this regard, but we seek comment on whether and how our treatment of partnerships might be modified.

C. *Connecting Carriers.* A question has also been raised as to whether persons must file for positions upon connecting carriers pursuant to section 212. *See* Request for Advisory Opinion filed by Metromedia, Inc. and Yankee Telecom, Inc., n.7, *supra.* Applicants have contended that they need not file for positions upon connecting carriers since, under section 2(b)(2) of the Act, 47 U.S.C. 152(b)(2), these carriers are subject only to secs. 201–205, and thus are exempt from coverage under section 212. The Bureau has recently interpreted section 212 authorization to be required at any time an applicant seeks to hold a position on more than one carrier subject to the Act, including carriers defined in 47 U.S.C. 152(b)(2). *(See,* e.g. Application of Bernard J. Cravath, E–I–D–462, released September 21, 1984.) Section 212 makes it unlawful "for any person to hold the position of officer or director of more than one *carrier subject to the Act...*" without authorization (emphasis added). It is not limited by its language to carriers subject only to full Title II regulation. Further, there are no specific statements in the legislative history of section 2(b)(2) to exempt applicants for positions as officers or directors with connecting carriers from the filing requirements of section 212. Authorizations under section 212 grant permission to occupy the position of officer or director. The statute thus acts upon the applicant and the interlocking position but not directly upon the carrier itself, and therefore does not enlarge the liability of the connecting carrier under the Act. To this extent, section 212 differs from other Title II provisions. Thus the arguments raised in recent applications that the liability of connecting carriers is limited, under section 2(b)(2) of the Act, to section 201 through section 205 do not correlate to section 212. Just as for our treatment or requests for positions upon other entities whose status was heretofore unclear, we request comments on our proposed treatment of interlocking positions on connecting carriers.[12]

9. *Reducing informational requirements under § 62.11.* As to positions upon carriers which will remain subject to filing requirements, we also propose to amend § 62.11 of the Rules in order to eliminate the provision of certain information which is now required but not relied upon. Much of the information now required by Part 62 will not be necessary under the proposed scheme or forbearance, since this Commission currently has access to information about the status and services of dominant carriers. Sections 62.11 (b) and (g) require a detailed specification of all carriers and other business corporations in which the applicant holds a position or has a financial interest, including a description of the business conducted and the applicant's interest. Practical experience has shown that much of this information has not been of decisional significance. Therefore, we are considering the elimination of section 62.11(g) and a revision of (b), in which we propose to continue requiring only that an applicant disclose all positions held or sought on common carriers, and his or her financial interest in any common carrier. We propose to delete present § 62.11 (d), (e) and (f). We propose to recast § 62.11(h) as new § 62.11(d) and to remove the last sentence, which requests justification of actions which could be deemed unlawful by section 212 of the Act. Current subsection (i) will be retained but, rewritten as new § 62.11(c), will stress the importance of detailed explanations of the reasons why public or private interests will not be harmed by grant of the requested interlock, especially in light of the specific public and private interest factors set forth in paragraph 2, *supra.* Subsection (j) would be deleted.

10. *Deletion of § 62.22.* Section 62.22 provides that "when application has been made by any person, a subsequent application by him need not repeat every statement contained in the previous application but may incorporate the same by appropriate reference." We propose to delete this section, and to require the applicant to submit all requested information in the current application or to attach all relevant information from prior applications to the current one. This will expedite processing of the few remaining applications filed under Part 62. Information provided must be current in order to be relevant and of assistance. Therefore, we believe it would be beneficial to require that each application be complete in itself. This requirement is not burdensome, especially in light of the extreme reduction in required information which is proposed in this Notice. Further, deletion of § 62.22 will ultimately benefit applicants by permitting the staff to resolve applications more quickly than would otherwise be possible if the staff must look beyond the pending application.

11. *Minor amendments to Part 62.* The remaining amendments are minor in nature. Certain sections have been renumbered in order to improve the logical sequence of the rules in Part 62. In addition, some non-substantive changes have been made in the wording of certain sections.

III. Regulatory Flexibility Act Initial Analysis

12. *Reason for Action.* The Commission is initiating this rulemaking proceeding because of the need to eliminate unnecessary rules and regulations and to improve application procedures with respect to Part 62 of the Commission's Rules.

13. *The Objective.* The objective of this notice of proposed rulemaking is to seek public comment on proposed amendments to Part 62 set out above. The Commission wishes to adopt amendments to Part 62 which will eliminate unnecessary regulations and streamline and improve application processing.

14. *Legal Basis.* Legal action as proposed is in furtherance of Section 1 of the Communications Act of 1934, as amended, which requires the Commission to ensure, insofar as possible, a rapid, efficient nationwide telecommunications system.

15. *Description, potential impact and number of small entities affected.* The Commission proposes to forbear from applying Part 62 regulations to both non-dominant carriers and cellular carriers operating in different geographic markets, and to reduce the information required in all other applications. This will benefit small entities by reducing the regulatory burden to which small businesses would otherwise be subject.

16. *Recording, record keeping and other compliance requirements.* No additional paperwork will be required by the proposals set forth in this proceeding.

17. *Federal rules which overlap, duplicate or conflict with this rule.* None.

18. *Any significant alternatives minimizing impact on small entities and consistent with stated objective.* The Commission's alternative would be to retain unnecessary rules and regulations and to not take steps to improve application processing. For the reasons indicated above, we believe these alternatives are inconsistent with the public interest.

[12] Of course, in accordance with our proposals herein, the status of such entities as parent or holding company, partnership, or connecting carrier would not trigger filing requirements where the carriers involved are all non-dominant; rather, forbearance would apply.

19. *Comments are Solicited.* Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this notice of proposed rulemaking, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*)

IV. Ordering Clauses

20. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission Secretary for inclusion in the public files. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comment for the proceeding must prepare a written summary of that presentation. On the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Rules, 47 CFR 1.1231.

21. Accordingly, it is ordered, That pursuant to secs. 5, 1, 4(i), 212, and 403 of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 212, and 403, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, there is issued a notice of proposed rulemaking.

22. It is further ordered, pursuant to § 1.1415 of the Commission's Rules, that all interested persons may file comments on the matters discussed in this Notice and the proposed rule changes contained in the attached Appendix by February 6, 1985 and reply comments by February 21, 1985. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken with respect to the proposals contained in the Appendix. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

23. It is further ordered, That pursuant to §§ 1.51 and 1.419 of the Rules, an original and five copies of all comments, replies, pleadings, briefs or other documents shall be filed with the Commission. Copies of all filings will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street, NW, Washington, D.C. 20554.

24. It is further ordered, That the Chief, Common Carrier Bureau, is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and more efficient proceeding.

25. It is further ordered, That the Petition for Declaratory Ruling filed by M/A-COM, Inc., File No. ENF-84-37, and the Request for Advisory Ruling, File No. ENF-85-5, filed by Metromedia, Inc. and Yankee Telecom Inc. are dismissed.

26. It is further ordered, That the Secretary shall cause this Notice of Proposed Rulemaking to be published in the Federal Register.

(Secs. 4, 212, and 403, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 403)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 62 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 62—APPLICATIONS TO HOLD INTERLOCKING DIRECTORATES

1. Section 62.1 is amended by the addition of the following paragraphs:

§ 62.1 Scope.

(a) Application must be made to hold interlocking positions upon more than one carrier where any carrier sought to be interlocked has not been found to be non-dominant as defined in § 61.12(e) of the Rules, 47 CFR 61.12(e), except for cellular licensees in different geographic markets.

(b) Persons seeking positions as officers or directors of cellular radio licensees in different geographic markets or carriers which are non-dominant within the meaning of § 61.12(e) of the Rules, 47 CFR 61.12(e), are authorized to serve in those capacities without making application to this Commission, except that applications shall be filed for positions upon non-dominant carriers if interlocks are sought between such carrier(s) and any dominant carrier defined as such under § 61.12(c).

2. Section 62.2 is amended by the addition of paragraph (d), as follows:

§ 62.2 Definitions.

* * * * *

(d) "Carrier" for purposes of applying section 212 of the Communications Act of 1934, as amended, includes the parent company or holding company of a common carrier subject to the Communications Act.

§ 62.3 [Removed]

3. Section 62.3 is removed.

4. Section 62.11 is revised to read as follows:

Contents of Application

§ 62.11 Information required in an application for authority to serve as an interlocking director of carriers which are not "commonly owned" (see § 62.2(c) for definition of "commonly owned carriers").

Each application shall include the following information:

(a) The full name, occupation, and business address of the applicant.

(b) With respect to each carrier of which the applicant is an officer or director or seeks to be an officer or director, indicate the applicant's position, the nature of the applicant's duties, the date applicant assumed or will assume such duties, and specify every common carrier in which applicant has a financial interest, together with a description thereof.

(c) Provide a full explanation of the reasons why grant of the authority sought will not adversely affect either public or private interests. In this regard, address whether grant of the permission requested will result in the potential for anticompetitive conduct by carriers

covered by the request or by carriers upon which applicant already acts as officer or director, diminution in the independence of each carrier, or the possibility of conflicts of interests on the part of common directors or officers in violation of their fiduciary duties. Set forth any steps which will be taken by the applicant to safeguard against such occurrences.

(d) State whether the applicant has, as director or officer of any carrier subject to the Act, received for his own benefit, directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carriers, or has shared in any of the proceeds thereof, or has participated in the making or paying of any dividends of such carrier from any funds properly included in capital account.

5. The heading of § 62.12 is revised to read as follows:

§ 62.12 Information required in an application for authority to serve as an interlocking director of dominant carriers, as set forth in 47 CFR 61.12(c), which are "commonly owned", as defined in § 62.2(c) of the Rules, 47 CFR 62.2(c).

§§ 62.22 and 62.23 [Removed]

6. Sections 62.22 and 62.23 are removed.

§ 62.24 [Redesignated as § 62.22]

7. Section 62.24 is redesignated as § 62.22.

§ 62.25 [Redesignated as § 62.23 Amended]

8. Section 62.25 is redesignated as Section 62.23 and the reference therein to § 62.26 is amended to refer to § 62.24.

9. Section 62.26 is redesignated as § 62.24 and is revised to read as follows:

§ 62.24 Change in status; Commission to be informed.

Should any change occur in the situation as reported under this part, the applicant shall report such change to the Commission within 30 days after such change occurs.

§ 62.21 [Redesignated as § 62.25]

10. Section 62.21 is redesignated as § 62.25.

A new § 62.21 is added to read:

§ 62.21 Signature.

(a) The original application filed pursuant to § 62.11, and any amendment or change in status, shall be signed by the individual applicant.

(b) The original application filed pursuant to §62.12 should be signed by the applicant, if an individual, or by a duly authorized officer, if a company or corporation.

12. New § 62.26 is added as follows:

§ 62.26 Reporting requirements.

All persons holding interlocking positions on more than one carrier shall report to the Commission within 1 month of assumption of the interlocking positions and annually thereafter, including the title of the position or positions held for each carrier represented.

[FR Doc. 85-354 Filed 1-7-85; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 50, No. 5
Tuesday, January 8, 1985

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

Office of the Secretary

Special Research Grants Program for Fiscal Year 1985; Solicitation of Applications

Special Research Grants Program

Notice is hereby given that under the authority of section 2(c)(1) of the Act of August 4, 1965, Pub. L. 89-106, as amended (7 U.S.C. 450i(c)(1)), the Cooperative State Research Service (CSRS) of the U.S. Department of Agriculture (USDA) will award project grants for certain areas of research. Fundamental and innovative approaches will be sought for the resolution of program problem areas. The total amount available for this program during the Fiscal Year 1985 is approximately $6,259,235. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures. The research to be supported is in the following areas:

Animal Health Research.....$5,761,800
CSRS Contact: Dr. Earl Splitter;
Telephone (202) 447-5007
Aquaculture Research.....$497,435
CSRS Contact: Dr. Howard S. Teague;
Telephone (202) 447-38

As outlined by OMB Circular No. A-89, the official program number and title for the Special Research Grants Program are: 10.200, Grants Agricultural Research, Special Research Grants.

In accordance with 7 CFR Part 3015, Subpart V, this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

All proposals submitted in response to this Notice will be evaluated in competition with each of the other proposals. Grants will be awarded for research proposals selected on the basis of merit by CSRS, utilizing recommendations of peer panels, within the limitation of funds appropriated for Fiscal Year 1985 (October 1, 1984 through September 30, 1985). Projects may be up to 5 years' duration unless a shorter duration is specified.

Subject Matter Guidelines for Fiscal Year 1985

A. The applicable program should be indicated in Block 7 and the specific program area of inquiry should be indicated in Block 8 of Form S&E-661 provided in the Research Grant Application Kit. Select one program area only. The final determination of the program area will be made by the program staff and/or the appropriate peer review panel. The number assigned to the specific area of inquiry must also be cited (e.g., 2.1, 2.2), in Block 8 of Form S&E-661.

B. Information concerning the selection of proposals for funding is included in Appendix II. The appropriate format for preparation of the proposal is described in Appendix III. Appendix IV shows the scoring form which will be utilized by peer panel members and Appendix IV-A provides general information concerning proposal evaluation and grant administration. Detailed descriptions of the program areas to be supported follow.

Program Areas

1.0 Animal Health

The total amount expected to be available for this area during Fiscal Year 1985 is $5,761,800. These funds will be awarded to support research seeking solutions to health problems of livestock and poultry and major aquaculture species. No more than $150,000 will be awarded for the support of any one project under the program area, regardless of the amount requested. A proposal will not be evaluated by more than one peer panel. Investigators who have received Special Research Grant awards in the Animal Health area during the past 5 years should include a brief summary of progress and a list of publications resulting from such grants.

The overall objective of this research is to develop and/or refine abiotic and biotic methodologies for suppression of animal losses due to infectious and noninfectious diseases and internal and external parasites of livestock, poultry, and major aquaculture species.

Research should be directed toward: (1) Basic studies to clarify infectious and noninfectious diseases and parasites or their interactive effects on animal health; and (2) development of practical implementable management systems for the producer to prevent or alleviate these causes of animal losses. Research may include clarification of complex or unknown etiologies including nutritional, gentic, and environmental interactions; development of improved methods of detecting disease agents or antibodies in animals, animal products, tissues, etc.; clarification of disease pathogenesis; determination of methods of disease transmission including transmission by embryo transfer, artificial insemination and importation of animal products—such studies should mimic as closely as possible the normal conditions of collection, preparation and use of these items; development of improved methods of immunization against disease agents that will provide solid and persistent protection without compromising diagnosis; development of alternative pest eradication methods so as to limit the use and dependence on biotoxic substances—such alternatives may include biologic methods, sterile male techniques, artificial pheromones, etc.; development of other disease prevention, control and eradication technology; and evaluation of the economics of disease and disease prevention or control.

The specific areas of inquiry in which projects will be funded are listed below. The areas are broken down into subcategories which will be funded in the approximate percentages listed. In the event that there are insufficient meritorious proposals recommended by peer panels to utilize all funds in each specific area of inquiry or in each subcategory, the balance of any such funds will be awarded to meritorious proposals recommended by peer panels under the other subcategories within the specific area of inquiry or the other specific areas of inquiry. Utilizing the recommendations of the peer panels, the Administrator of CSRS will make the final determination on specific grants to be awarded. Only proposals dealing with the following *specific areas of inquiry* will be selected for funding:

1.1 Beef Cattle

(1) Respiratory diseases complex (approximately 17 percent of available funds).

(2) Reproductive diseases, especially brucellosis, including but not limited to, anestrus, leptospirosis and vibriosis (approximately 12 percent of available funds).

(3) Enteric diseases, including but not limited to Johne's Disease (approximately 8 percent of available funds).

(4) Parasites (internal and external), including but not limited to anaplasmosis, ticks, flukes, nematodes, and interactive effects of internal and external parasites; metabolic diseases, especially bloat, grass tetany, and mineral imbalance (approximately 4 percent of available funds).

1.2 Dairy Cattle

(1) Mastitis (approximately 6 percent of available funds).

(2) Reproductive diseases, including but not limited to, brucellosis and nondetected estrus (approximately 5 percent of available funds).

(3) Respiratory diseases (approximately 3 percent of available funds).

(4) Digestive and enteric diseases, including but not limited to Johne's Disease (approximately 2 percent of available funds).

(5) Johne's Disease (approximately 2 percent of available funds).

1.3 Swine.

(1) Enteric diseases. Viral enteritis, coccidiosis, salmonellosis, clostridium, dysentery, and proliferative enteritis (approximately 5 percent of available funds).

(2) Respiratory disease. Hemophilus pleuropneumonia, mycoplasma pneumonia, atrophic rhinitis, influenza, pseudorabies, Hemophilus parasuis and Pasteurella multocida (approximately 5 percent of available funds).

(3) Reproductive diseases. Parvovirus, Mastitis-metritis-agalactia, leptospirosis, streptococcus, and pseudorabies (approximately 4 percent of available funds).

(4) Other swine diseases. Trichinosis, eperythrozoonosis, parasites, mycotoxicosis, and lameness (approximately 4 percent of available funds).

1.4 Poultry

(1) Respiratory diseases (approximately 6 percent of available funds).

(2) Metabolic and immunologic diseases (approximately 4 percent of available funds).

(3) Enteric disorders (approximately 3 percent of available funds).

1.5 Sheep and Goats

(1) Bluetongue, foot rot, chlamydial polyarthritis, gastrointestinal parasites, caseous lymphadenitis, pneumonia, mastitis, bacterial scours, ram epididymitis and predator control (approximately 5 percent of available funds).

1.6 Horses

(1) Especially respiratory diseases, including but not limited to, enteric diseases, reproductive diseases, and musculoskeletal diseases (especially laminitis and lameness) (approximately 3 percent of available funds).

1.7 Aquaculture

(1) Infectious diseases and parasites (approximately 2 percent of available funds).

2.0 Aquaculture Research

The total amount expected to be available for this area during fiscal year 1985 is $497,435. No more than $80,000 will be awarded for support of any one project under this program area, regardless of the amount requested. The objective of this research is to provide and improve upon the scientific and technical base needed by the aquaculture industry.

Increased production of commercially important species such as catfish, trout, bait minnows, crawfish and freshwater shrimp will be included. Proposals focused on aquaculture production in the following *specific areas of inquiry* will be considered:

2.1 Improved production efficiency in diet formulation, reproduction and breeding, and disease and parasite control.

2.2 Improved water quality for production and factors affecting the quality of water discharges.

It has been determined that, because of the need to implement this program so that research relating to animal health and aquaculture problems affecting production can be initiated in the spring of 1985, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, this action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. Although this Notice establishes the procedures and criteria under which the recipients of Special Research grants in fiscal year 1985 will be selected, and the terms and conditions under which such grants will be administered, it does not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Done at Washington, D.C., this 2nd day of January 1985.

Orville G. Bentley,

Assistant Secretary for Science and Education.

Appendix I—Application Procedures

1. Eligible Institutions

Grants under section 2(c)(1) of Pub. L. 89–106, as amended, may be made to land-grant colleges and universities, research foundations established by land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research.

Section 1404 of Pub. L. 95–113, as amended (7 U.S.C. 3103) defines "college" and "university" as an educational institution in any State which: (A) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association.

Foreign universities or colleges are not eligible to receive grants under this program.

2. Proposal Submission

A. Before submission, write or call the Grants Administrative Management office for a copy(ies) of the Research Grant Application Kit.

Proposals should be submitted to the Grants Administrative Management (GAM) office at the address shown below. Your submission should include an original and 9 copies of the proposal and Form S&E–66 Grant Application, which is included in the Research Grant Application Kit. The Form S&E–661 submitted with the original proposal should have original signatures of the principal investigator(s) and the authorized organizational representative. CSRS must have original signatures on file for each application. A principal investigator whose signature does not appear on the Grant Application will not be listed as a

principal investigator in the event of an award.

Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, West Auditors Building, Room 010, 15th and Independence Ave., SW., Washington, DC 20251. Telephone: (202) 475–5049.

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. If copies of the proposal *are* mailed in more than one package, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgment of receipt of the proposal will contain a proposal number and title. Later inquiries, addenda, etc., should include this information. However, every effort should be made to *ensure* that the proposal *contains all pertinent information when initially submitted.* Prior to mailing compare your proposal with the "Application Requirements" checklist contained on page 6 of the Research Grant Application Kit and the format cited in Appendix III of this announcement.

B. To be considered for award, proposals must be prepared in the format prescribed in Appendix III and must be *received* in the Grants Administrative Management office by the *close of business* on the date specified for each program area as shown below:

Animal Health Research—deadline is March 15, 1985

Aquaculture Research—deadline is March 29, 1985

Proposals should not exceed 10 pages (single spaced) excluding the literature citation, vitae appendices and required forms from the Research Grant Application Kit.

When proposals exceed 10 pages in total, only the first 10 pages, excluding the pages referenced in the above paragraph, will be evaluated. (Please print on one side only; it is difficult to review material that is printed back to back. Also, please staple proposals securely; but DO NOT BIND—the clips come off unstapled proposals and bindings must be removed to facilitate processing.)

C. Research Involving Special Considerations. A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for CSRS support have a high probability of involving either recombinant deoxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Proposing principal investigators and endorsing authorized organizational representatives must comply with the guidelines of the National Institutes of Health (see NIH "Guidelines for Research Involving Recombinant DNA Molecules" (48 24556–24581) and subsequent revisions).

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by CSRS grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If a grant is recommended for award and the project involves human subjects at risk, the grantee must furnish CSRS with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health and Human Services (DHHS) policies, as amended, regarding the use of human subjects. Form S&E–84, Protection of Human Subjects, may be used for this purpose.

3. Budget and Reporting Requirements

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Form S&E–55). While cost sharing is encouraged, it is not required and will not be a factor in the selection process.

B. Annual financial reports (Standard Form 269) will be required.

C. An annual progress report not to exceed 2 pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports should be organized around the objectives and research timetable as specified in the project proposal.

D. Comprehensive (performance and financial) final reports must be submitted within 90 calendar days after the expiration date of the grant.

Appendix II—Selection of Proposals for Funding

A. Selection Criteria. A panel of peer scientists for each specific area of inquiry will evaluate the proposals utilizing selection criteria listed in Appendices IV and IV–A. The peer panel, when appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposals under review. Utilizing the recommendations of peer panels, CSRS will select the most meritorious proposals to be funded within the limitation of funds available for each program area.

B. When the peer panel recommends that the amount of award be reduced below the amount proposed for a project or where the panel recommends that only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the area of inquiry and another proposal selected from those recommended by the peer panel will be funded. A copy of the summary evaluation made by the peer panel will be provided for each unfunded proposal.

C. Disposition of Proposals. After the grants are awarded, the CSRS program manager will retain one copy of unfunded proposals on file for 5 years. The remaining copies will be destroyed. Confidential business information in applications will be protected to the extent allowable by law from disclosure under the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552), as implemented by USDA under 7 CFR Part 1, as amended.

D. Grant Award. The applicants submitting proposals judged most meritorious under the criteria in Appendix IV will be awarded grants for periods not to exceed five years, within the limitations of available funds.

Appendix III—Format for Research Proposal

The Research Grant Application Kit includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described earlier.

Additional information and/or instructions relating to the format and content of the research proposals follow:

1. *Grant Application (Form S&E–661).* One Grant Application with all relevant original signatures must be included with the proposal. All other copies of the proposal should also contain a Grant

Application, but facsimile or photocopied signatures will be accepted.

2. *Title of Project.* (The title should indicate a brief, clear, specific designation of the subject of the research). The title (80-character maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

3. *Approval Signatures of Appropriate Officials.* All proposals from a university, college, or institution must be signed by an authorized organizational official.

4. *Objectives.* A clear, concise, complete, and logically arranged statement(s) of the specific aims of the research.

5. *Procedures.* A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as the sampling plan, experimental design, and analyses anticipated.

6. *Justification.* This should describe: (1) The importance of the problem to the needs of USDA and to the Nation, being sure to include estimates of the magnitude of the problem; (2) the importance of starting the work now; and (3) reasons for the work being performed in your particular institution.

7. *Literature Review.* A summary of pertinent publications with emphasis on their relationship to the research should be provided. Cite important and recent publications from other institutions, as well as from your own institution. Citations should be accurate and complete including the title of the article. Literature citations should be appended to the proposal and are not included in the 10-page limit.

8. *Current Research.* Describe the relevancy of the proposed research to ongoing and as yet unpublished research at your own and at other institutions. Show other grants or support in this and related areas.

9. *Facilities and Equipment.* The location of the work and the needed and available facilities and equipment should be clearly indicated. This section may be combined with Section 5, Procedures, but the combination must clearly show needed and available facilities and equipment.

10. *Research Timetable.* Show all important research phases as a function of time, year by year.

11. *Personnel Support.* Identify clearly all personnel who will be involved in the research. For each scientist involved, include: (1) An estimate of the time commitments necessary; and (2) vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae for all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae also can be provided as an appendix and will not be included in the 10-page limit. The vitae are to be no more than 2 pages each in length excluding publication listings. Provide for each person a chronological listing of the most recent representative publications during the preceding 5 years, including those in press. List the authors in the same order as they appear on the paper, along with the full title, and the complete reference as they usually appear in journals.

12. *Budget.* Instructions for completion of the Proposal Budget (Form S&E 55) are contained in the Research Grant Application Kit. It is suggested that your total budget request not exceed the maximum amount specified for the program area under which you are applying.

13. *Additions to Project Description (if any).* Each project description is expected by the members of review committees and the program staff to be complete in itself. Distribution of additional materials, other than for the record, will be limited to the principal reviewers. In those instances in which the submission of additional material is necessary (e.g., photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 8 copies or sets, identified by title of the research project and name of the principal investigator(s) should accompany the proposal.

Appendix IV–A—Evaluation of Proposals

The peer panel, subject to final determination by the Administrator of CSRS, will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines, the proposal will be eliminated from competition and returned to the institution submitting the proposal.

Proposals from ineligible institutions and/or proposals not received by the deadline cited in Appendix I will be considered outside the guidelines and will be returned without review.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criterion utilizing a scale of 1 to 10. A score of one is low for the selection criterion. A score of 10 is high for the selection criterion. A weighting factor is used for each criterion.

Grant Administration and Allowable Costs

The grants awarded will be administered in accordance with the USDA Uniform Federal Assistance Regulations (7 CFR Part 3015), and applicable OMB Circulars.

The determination of allowable costs for grants awarded under these programs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions—OMB Circular No. A–21

Information collection requirements contained in this document have been approved under OMB Document No. *0525–0001.*

Appendix IV—Peer Panel Scoring Form

Proposal Identification No. _____
Institution and Project Title _____

_____

_____

I. Basic Requirement: Proposal falls within guidelines? — yes — no. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

	Score 1–10	Weight factor	Score X weight factor	Comments
1. Scientific and technical quality of the idea		8		
2. Scientific and technological quality of the approach		8		
3. Relevance and importance of proposed research to solution of specific area of inquiry		6		
4. Feasibility of attaining objectives during life of proposed research		5		
5. Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research		5		
6. Adequacy of facilities, equipment, and professional and technical staffing		5		

Score _____

Summary Comments:

[FR Doc. 85-496 Filed 1-7-85; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-412-013 and A-588-020]

Antidumping; Merchandise Entered Under TSUSA Items 832, 833, 0834; Waiver of Duties; Hearing

AGENCY: International Trade Administration, Import administration, Commerce.

ACTION: Notice of Hearing.

SUMMARY: This is to advise the public that the International Trade Administration will hold a hearing regarding the waiver of antidumping duties or countervailing duties relative to merchandise entered under TSUSA items 832, 833, or 834. Interested persons are invited to present written and oral views regarding any issue that relates to this matter.

EFFECTIVE DATE: January 8, 1985.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; (202) 377-5496.

SUPPLEMENTARY INFORMATION: The International Trade Administration is holding a public hearing to solicit views on the issue of the waiver of antidumping duties or countervailing duties relative to merchandise entered under TSUSA items 832, 833, or 834. The hearing is being held to resolve whether the Department should extend to TSUSA items 833 and 834 the United States Government's practice of permitting waiver of antidumping and countervailing duties under TSUSA item 832, or discontinue its practice and begin assessing such duties pursuant to antidumping and countervailing duty orders, notwithstanding the duty waiver provisions of TSUSA items 832, 833, and 834. Proponents of discontinuance argue that the Department, obligated to enforce vigorously the unfair trade laws, must recognize the serious implications for the domestic industry of waiver of such duties. They also assert that the practice has no legal basis, as the laws do not provide for any any exemptions from antidumping or countervailing duties. Proponents of continuation and extension of the practice to TSUSA item 833 contend that the duty exemption for TSUSA items 832 and 833 in the Tariff Schedules is superior to other duty-free provisions, such that antidumping and countervailing duties do not apply, or that the pactice has assumed the force of law through time and reliance by parties. The issue arose in the context of the Department's antidumping investigations of titanium sponge from Japan and the United Kingdom. In its final determinations of sales at less than fair value, the Department excluded specific sales under TSUSA item 833, imports by the General Services Administration for the National Defense Stockpile. 49 FR 38684 and 38687 (Oct. 1, 1984). The Department issued an antidumping duty order on titanium sponge from Japan, continuing suspension of liquidation and the cash deposit requirement on all other entries pending completion of the first administrative review. 49 FR 47053 (Nov. 30, 1984). As indicated in the Department's final antidumping determination notices, we will be publishing the results of our review of this issue within six months of the date of the final determination notices.

The hearing will be held at 10 a.m. on February 8, 1985, in Room 4830 at the Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Persons who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The person's name, address, and telephone number, (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, participants must file prehearing briefs in accordance with 19 CFR 353.46 and 19 CFR 355.34 in at least 10 copies by January 25, 1985.

Oral presentations will be limited to issues raised in the briefs. Those wishing to appear will be notified of their time allocations for their presentations.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-515 Filed 1-7-85; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; Microelectronics Center of North Carolina et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-043. Applicant: Microelectronics Center of North Carolina, 3021 Cornwallis Road, P.O. Box 12889, Research Triangle Park, NC 27709. Instrument: Electron Microscope, Model EM 430T with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: Studies of materials which relate to defects and doping phenomena of silicon semiconductors. The experiments to be conducted will be those involving high resolution studies of semiconductor defects, segregation of dopants, identification of undesirable impurities, electron beam lethography studies, oxidation studies, Silicide formation studies and contact metallurgy, silicon on insulator studies and ion implantation induced defect investigations. The instrument will also be used for demonstration and use in the following courses: MAT 610 X-ray Diffraction; MAT 615 Electron Microscopy; and MAT 503 Ceramic Microscopy. Application received by Commissioner of Customs: November 30, 1984.

Docket No. 85-044. Applicant: Yale University, Dunham Laboratory, 10 Hillhouse Avenue, New Haven, CT 06520. Instrument: CO_2 Laser, Model TEA-601 with Accessories. Manufacturer: Lumonics, Inc., Canada. Intended use: The instrument will be used to produce long duration plasmas of manganese and phosphorous which will be used to study atomic physics of highly ionized ions. Students of physics, applied physics, and plasma physics will be able to observe the interaction of high power laser radiation with matter. Application received by Commissioner of Customs: November 30, 1984.

Docket No. 85-045. Applicant: Indiana University, 1101 E. 17th Street, Bloomington, IN 47405. Instrument: Pulsed Nitrogen Laser, Model LN1000. Manufacturer: Photochemical Research Associates, Canada. Intended use: The instrument will be used to pump a visible dye laser which will be frequency doubled to generate tunable

ultraviolet radiation. The tunable UV will be used to laser ionize gas phase aromatic molecules in time of flight mass and photoelectron spectrometers. Application received by Commissioner of Customs: November 30, 1984.

Docket No. 85–046. Applicant: Rutgers, The State University, Department of Chemistry, Wright-Rieman Labs, Busch Campus, Piscataway, NJ 08854. Instrument: Rapid Kinetics Accessory for UV/VIS Spectrophotometers & Spectrofluorimeters, Model SFA–11. Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended use: The instrument is an accessory to be used in conjunction with existing spectrophotometers for measurement of rapid reaction rates of lipid membranes. Application received by Commissioner of Customs: November 30, 1984.

Docket No. 85–047. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: Particle Analyzing System, Model PAS–II. Manufacturer: Partec Ltd., The Netherlands. Intended use: Identification and characterization of unique subpopulations of normal and neoplastic cells isolated from selected tissue and organ systems in test animal systems following exposure to carcinogens. The experiments to be conducted will include baseline studies performed under standard *in vitro* conditions to assess all relevant properties using cells derived from selected target organ systems including brain, liver, stomach, intestinal epithelium, and bone marrow as well as cells from well-defined cultured systems such as Chinese hamster V79 cells and 10T½ cells. Studies will also be expanded to include cells obtained by directly biopsing each of these normal tissues as well as neoplastic tissues. Application received by Commissioner of Customs: November 30, 1984.

Docket No. 85–048. Applicant: The Pennsylvania State University, Department of Ceramic Science, 231 Steidle Building, University Park, PA 16802. Instrument: Electro Optical Extensometer, Model 200X. Manufacturer: Zimmer OHG, West Germany. Intended Use: Studies of creep and time-to fail behavior of various silicon carbide materials including siliconized, hot-pressed and sintered silicon carbides. Creep resistance and tensile strength at elevated temperatures will be investigated. Application received by Commissioner of Customs: November 30, 1984.

Docket No. 85–049. Applicant: U.S. Environmental Protection Agency, Environmental Research Lab—Duluth, 6201 Congdon Blvd., Duluth, MN 55804. Instrument: Backscatter Electron Detector, Model 1200 EX–BEI–10 with Cabinet and Power Supply. Manufacturer: JEOL, Japan. Intended Use: The instrument is an accessory to an existing electron microscope which will allow easier identification of certain mineralogical and histological parameters and will complement the analytical electron microscope facility. Application received by Commissioner of Customs: November 30, 1984.

Docket No. 85–052. Applicant: Centers for Disease Control, 1600 Clifton road, N.E., Atlanta, GA 30333. Instrument: Mass Spectrometer and Data System, Models MM7070E and 11/250. Manufacturer: VG Instruments, Inc., United Kingdom. Intended Use: Studies of human adipose and serum specimens and other types of tissue from human and animal origin. Various environmental samples will be examined to determine the amounts of ultratoxic materials in human specimens. This data will be related to health effects determined in other studies. Application received by Commissioner of Customs: December 5, 1984.

Docket No. 85–053. Applicant: The Pennsylvania State University, College of Earth & Mineral Sciences, Mineral Sciences Building, University Park, PA 16802. Instrument: Ion Microanalyzer, Model IMS 3F with Accessories. Manufacturer: CAMECA Instruments, Inc., France. Intended Use: Studies of metal, semiconductor, glass, ceramic and geological specimens to determine the concentration and distribution of trace elements and isotopes in the bulk and surface region of solid materials. Experiments to be conducted will include:

(1) Chemical and microstructural characterization of impurity-gettering mechanisms in materials for very large scale integration.

(2) Chemical reactions which affect time-dependent failure of non-oxide ceramics.

(3) Hydration and corrosion studies of oxide and non-oxide glasses.

(4) Diffusion and growth mechanisms in metamorphic silicate melts and

(5) Nitridation reaction kinetics of silicon.

Application received by Commissioner of Customs: Demember 5, 1984.

Docket No. 85–057. Applicant: U.S. Department of Interior, U.S. Geological Survey, 431 National Center, 12201 Sunrise Valley Drive, Reston, VA 22092. Instrument: Mass Spectrometer, Model MAT 251 with Accessories. Manufacturer: Finnigan MAT, West Germany. Intended Use: The instrument is intended to be used to measure the $H+^3$ contribution produced in the spectrometer source in the range 3 kV to 10 kV ion acceleration voltage. The objective is to provide basic scientific knowledge about the $H+^3$ abundance in hydrogen isotope ratio mass spectrometers. Another research use is to measure on a suite of carbon dioxide and nitrogen gas samples the delta O–18, delta C–13, and delta N–15 values. The purpose of each project is to investigate the geochemical systematics of nitrogen and carbon in these systems. Application received by Commissioner of Customs: December 13, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–516 Filed 1–7–85; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments; Montana State University et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 82–00323R. Applicant: Montana State University, Department of Chemistry, Bozeman, MT 59717. Instrument: Mass Spectrometer System, MM7070E–HF with Integrated DS2035 and Accessories. Original notice of this resubmitted application was published in the **Federal Register** of September 20, 1982.

Docket No. 83–108R. Applicant: Montana State University, Department of Chemistry, Bozeman, MT 59717. Instrument: Mass Spectrometer System, MM 16F and Accessories. Original notice of this resubmitted application was published in the **Federal Register** of March 30, 1983.

Docket No. 84–253R. Applicant: Virginia Polytechnic Institute and State University, Department of Biochemistry and Nutrition, Blacksburg, VA 24061. Instrument: Mass Spectrometer, Model MM707E with 11/250 Data System. Manufacturer: VG Instruments, United Kingdom. Intended use: The instrument is intended to be used in the following research projects:

(1) Characterization of taxol derivatives—modified taxols will be prepared and tested as anticancer agents.

(2) Nitrogen metabolism in insects—studies on the physiological and biochemical processes involved in the internal manipulation of nitrogenous compounds in insects.

(3) Structural analysis of cell-surface glycosphingolipids—structures involved in the binding of physiologically important protein agonists and lectins will be studied.

Application received by Commissioner of Customs: December 17, 1984.

Docket No. 85–019. Applicant: Mount Sinai Medical Center, One Gustave L. Levy Place, New York, NY 10029. Instrument: Blood Irradiator, Model Gammacell 1000 with Accessories. Manufacturer: Atomic Energy of Canada Limited, Canada. Intended use: Irradiation of human blood and measurement of the viability and functions to determine the optimal dosage of radiation to eliminate the viability and function of lymphocytes in blood. The instrument will also be used to train blood-bank physicians and technicians or technologists in the appropriate use of this instrument to irradiate blood. Application received by Commissioner of Customs: December 11, 1984.

Docket No. 85–050. Applicant: Davidson College, Department of Chemistry, Davidson NC 28036. Instrument: Time correlated single Photon Counting Spectrometer. Manufacturer: Photochemical Research Associates, Canada. Intended use: Studies of luminescence decay kinetics on the nanosecond time scale. Most of the luminescence will be fluorescence, but in some cases phosphorescence will also be studied. The materials will be aromatic hydrocarbons and their derviatives, aldehydes and ketones, and other chemical and biological samples. Application received by Commissioner of Customs: December 11, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–517 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance Application Announcements; Arizona

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 14 months is estimated at $218,167 for the project performance period of May 1, 1985 to June 30, 1986. The MBDC will operate in the Tucson Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $185,442 in Federal funds and a minimum of $32,725 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09–10–85023–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102, January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556–6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 85–470 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period,

subject to available funds. The cost of performance for the first 11 months is estimated at $413,416 for the project performance period of May 1, 1985 to March 31, 1986. The MBDC will operate in the Anaheim Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $351,404 in Federal funds and a minimum of $62,012 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09-10-85014-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102. 415/556-6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 85-479 Filed 1-7-85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 14 months is estimated at $320,833 for the project performance period of May 1, 1985 to June 30, 1986. The MBDC will operate in the Fresno Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $272,708 in Federal funds and a minimum of $48,125 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09-10-85015-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102. 415/556-6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

Xavier Mena,

Regional Director, San Francisco Regional Office.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

[FR Doc. 85-478 Filed 1-7-85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 11 months is estimated at $1,129,333 for the project performance period of May 1, 1985 to March 31, 1986. The MBDC will operate in the Los Angeles Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $959,933 in Federal funds and a minimum of $169,400 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09-10-85017-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556-6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 85-476 Filed 1-7-85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 11 months is estimated at $413,416 for the project performance period of May 1, 1985 to March 31, 1986. The MBDC will operate in the Riverside Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $351,404 in Federal funds and a minimum of $62,012 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09-10-85019-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department

of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102. 415/556–6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

Xavier Mena,

Regional Director, San Francisco Regional Office.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

[FR Doc. 85–474 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 14 months is estimated at $218,167 for the project performance period of May 1, 1985 to June 30, 1986. The MBDC will operate in the Salinas Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $185,442 in Federal funds and a minimum of $32,725 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09–10–85020–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556–6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

Xavier Mena,

Regional Director, San Francisco Regional Office.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

[FR Doc. 85–473 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 11 months is estimated at $413,416 for the project performance period of May 1, 1985 to March 31, 1986. The MBDC will operate in the San Diego Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $351,404 in Federal funds and a minimum of $62,012 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09–10–85021–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period which periodic reviews culminating in annual evaluations to determine if funding for the project

should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102. 415/556–6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 85–472 Filed 1–7–85; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 11 months is estimated at $413,416 for the project performance period of May 1, 1985 to March 31, 1986. The MBDC will operate in the San Jose Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $351,404 in Federal funds and a minimum of $62,012 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services.)

The I.D. Number for this project will be 09–10–85022–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest protential for success. In order to accomplish this, MBDA supports MBDC program that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority businesss.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102. 415/556–6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

Xavier Mena,

Regional Director, San Francisco Regional Office.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

[FR Doc. 85–471 Filed 1–7–85; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcements; Nevada

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDA for a 3 year period, subject to available funds. The cost of performance for the first 14 months is estimated at $218,167 for the project performance period of May 1, 1985 to June 30, 1986. The MBDC will operate in the Las Vegas Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $185,442 in Federal funds and a minimum of $32,725 in Non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09–10–85016–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556–6734.

CLOSING DATE: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

Xavier Mena,

Regional Director, San Francisco Regional Office.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

[FR Doc. 85–477 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; Oregon

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 14 months is estimated at $218,167 for the project performance period of May 1, 1985 to June 30, 1986. The MBDC will operate in the Portland Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $185,442 in Federal funds and a minimum of $32,725 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 10–10–85018–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102. January 16, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556–6734.

Closing date: The closing date for applications is February 4, 1985. Applications must be postmarked on or before 5:00 p.m., February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 2, 1985.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 85–475 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Intent to Conduct OMB Circular No. A–76 Cost Comparison Study

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of intent to conduct cost comparison study.

SUMMARY: Notice is hereby given pursuant to Office of Management and Budget Circular No. A–76 and Department of Commerce Administrative Order 201–41 that the National Bureau of Standards (NBS) intends to conduct a comparison study of the costs of the Government's operation of the Instrument Shops at the Gaithersburg site of the National Bureau of Standards versus the costs of a private contractor(s) performing the same tasks. Contracts may or may not result from the cost comparison study. Results of the study will be made available to bidders, offerers, and all interested parties.

DATES: Solicitations for bids or proposals are scheduled for after February 15, 1985. The study is expected to end by June 1, 1986.

SUPPLEMENTARY INFORMATION: Anyone having any questions regarding this

notice is invited to contact Mrs. Paige L. Gilbert, Executive Officer, Office of the Director for Administration, National Bureau of Standards, Gaithersburg, Maryland 20899, (301) 921–3567.

Dated: January 3, 1985.

Ernest Ambler,

Director.

[FR Doc. 85–512 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Notice of Availability of Information

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of location of Ocean Minerals Company and Kennecott Consortium deep seabed mining license areas; correction to Ocean Minerals Company coordinates.

SUMMARY: In **Federal Register** Document 84–31460 published November 30, 1984, at page number 47081 the National Oceanic and Atmospheric Administration (NOAA) issued notice of the coordinates of the area covered by a license (designated as USA–1) issued to Ocean Minerals Company (OMCO) to conduct deep seabed mining exploration activities. Turning Point 6 of Area 1 is corrected to read 11°40' N., 132°20' W.

FOR FURTHER INFORMATION CONTACT: John W. Padan or Laurence J. Aurbach, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, DC 20235, (202) 653–8257.

Approved: January 2, 1985.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 85–480 Filed 1–7–85; 8:45 am]

BILLING CODE 3510-12-M

COMMODITY FUTURES TRADING COMMISSION

Petroleum Division of the New York Cotton Exchange; Proposed Rules Relating to Exchange Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Adoption of Contract Market Rules.

SUMMARY: The Petroleum Division of the New York Cotton Exchange ("NYCE" or "Exchange") has submitted to the Commission proposed rules setting speculative position limits for its currently designated contract market in liquified propane gas pursuant to Commission Rules 1.61 and 1.41, 17 CFR 1.61 and 1.41 (1982), and Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (1982). The Commodity Futures Trading Commission ("Commission") has determined that for currently designated contacts, initial exchange proposals to set speculative limits are potentially of major economic significance. Accordingly, publication of these proposals for public comment is consistent with the purposes of the Commodity Exchange Act, is in the public interest, and will assist the Commission in its consideration of the exchange submission.

DATE: Comments must be received by February 7, 1985.

ADDRESS: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, and should make reference to: "NYCE liquified propane gas speculative position limits".

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: The NYCE has submitted to the Commission pursuant to Commission Rules 1.61 and 1.41, 17 CFR 1.61 and 1.41 (1982) and section 5a(12) of the Commodity exchange Act, as amended, 7 U.S.C. 7a(12) (1982) proposed exchange rules setting speculative position limits in liquified propane gas.[1]

In accordance with Section 5a(12) of the Act, the Commission has determined that the proposed rules setting exchange speculative position limits on currently designated contracts are potentially of major economic significance.[2] Accordingly, the Commission seeks to receive comments from interested persons with respect to these proposed exchange rules.

Rule 41

(a) Position Limits

The limit on the maximum net long or net short position which any one person may hold or control under contracts for future delivery of Liquified Propane Gas ("Propane") is 1,000 contracts in any one month or in all months combined.

The term "person," as used in this Rule, includes individuals, associations, partnerships, corporations and trusts.

(b) Exemptions

The foregoing limits upon positions shall not apply to a bona fide hedging position as that term is defined in Reg. 1.3(z)(1) of the Regulations of the Commodity Futures Trading Commission upon approval of an exemption for such positions.

* * * * *

Other materials submitted by the NYCE in support of these proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 FR Part 145 (1983)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed exchange rules should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by (30 days after publication).

Issued in Washington, D.C., on January 2, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–491 Filed 1–7–85; 8:45 am]

BILLING CODE 6351-01-M

Chicago Mercantile Exchange; Proposed Amendments Relating to the Gold Futures Contract

AGENCY: Commodity Futures Trading Commission.

---

[1] In addition, seven other domestic boards of trade have submitted for Commission approval speculative position limits for currently designated contract markets. The proposed rules submitted by the Chicago Mercantile Exchange, the Commodity Exchange, Inc., the New York Futures Exchange, the MidAmerica Commodity Exchange, the New York Mercantile Exchange, the Chicago Board of Trade, the Coffee, Sugar and Cocoa Exchange, Inc. and the Citrus Associates of the New York Cotton Exchange have alrady been published in the **Federal Register** on July 20, 1982 [47 FR 31417], correction, 47 FR 34615 (August 10, 1982); 47 FR 56537 (December 17, 1982); 48 FR 30425 (July 1, 1983); 48 FR 45819 (October 7, 1983); 49 FR 16826 (April 20, 1984); 49 FR 42603 (October 23, 1984).

[2] This determination is based upon a finding that the initial imposition of speculative position limits for designated contract markets which currently do not have such limits may be of economic significance to those currently trading in a contract which has no existing speculative limits. However, the Commission believes that the subsequent adjustment of existing exchange speculative limits generally would not be of major economic significance.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Mercantile Exchange ("CME" or "Exchange") has submitted a proposal to change the delivery points in the gold futures contract from Chicago and New York City to London, England. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before February 7, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CME gold contract.

SUPPLEMENTARY INFORMATION: The Chicago Mercantile Exchange is proposing to amend its gold futures contract. The purpose of the proposal is to change the delivery points in the gold futures contract from Chicago and New York City to London, England. The Exchange believes that a gold futures contract with London delivery would provide for superior hedging and price basing because London is the principal center of gold trading worldwide as well as the price basing point for many gold transactions.

In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the CME concerning its gold futures contract is of major economic significance because of the potential effect on the hedging utility and pricing of the contract, and because the obligations and procedures to be followed by traders intending to make or take delivery would be significantly altered. Accordingly, the CME's proposed amendments are printed below, using bracketing to indicate deletions and italics to indicate additions:

3401. COMMODITY SPECIFICATIONS.—Each futures contract shall be for *a London depository account in gold meeting the specifications of a "good delivery bar" in the London Gold Market at the time of delivery.* [100 fine troy ounces of gold no less than .995 fine contained in no more than three bars, each of which shall be of the same fineness, no one of which shall contain less than 31 fine troy ounces of gold.]

* * * * *

3403. DELIVERY.—[In addition to the applicable procedures and requirements of Chapter 7, the following shall specifically apply to the delivery of gold.] *The clearing member representing the seller shall hereafter be called the seller. The clearing member representing the buyer shall hereafter be called the buyer.*

A. Delivery Days

Delivery may be made on any [Exchange] business day of the contract month *common to the London Gold Market, Chicago banks and New York banks* except that delivery *may not be made on the business day following a holiday for Chicago banks or New York City banks. β will not be allowed from an approved depository observing a holiday on an Exchange business day.α*

B. Sellers Duties

The seller shall present to the Clearing House by 5:00 p.m. (Chicago time) two business days before the day chosen by the seller to make delivery a Seller's Notice of Intent to Deliver. By 1:00 p.m. (Chicago time) on the business day preceding the delivery day the seller shall present to the Clearing House a Seller's Delivery Commitment. By 2:00 p.m. (London time) on the delivery day the seller shall credit 100 fine troy ounces of gold to the CME gold delivery account at a London Gold Depository.

C. Buyer's Duties

The buyer receiving a Notice of Delivery shall present to the Clearing House by 1:00 p.m. (Chicago time) on the business day preceding the delivery day a Buyer's Delivery Commitment. By 2:00 p.m. (London time) on the day of delivery buyer shall present to the bank handling the CME dollar delivery account a guarantee, from an Exchange-approved bank in a form acceptable to the Clearing House, that dollar payment for delivery will be made to the CME dollar delivery account on the delivery day.

On the delivery day the buyer shall make payment for delivery in same-day funds to the CME dollar delivery account. The amount of the payment shall be 100 times the settlement price on the earlier of the day the seller tendered his Notice of Intent to Deliver to the Clearing House or the last day of trading.

D. Completion of Delivery

Upon receipt of gold into the CME gold delivery account, on the day of delivery the Clearing House shall make dollar payment for the delivery to the account specified by the seller at an Exchange-approved bank. Upon receipt of the documents specified in Rule 3403C., on the delivery day the Clearing House shall credit 100 fine troy ounces of gold to the account specified by the buyer at an Exchange-approved London Gold Depository.

E. Approved Delivery Facilities

The Exchange shall maintain a List of Approved London Gold Depositories and Approved Banks for deliveries. Only those depositories and banks that are approved at the time of delivery may be specified as delivery facilities.

F. Penalties

A seller who fails to perform by the deadline times specified in Rule 3403.B., but who subsequently performs by these deadline times on the next business day, shall receive payment for delivery on the business day after the scheduled delivery day and shall be subject to a penalty of 130 percent of the overdraft charge applicable for the CME gold delivery account. Delivery of a seller who fails to perform by these deadline times on the next business day shall be made by the Exchange. The seller shall then be responsible for any difference between the purchase price of the gold delivered by the Exchange and the payment required under Rule 3403.C. In addition, the seller shall then pay a penalty of one percent of the contract value plus the overdraft penalty specified above.

A buyer who fails to perform by the deadline times specified in Rule 3403.C., but who subsequently performs by these deadline times on the next business day, shall receive delivery on the business day after the scheduled delivery day and shall be subject to a penalty of 130 percent of the overdraft charge applicable for the CME dollar delivery account. Delivery of a buyer who fails to perform by these deadline times on the next business day shall be taken by the Exchange. The buyer shall then be responsible for any difference between the sales price of the gold received by the Exchange and the payment required under Rule 3403C. In addition, the buyer shall then pay a penalty of one percent of the contract value plus the overdraft penalty specified above.

The proposed amendments to the gold futures contract would become effective immediately after Commission approval for all contract months subsequently

listed by the Exchange for trading, but would not be applicable to currently listed months.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7303.

Other materials submitted by the CME in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by February 7, 1985.

Issued in Washington, D.C. on January 3, 1985.

Jean A. Webb.

Secretary of the Commission.

[FR Doc. 85–539 Filed 1–7–85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: 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 Scientific Advisory Committee has been scheduled as follows:

DATE: April 24, 1985, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting 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 future initiatives in emergency planning.

Dated: January 2, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85–496 Filed 1–7–85 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Hearing

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing of the National Advisory Council on Bilingual Education. Notice of this hearing is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: January 25, 1985—Public Hearing—9:00 a.m.–4:30 p.m., Public Hearing will be held at the: City of Miami, City Hall Committee Chambers, 3500 Pan American Drive, Miami, Florida 33133.

FOR FURTHER INFORMATION CONTACT: Paul Balach, Designated Federal Official, Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue, SW., Washington D.C. 20202, (202) 245–2600.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations. January 25, 1985 in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which affect limited English proficient populations:

(1) Needs of Special Populations (Native Americans);

(2) Needs of Immigrant and Refugee Populations; and

(3) Alternative Methodologies of Instruction for limited English proficient children.

Witnesses should notify Zuzel Echevarria at the Bilingual Education Southeastern Support Center, Florida International University, Tamiami Campus, Miami, Florida 33199, (305) 554–2962 of their intention to testify in Miami, Florida.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis;

(2) Witnesses shall limit testimony to twenty minutes and submit written testimony to the hearing Chairman;

(3) All testimony shall be tape recorded; and

(4) Exceptions to the aforementioned procedures shall be at the discretion of the Hearing Chairman.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporter's Building, 400 Maryland Avenue, SW., Washington D.C. 20202 Monday through Friday from the hours of 8:00 a.m.—4:30 p.m.

Dated: January 2, 1985.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 85–445 Filed 1–7–85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER85–205–000]

Central Power and Light Co.; Filing

January 4, 1985.

The filing Company submits the following:

Take notice that Central Power and Light Company ("Company") on December 21, 1984, tendered for filing a substitute Rate Schedule sheet and billing calculation sheet to correct a billing error made under the transmission services agreement between Company and Houston Light and Power Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-525 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-197-000]

The Cincinnati Gas & Electric Co.; Filing

January 4, 1985.

The filing Company submits the following:

Take notice that on December 24, 1984, The Cincinnati Gas & Electric Company (CG&E) tendered for filing as an initial rate schedule a letter agreement with East Kentucky Power Corporative, Inc. (East Kentucky) providing for the sale of approximately 5 megawatts of firm power. Such service, at the request of East Kentucky, is to commence on December 20, 1984 and continue on a monthly basis until such time as a new 138 KV interconnection is installed between the two parties. CG&E states that the new interconnection is expected to be operational by June 1, 1985.

CG&E requests a waiver of the Commission's notice requirements to permit an effective date of December 20, 1984. CG&E also states that a copy of the filing was served on East Kentucky.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-526 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-14-000]

City of Mountain Lake, Minnesota v. Northern States Power Co.; Complaint

January 4, 1985.

Take notice that on November 29, 1984, the City of Mountain Lake, Minnesota (Mountain Lake), submitted for filing a complaint pursuant to Rule 206 of the Commission's Rules of Practice and Procedure.

Mountain Lake requests that the Commission find that the wheeling contract demanded by Northern States Power Company (NSP), and specifically the 7% compensation requirements in the contract are unjust, unreasonable, unduly preferential and unlawfully violate sections 205(a) and 205(b) of the Federal Power Act.

Mountain Lake also requests that the Commission exercise the authority granted to the Commission under section 206 of the Federal Power Act to initiate an investigation for the purpose of determining a just and reasonable loss compensation rate for the wheeling contract between NSP and Mountain Lake.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-527 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-207-000]

Consolidated Edison Company of New York, Inc.; Filing

January 4, 1985.

Take notice that on December 27, 1984, Consolidated Edison Company of New York submitted for filing a notice of termination for its currently effective Rate Schedules FERC Nos. 46, 49, 54 and 67.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-528 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-198-000]

Florida Power Corp.; Filing

January 4, 1985.

The filing Company submits the following:

Take notice that on December 24, 1984, the Florida Power Corporation (Florida Power) tendered for filing Service Schedule X providing for extended economy interchange service between Florida Power and the City of Tallahassee, Florida. Florida Power states that Service Schedule X is submitted for inclusion as a supplement to the existing contract for interchange service between Florida Power and the City of Tallahassee designated as Florida Power's Rate Schedule FERC No. 96.

Florida Power requests that Service Schedule X be permitted to become effective January 5, 1985, and therefore requests waiver of the sixty day notice requirement. Copies of this filing have been served upon the City of Tallahassee and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 528 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-529 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-199-000]

Florida Power Corp.; Filing

January 4, 1985.

The filing Company submits the following:

Take notice that on December 24, 1984, the Florida Power Corporation (Florida Power) tendered for filing Service Schedule X which provides for extended economy interchange service between Florida Power and Florida Power and Light Company (FPL). Florida Power states that Service Schedule X is submitted for inclusion as a supplement under the existing contract for interchange service between Florida Power and FPL, designated as Florida Power's Rate Schedule FPC No. 81 and FPL's Rate Schedule FPC No. 24. Florida Power's filing includes a Certificate of Concurrence executed by FPL in lieu of an independent filing.

Florida Power requests that Service Schedule X be permitted to become effective on the first of January, 1985, and therefore requests waiver of the sixty day notice requirement. Copies of the filing have been served upon FPL and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-530 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

Public Service Company of New Mexico; Filing

[Docket No. ER85-196-000]

January 4, 1985.

The filing Company submits the following:

Take notice that Public Service Company of New Mexico ("PNM") on December 24, 1984, tendered for filing as a rate schedule change, Amendment No. 1 to the Interconnection Agreement between Southwestern Public Service Company ("SPS") and PNM (designated as PNM Rate Schedule FERC No. 53).

Amendment No. 1 to the Interconnection Agreement between PNM and SPS modifies 2.03 to recognize that PNM and SPS may lease, as well as own, their respective portions of the interconnection facilities described in the Interconnection Agreement. This Amendment will enable PNM to enter into a sale/lease-back transaction for its portion of the interconnection facilities. The closing of this transaction is expected to occur on or about January 30, 1985. PNM therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon SPS and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-531 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-204-000]

South Carolina Generating Company, Inc.; Filing

January 4, 1985.

The filing Company submits the following:

Take notice that South Carolina Generating Company, Inc. (GENCO), on December 26, 1984, tendered for filing an executed Unit Power Sales Agreement between it and South Carolina Electric & Gas Company (SCE&G), whereby GENCO, a new entity, will sell to SCE&G all of the output of GENCO's Williams Electric Generating Station, a 580 MW coal-fired plant.

GENCO requests waiver of the Commission's Regulations to the extent necessary to permit the Unit Power Sales Agreement to become effective as of January 1, 1985. SCE&G concurs in this request.

Copies of the executed Unit Power Sales Agreement have been served upon SCE&G and upon the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-532 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-202-000]

St. Joseph Light & Power Co.; Filing

January 4, 1985.

The filing Company submits the following:

Take notice that St. Joseph Light & Power Company on December 26, 1984, tendered for filing a Notice of Cancellation for Rate Schedule FPC No. 9 between the Company and Union Electric, said rate schedule being initially filed on April 24, 1967. This rate schedule was terminated by its own terms in May 1968.

Copies of this filing have been served upon Union Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-533 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-203-000]

St. Joseph Light & Power Co.; Filing

January 4, 1985.

The filing Company submits the following:

Take notice that St. Joseph Light & Power Company on December 26, 1984, tendered for filing a Notice of Cancellation for Rate Schedule FPC No. 10 between the Company and Union Electric, said rate schedule being initially filed on December 18, 1967. This rate schedule was terminated by its own terms in May 1969.

Copies of this filing have been served upon Union Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-534 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-200-000]

Union Electric Co.; Filing

January 4, 1985.

Take notice that on December 24, 1984, Union Electric Company, (Union) submitted for filing a Notice of Cancellation/Termination pursuant to Section 35.15 of the Commission's Rules of Practice and Procedure.

Union states that FPC Rate Schedule No. 80 terminated by its own terms on May 31, 1973 and that a Certificate of Concurrence was not filed at the time of this agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-535 Filed 1-7-85; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM

Green Mountain Financial Services Corporation, et al.; Formations 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 (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1841(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 January 28, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Green Mountain Financial Services Corporation*, New York, New York; to become a bank holding company by acquiring at least 26.09 percent of the voting shares of The Green Mountain Bank, Bondville, Vermont. Comments on this application must be received not later than January 30, 1985.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation*, New York, New York; to acquire 100 percent of the voting shares of Chemical National Bank, Jericho, New York.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303:

1. *Commercial Bancshares of Roanoke, Inc.*, Roanoke, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The Commercial Bank of Roanoke, Roanoke, Alabama.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois, 60690:

1. *NBP Financial Services, Inc.*, Petersburg Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Petersburg, Petersburg, Illinois.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First State Bancorporation, Inc.*, Tiptonville, Tennessee; to acquire 66.67 percent of the voting shares of The Martin Bank, Martin, Tennessee.

Board of Governors of the Federal Reserve System, January 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-469 Filed 1-7-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

San Francisco District Office, chaired by Ronald Fisher, Branch Director for Compliance. The topic to be discussed is Women's Health Issues.

Date: Thursday, January 24, 1985, 1 p.m. to 3 p.m.

Address: State Department of Consumer Affairs, 1021 O St., Rm. 1021, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Lula Holland, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Rm. 524, San Francisco, CA 94102, 415–556–2682.

Nashville District Office, chaired by Hayward E. Mayfield, District Director. The topics to be discussed are Women's Health Issues and Food and Nutrition.

Date: Friday, January 25, 1985, 10:30 a.m. to 11:30 a.m.

Address: Senior Citizen's Club, 200 East Franklin St., Gallatin, TN 37066.

FOR FURTHER INFORMATION CONTACT: Barbara Lloyd, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615–251–5208.

Orlando District Office, chaired by Adam J. Trujillo, District Director. The topic to be discussed is Women's Health Issues.

Date: Thursday, January 31, 1985, 9 a.m. to 12 p.m.

Address: Doyle Conner Bldg., Florida Department of Agriculture and Consumer Services, Division of Plant Industry, 191 SW. 34th St., Gainesville, FL 32602.

FOR FURTHER INFORMATION CONTACT: Lynne Isaacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809, 305–855–0900.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 31, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–467 Filed 1–7–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Development Operations Coordination Document; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0335, Block 32, Ship Shoal 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 Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 31, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS 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: Ms. Angie Gobert; Minerals Managment Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

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: December 31, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–493 Filed 1–7–85 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Union Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Texas Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1130, Block 171, Vermilion 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 Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 28, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS 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: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plan Unit; Phone (504) 838–0876.

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: December 28, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–494 Filed 1–7–85; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Martin Luther King, Jr., National Historic Site and Preservation District Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. on Thursday, February 14, 1985, at The Martin Luther King, Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue, NE., Atlanta, GA 30312.

The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult with the Secretary of the Interior on matters of

planning, development and administration of the Martin Luther King, Jr., National Historic Site. The purpose of this meeting will be to update the Commission on park planning and operations.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Handy Johnson, Jr.
Mr. James Patterson
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312; Telephone 404/221-5190. Minutes of the meeting will be available approximately 4 weeks after the meeting.

Dated: December 28, 1984.

Thomas W. Piehl,

Acting Regional Director, Southeast Region.

[FR Doc. 85-501 Filed 1-7-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations of the following properties being considered for listing in the National Register were received by the National Park Service before December 29, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 23, 1984.

Linda McClelland,

Acting Chief of Registration, National Register.

COLORADO

Bent County

Prowers vicinity, *Prowers Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 34

Chaffee County

Buena Vista vicinity, *Bridge over Arkansas River (Vehicular Bridges in Colorado TR)*, U.S. Hwy 24
Nathrop vicinity, *Hortense Bridge (Vehicular Bridges in Colorado TR)*, CO 162
Salida, *F Street Bridge (Vehicular Bridges in Colorado TR)*, F St.

Clear Creek County

Idaho Springs, *Miner Street Bridge (Vehicular Bridges in Colorado TR)*, Miner St.

Conejos County

Antonito vicinity, *Costilla Crossing Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. over Rio Grande River

Costilla County

San Luis, *San Luis Bridge (Vehicular Bridges in Colorado TR)*, Off CO 195

Crowley County

Manzanola vicinity, *Manzanola Bridge (Vehicular Bridges in Colorado TR)*, CO Hwy 207

Delta County

Delta vicinity, *Esaclante Canon Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 650R
Delta vicinity, *Roubideau Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. G50R
Delta, *Delta Bridge (Vehicular Bridges in Colorado TR)*, U.S. Hwy 50
Hotchkiss, *Hotchkiss Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 3400R

Denver County

Denver, *14th Street Viaduct (Vehicular Bridges in Colorado TR)*, 14th St.
Denver, *19th Street Bridge (Vehicular Bridges in Colorado TR)*, 19th St.
Denver, *20th Street Viaduct (Vehicular Bridges in Colorado TR)*, 20th St.
Denver, *Broadway Bridge (Vehicular Bridges in Colorado TR)*, Broadway Ave.

Eagle County

Red Cliff vicinity, *Red Cliff Bridge (Vehicular Bridges in Colorado TR)*, U.S. 24
State Bridge, *State Bridge (Vehicular Bridges in Colorado TR)*, Off CO 131

El Paso County

Manitou Springs, *Bridge over Fountain Creek (Vehicular Bridges in Colorado TR)*, Rt. 24
Manitou Springs, *Manitou Springs Bridges (2) (Vehicular Bridges in Colorado TR)*, Park Ave. and Cannon Ave. over Fountain Creek

Fremont County

Canon City vicinity, *Royal Gorge Bridge (Vehicular Bridges in Colorado TR)*, Royal Gorge Park over Arkansas River
Canon City, *Fourth Street Bridge (Vehicular Bridges in Colorado TR)*, Fourth St.
Florence vicinity, *Bridge No. 10/Adelaide Bridge (Vehicular Bridges in Colorado TR)*, Fremont County Rd.
Howard, *Howard Bridge (Vehicular Bridges in Colorado TR)*, Off U.S. 50
Portland, *Portland Bridge (Vehicular Bridges in Colorado TR)*, SR 120

Garfield County

Carbondale vicinity, *Satank Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 106
Glenwood Springs vicinity, *South Canon Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 134
Rifle, *Rifle Bridge (Vehicular Bridges in Colorado TR)*, Off SR 6/24 over Colorado River

Las Animas County

El Moro vicinity, *Elson Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 36
Hoehne and Aguilar vicinity, *Avery Bridges (Vehicular Bridges in Colorado TR)*, Cty. Rd. over Leitensdorfer Arroyo and Apishapa River
Madrid vicinity, *Bridge over Burro Canon (Vehicular Bridges in Colorado TR)*, CO 12
Trinidad, *Commercial Street Bridge (Vehicular Bridges in Colorado TR)*, Commercial St.

Mesa County

Fruita vicinity, *Fruita Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 17.50 over Colorado River
Grand Junction, *Black Bridge (Vehicular Bridges in Colorado TR)*, 25.30 Rd. over Gunnison River
Grand Junction, *Fifth Street Bridge (Vehicular Bridges in Colorado TR)*, U.S. Hwy 50

Morgan County

Fort Morgan vicinity, *Rainbow Arch Bridge (Vehicular Bridges in Colorado TR)*, CO 52

Pitkin County

Aspen vicinity, *Maroon Creek Bridge (Vehicular Bridges in Colorado TR)*, CO 82
Aspen, *Sheely Bridge (Vehicular Bridges in Colorado TR)*, Mill Street Park

Prowers County

Granada vicinity, *Douglas Crossing Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 28

Pueblo County

Avondale, *Avondale Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 327
Boone vicinity, *Huerfano Bridge (Vehicular Bridges in Colorado TR)*, U.S. Hwy 50
Boone vicinity, *Nepesta Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 613
Pueblo vicinity, *St. Charles Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 65

Rio Blanco County

Meeker vicinity, *Hay's Ranch Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 127

Rio Grande County

Del Norte vicinity, *Sutherland Bridge (Vehicular Bridges in Colorado TR)*, Off U.S. 160

Del Norte vicinity, *Wheeler Bridge (Vehicular Bridges in Colorado TR)*, Off U.S. 160

South Fork vicinity, *Masonic Park Bridge (Vehicular Bridges in Colorado TR)*, Off CO 149

Routt County

Steamboat Springs vicinity, *Four Mile Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 42

Summit County

Slate Creek, *Slate Creek Bridge (Vehicular Bridges in Colorado TR)*, Cty. Rd. 1450 over Blue River

DISTRICT OF COLUMBIA

Washington

Dupont Circle Historic District (Boundary Increase), Roungly bounded by Florida Ave., 16th, 22nd and T Sts., Rhode Island Ave. and N St.

Strivers' Section Historic District, Roughly bounded by New Hampshire and Florida Ave's., 17th and 18th Sts. along T, U, and Willard Sts. NW.

[FR Doc. 85-503 Filed 1-7-85; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-14)]

Intrastate Rail Rate Authority; Michigan

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time for filing.

SUMMARY: The Michigan Department of Transportation's request for an extension of time for filing revised standards and procedures is granted.

DATES: The revision of Michigan's submission is due on February 25, 1985.

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, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Secretary.

[FR Doc. 85-486 Filed 1-7-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-238X)]

Burlington Northern Railroad Company; Abandonment Exemption in Okanogan County, WA; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 20.04-mile line of railroad between milepost 124.00 near Oroville and milepost 144.04 near Chopaka in Okanogan County, WA.

Applicant has certified: (1) That no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective Feburary 7, 1985, unless stayed pending reconsideration. Petitions to stay must be filed by January 18, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by January 28, 1985 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Peter M. Lee, 3800 Continental Plaza, 777 Main St., Fort Worth, TX 76102.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 2, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-489 Filed 1-7-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-137X)]

Seaboard System Railroad, Inc.; Abandonment in Hernando County, FL; Exemption

The Seaboard System Railroad, Inc. (SBD), has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments*, as modified by *Exemption of Out of Service Rail Lines*, 1 I.C.C. 2d 55, decided April 16, 1984. SBD will abandon a line of railroad from near Broco, FL, to Lake Stafford, FL, between milepost SR-791.64 and milepost SR-792.98, a distance of approximately 1.34 miles, in Hernando County, FL.

SBD has certified: (1) That no local traffic has moved over the line for at least 2 years, (2) the line does not handle overhead traffic, and (3) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service on the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period preceding this notice. The Florida Public Service Commission has been notified. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on February 7, 1985 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 18, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by January 28, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to applicant's representative: Charles M. Rosenberger, Seaboard System Railroad, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned

upon environmental or public use condition.

Decided: December 26, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-490 Filed 1-7-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-138X)]

Seaboard System Railroad, Inc.; Abandonment in Nassau County, FL; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 14.71-mile line of railroad between milepost SM-604.37 near Gross and milepost SM-619.08 near Callahan in Nassau County, FL.

Applicant has certified: (1) That no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective February 6, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by January 17, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by January 28, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to applicant's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 2, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-485 Filed 1-7-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Hoffmann La Roche Inc.; Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 10, 1984, Hoffmann La Roche Inc., 340 Kingsland Street, Nutley, New Jersey 07110, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Alphaprodine (9010)	II
Levorphanol (9220)	II

Hoffmann La Roche Inc. requested that this registration include the manufacture, for non-human consumption, of small quantities of derivatized analogs and metabolites of the Schedule I substance, Tetrahydrocannabinols (7370).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than February 7, 1985.

Dated: December 12, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-481 Filed 1-7-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Applied Science Laboratories, Inc.

By notice dated October 29, 1984, and published in the **Federal Register** on November 5, 1984, (49 FR 44251), Applied Sciences Laboratories, Inc., a Division of Alltech Association, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Mescaline (7381)	I
Normorphine (9313)	I
Dihydromorphine (9145)	I
1-phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
1-piperidinocyclohexanecarbonitrile (8603). (PCC)	II
Codeine (9050)	II
Benzoylecogonine (9187)	II
Ecgonine (9180)	II
Dextropropoxyphene (9273)	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and Title 21, Code of Federal Regulations, § 1301.54)(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: January 2, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-520 Filed 1-7-85; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 84-23]

Registration Applications; Controlled Substances; William H. Carranza, M.D., Bronx, New York; Hearing

Notice is hereby given that on May 18, 1984, the Drug Enforcement Administration, Department of Justice, issued to William H. Carranza, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application, executed on March 24, 1983, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the

Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, January 24, 1985, in Courtroom No. 10, United States Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: January 2, 1985.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 85-519 Filed 1-7-85; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 84-26]

Registration Applications; Controlled Substances; Lee A. Turet, D.D.S., Bronx, New York; Hearing

Notice is hereby given that on June 22, 1984, the Drug Enforcement Administration, Department of Justice, issued to Lee A. Turet, D.D.S., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application for registration, executed on December 18, 1983, under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, January 31, 1985, in Courtroom No. 10, United States Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: January 2, 1985.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administation.

[FR Doc. 85-518 Filed 1-7-85; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigation, Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Airco Carbon, et al.

Correction

In FR Doc. 84-33275 beginning on page 49733 in the issue of Friday, December 21, 1984, the heading to the document included the name of "Anamax Mining Co." It should have included the name of "Airco Carbon" as set forth above.

BILLING CODE 1505-01-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 85-1; Exemption Application No. D-3362 et al.]

Grant of Individual Exemptions; Washington Mortgage Co., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Washington Mortgage Company, Inc. (WMC) Located in Seattle, Washington

[Prohibited Transaction Exemption 85-1/; Exemption Application Nos. D-3362 and D-3363]

Exemption

I. Effective August 14, 1975, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the past and proposed sale, exchange or transfer between WMC (and its successor corporations as described in the notice of proposed exemption) and certain employee benefit plans (the Plans) of multi-family residential and commercial mortgage loans (the Mortgages) or participation interests herein (the Participation Interests) provided that:

A. Such sale, exchange or transfer is expressly approved by a fiduciary independent of WMC who has authority to manage or control those Plan assets being invested in Mortgages or Participation Interests;

B. The terms of all transactions between the Plans and WMC involving the Mortgages or Participation Interests are not less favorable to the Plans than the terms generally available in arm's-length transactions between unrelated parties;

C. No investment management, advisory, underwriting fee or sales commission or similar compensation is paid to WMC with regard to such sale, exchange or transfer;

D. The decision to invest in a Mortgage or Participation Interest is not part of an arrangement under which a fiduciary of a Plan, acting with the knowledge of WMC, causes a transaction to be made with or for the benefit of a party in interest (as defined in section 3 (14) of the Act) with respect to the Plan; and

E. WMC shall maintain for the duration of any Mortgage or Participation Interest which is sold to a Plan pursuant to this exemption, records

necessary to determine whether the conditions of this exemption have been met. The records mentioned above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plans, during normal business hours by: any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan.

II. Effective August 14, 1975, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provided described in section 3(14) (F), (G), (H), or (I) of the Act) solely because of the ownership of a Mortgage or Participation Interest by such Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 1, 1984 at 49 FR 44033.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is a toll-free number.)

First Interstate Bank of Alaska (First Interstate), Formerly Known as Alaska Bank of Commerce, Located in Anchorage, Alaska

[Prohibited Transaction Exemption 85-2; Exemption Application No. D-3506]

Exemption

I. Effective January 1, 1975, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the past and proposed sale, exchange or transfer between First Interstate and certain employee benefit plans (the Plans) of multi-family residential and commercial mortgage loans (the Mortgages) or participation interest therein (the Participation Interests) which are originated by First Interstate provided that:

A. Such sale, exchange or transfer is expressly approved by a fiduciary independent of First Interstate who has authority to manage or control those Plan assets being invested in Mortgages or Participation Interests;

B. The terms of all transactions between the Plans and First Interstate involving the Mortgages or Participation Interests are not less favorable to the Plans than the terms generally available in arm's-length transactions between unrelated parties;

C. No investment management, advisory, underwriting fee or sales commission or similar compensation is paid to First Interstate with regard to such sale, exchange or transfer;

D. The decision to invest in a Mortgage or Participation Interest is not part of an arrangement under which a fiduciary of a Plan, acting with the knowledge of First Interstate, causes a transaction to be made with or for the benefit of a party in interest (as defined in section 3(14) of the Act) with respect to the Plan; and

E. First Interstate shall maintain for the duration of any Mortgage or Participation Interest which is sold to a Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The records mentioned above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plans, during normal business hours by: any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan.

II. Effective January 1, 1975, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14) (F), (G), (H), or (I) of the Act) solely because of the ownership of a Mortgage or Participation Interest by such Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 1, 1984 at 49 FR 44036.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

The Andersons Retirement Savings Investment Plan (the Plan) Located in Maumee, Ohio

[Prohibited Transaction Exemption 85-3; Exemption Application No. D-4797]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed investment by a Plan participant of up to 10% of the assets of the participant's self-directed individual account in limited partnership interests (the Interests) in the Andersons (the Employer), the sponsor of the Plan; and (2) the redemption of Interests by the Employer, provided that all transactions are conducted on terms no less favorable to the Plan than those available to unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 2, 1984 at 49 FR 44158.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

The Andersons Retirement Savings Investment Plan for Partners (the Plan) Located in Maumee, Ohio

[Prohibited Transaction Exemption 85-4; Exemption Application No. D-4859]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed investment by a Plan participant of up to 10% of the assets of the participant's self-directed individual account in limited partnership interests in the Andersons (the Employer), the sponsor of the Plan; and (2) the redemption of Interests by the Employer, provided that all transactions are conducted on terms no less favorable to the Plan than those available to unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 2, 1984 at 49 FR 44160.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Gettel and Company Profit Sharing Plan (the Plan), Located in Pigeon, Michigan

[Prohibited Transaction Exemption 85–5; Exemption Application No. D–4887]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loans by the Plan of an amount not to exceed 25% of the total assets of the Plan, periodically over the next 5 years, to GMBA, a partnership, which is a party in interest with respect to the Plan, and the guarantee of the repayment of the loans by Messrs. Clarence, Herb and Loren Gettel, parties in interest with respect to the Plan, provided the terms of the loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Temporary Nature of the Exemption

This exemption will be effective for five years from the date a grant of an individual exemption is published in the **Federal Register.** Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five year period.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 28, 1984 at 49 FR 38383.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Profit-Sharing Plan and Trust Agreement for Employees of Gonzalo Camblor, M.D., P.C. (the Plan) Located in Atlanta, Georgia

[Prohibited Transaction Exemption 85–6; Exemption Application No. D–5007]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase by the Plan of a participation in a promissory note of the SmithKline Corporation from Dr. Gonzalo Camblor, under the terms described in the notice of proposed exemption, and the personal guarantee by Dr. Camblor of the payment of the Plan's participation in the note, provided the Plan pays no more than the fair market value of the participation on the date of its acquisition.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 23, 1984 at 49 FR 46215.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Citation Box and Paper Co. Profit Sharing Plan and Retirement Trust (the Plan) Located in Chicago, Illinois

[Prohibited Transaction Exemption 85–7; Exemption Application No. D–5360]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continued leasing beyond June 30, 1984 of certain improved real property to Citation Box and Paper Co., the sponsor of the Plan, provided that the terms and conditions of such leasing are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party.

Effective Date: The exemption is effective July 1, 1984.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 26, 1984 at 49 FR 43131.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523–6915. (This is not a toll-free number.)

Family Medical Clinic of Pearl, P.A. Profit Sharing Plan (the Profit Sharing Plan) and Family Medical Clinic of Pearl, P.A. Money Purchase Pension Plan (the Pension Plan) Located in Pearl, Mississippi

[Prohibited Transaction Exemption 85–8; Exemption Application No. D–5392]

Exemption

The restrictions of section 406(a), 604 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase by the Profit Sharing Plan of a parcel of unimproved real property (Lot 1), located in Pearl, Mississippi, from Dr. Robert Rester for $28,476, and the purchase by the Pension Plan of a parcel of unimproved real property (Lot 2), located in Pearl, Mississippi, from Dr. Rester for $22,770, provided the purchase prices do not exceed the fair market values of the Lots on the date of the acquisitions.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 16, 1984 at 49 FR 45507.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Shaw Brother Co. Profit Sharing Plan and Trust (the Plan) Located in Chicago, Illinois

[Prohibited Transaction Exemption 85–9; Exemption Application No. D–5417]

Exemption

The restictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation of a pre-Act loan executed between the Plan and a land trust whose beneficial owners are parties in interest with respect to the Plan, provided that the terms of the transaction were and continue to be not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 2, 1984 at 49 FR 44164.

Effective Date: This exemption is effective July 1, 1984.

For Further Information Contact: Mr. Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

William E. Tassock, P.C. Pension Plan (the Plan) Located in Portland, Oregon

[Prohibited Transaction Exemption 85–10; Exemption Application No. D–5425]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the September 10, 1980 purchase by the Plan of a parcel of real property located at 1824 S.W. Main Street, Portland, Oregon (the Property) from Mr. William E. Tassock for $40,000 in cash, provided such amount was not greater than the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the

Department's decision to grant this exemption refer to the notice of proposed exemption published on November 23, 1984 at 49 FR 46217.

Effective Date: This exemption is effective September 10, 1984.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Forest Oil Corporation Pension Trust (the Plan) Located in Bradford, Pennsylvania

[Prohibited Transaction Exemption 85-11; Exemption Application No. D-5629]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lease, effective June 30, 1984, of a parcel of improved real property by the Plan to Forest Oil Corporation, the sponsor of the Plan, provided that the terms of the transaction are no less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 26, 1984 at 49 FR 43133.

Effective Date: This effective date of this exemption is June 30, 1984.

For Further Information Contact: Mr. Davis M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Mountain View Medical Clinic, Ltd.—Michael J. Lipson, M.D., Defined Benefit Pension Plan; Mountain View Medical Clinic, Ltd.—Genaro Licosati, M.D., Defined Benefit Pension Plan; Mountain View Medical Clinic, Ltd.—Donald M. Taylor, M.D., Defined Benefit Pension Plan; Mountain View Medical Clinic, Ltd.—Charles L. Levison, M.D., Defined Benefit Pension Plan (Collectively, the Plans) Located in Phoenix, Arizona

[Prohibited Transaction Exemption 85-12; Exemption Application No. D-5640]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continued leasing by the Plans, beyond June 30, 1984, of certain improved real property in which the Plans own undivided interests, to Mountain View Medical Clinic, Ltd., a party in interest with respect to the Plans, provided that the terms of the transaction are no less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party.

Effective Date: This exemption is effective October 10, 1984.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 23, 1984 at 49 FR 46219.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fidicuary resonsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory of administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 28th day of December, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations; Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-550 Filed 1-7-85; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Office of the Special Counsel; Change of Agency Zip Code

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Notice of Change of Agency Zip Code.

SUMMARY: This notice publishes the change of Zip Code for the Office of the Special Counsel from 20419 to 20005.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Sarah V. Jones, Office of the Special Counsel, Operations Management Division, 1120 Vermont Avenue, NW., Rm. 1100, Washington, D.C. 20005, 653-8946.

Dated: January 2, 1985.

For the Office of the Special Counsel.

K. William O'Connor,

Special Counsel.

[FR Doc. 85-523 Filed 1-7-85; 8:45 am]

BILLING CODE 7400-01-M

Office of the Special Counsel; Appointment of Members to the Performance Review Board

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Notice of Appointment of Members to the Performance Review Board.

SUMMARY: This notice publishes the names of two Performance Review Board members as required by 5 U.S.C. 4314(c)(4).

The following persons have been appointed to and will serve on the Performance Review Board for Senior Executives in the Office of the Special Counsel: Ruth E. Peters of the Federal Labor Relations Authority, and William D. Van Stavoren of the Department of Justice. These members will replace Paul E. Klein and Kenneth G. Caplan.

EFFECTIVE DATE: December 26, 1984.

FOR FURTHER INFORMATION CONTACT: William E. Caldwell, Managing Director for Operations, Operations Management Division, Office of the Special Counsel.

1120 Vermont Avenue, NW., Washington, D.C. 20419, 653-7144.

Dated: December 27, 1984.

For the Office of the Special Counsel.

K. William O'Connor,

Special Counsel.

[FR Doc. 85-524 Filed 1-7-85; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aerodynamics.

DATES: January 29, 1985, 8:30 a.m. to 4:30 p.m.; January 30, 1985, 9 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Headquarters, Room 625, 600 Independence Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald G. Kayten, National Aeronautics and Space Administration, Code RF, Washington, DC 20546 (202/453-2810).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aerodynamics was established to provide advice and coordination of NASA Aerodynamics research programs with efforts in other agencies, universities, and industry. The Subcommittee, chaired by Dr. Eli Reshotko, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

Type of meeting: Open.

Agenda

January 29, 1985

8:30 a.m.—NASA Headquarters Reorganization.
8:45 a.m.—NASA Headquarters Aerodynamics Division Charter.
9:00 a.m.—Lewis Research Center Aeronautics Program Reorganization.
9:30 a.m.—Aero 2000 Workshop/ Aerodynamics Panel Results.
10:25 a.m.—NASA Aeronautics Thrusts.
10:45 a.m.—Ames Research Center Aerodynamics Program Review and Plans.
1:30 p.m.—Langley Research Center Aerodynamics Program Review and Plans.
3:15 p.m.—Lewis Research Center Aerodynamics Program Review and Plans.
4:30 p.m.—Adjourn.

January 30, 1985

9:00 a.m.—Fiscal Year 1986 Preliminary Budget and New Initiatives.
9:30 a.m.—Discussion of Issues.
3:00 p.m.—Adjourn.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

December 28, 1984.

[FR Doc. 85-465 Filed 1-7-85; 8:45 am]

BILLING CODE 7510-01-M

NASA Advisory Council, Space Applications Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Applications Advisory Committee.

DATES: January 23-25, 1985, 8:30 a.m. to 4:30 p.m. each day.

ADDRESS: National Aeronautics and Space Administration, Room numbers as noted in the Agenda below, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Dudley G. McConnell, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1420).

SUPPLEMENTARY INFORMATION: The NAC Space Applications Advisory Committee consults with the advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Applications programs. The meeting will be open to the public up to the seating capacity of the room.

Type of meeting: Open.

Agenda

January 23, 1985

Remote Sensing Subcommittee—Room 226A—FB10B:
8:30 a.m.—Results of the October Shuttle Flight Mission.
10:45 a.m.—(EOSAT) System Briefing and Discussion of EOSAT Support for Operational Land Remote Sensing.
1:30 p.m.—(Geosat) Committee Briefing on Land Remote Sensing Results to date and Requirements for Non-Renewable Resource Exploration and Extraction.
3:15 p.m.—Joint NASA/NOAA Assessment of Civil Remote Sensing.
4:30 p.m.—Adjourn.

January 24, 1985

Space Applications Advisory Committee—Room 226A—FB10B:
8:30 a.m.—Introduction, Logistics, Announcements.
8:45 a.m.—Discussion of Office of Space Science and Applications (OSSA) Budget and Plans.
10:30 a.m.—Subcommittee Meetings.

Remote Sensing Subcommittee—Room 226A—FB10B:
10:30 a.m.—Earth Science and Applications Division Program Status Report and Discussion; Agreement on a subcommittee charter, and agreement on a work plan for 1985/86.

Communications Subcommittee—Room 6004 FB6:
10:30 a.m.—Briefing on the Mobile Communications Program, Briefing on the Advanced Communications Technology Work Supported at the Lewis Research Center; Director of Communications Division Report on Program Status and Outlook—Discussion of Subcommittee's charter and work plan for 1985/86.

Microgravity Subcommittee—Room 268—FB10B:
10:30 a.m.—Briefing by the contractors on their studies of facilities for microgravity research on the Space Station; Status Report on the Workshop to Collect Requirements for Microgravity Research on the Space Station; and Report from the Director of Microgravity Sciences and Applications Division on Program Status and outlook.

Information Systems Subcommittee—Room 226B—FB10B:
10:30 a.m.—Briefing and Discussion on the Objectives, Content, Status and Outlook of the Office of Space Science and Applications Information Systems Programs.
1 p.m.—Briefing and Discussion on the Office of Aeronautics and Space Technology (OAST) Information Sciences and Human Factors Programs.
2 p.m.—Briefing and Discussion on the

Office of Space Tracking and Data Systems (OSTDS) Program in Data Acquisition and Delivery.
2:45 p.m.—Subcommittee Discussion on chartger and work plan for 1985/86.
4:30 p.m.—Adjourn.

January 25, 1985

8:30 a.m.—All subcommittees reconvene for subcommittee business.
Remote Sensing Subcommittee—Room 226A—FB10B
Informations Systems Subcommittee—Room 226B—FB10B
Communications Subcommittee—Room 6004 FB6
Microgravity Subcommittee—Room 268—FB10B
11:15 a.m.—Subcommittee Progress Reports and Wrap-Up Discussion with Dr. Edelson.
4:30 p.m.—Adjourn.

Richard L. Daniels,
Deputy Director, Logistics Management, and Information Programs Division, Office of Management.
January 2, 1985.
[FR Doc. 85-464 Filed 1-7-85 8:45 am]
BILLING CODE 7510-01-M

NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

Meeting

The National Commission on Agricultural Trade and Export Policy will meet in Washington, D.C., on Friday, January 11, 1985. The meeting will be held in Room 2172 of the Rayburn House Office Building, Independence Avenue, NW., Washington, D.C., beginning at 9:00 a.m. The meeting is expected to last all day.

Matters to be discussed at the meeting include the development of issues for inclusion in the Commission's March 31 report to the President and Congress. The meeting will be open to the public.

Kenneth L. Bader,
Chairman.
[FR Doc. 85-468 Filed 1-7-85; 8:45 am]
BILLING CODE 3410-05-M

NATIONAL SCIENCE FOUNDATION

Agency Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming. (202) 357-9421.

OMB Desk Officer: Carlos Tellez. (202) 395-7340.

Title: Research Participation and Characteristics of Science and Engineering Faculty.

Affected Public: Universities and Colleges.

Number of Responses: 2,000 responses; total of 2,000 burden hours.

Abstract: The information provided in this survey will enable NSF to report on essential aspects of faculty and research activity in doctorate-granting institutions of higher education, in particular, the utilization of recent doctorates. The study will permit analyese of changes since a prior survey in 1980.

Dated: January 1, 1985.

Herman G. Fleming,
NSF Reports Clearance Officer.
[FR Doc. 85-462 Filed 1-7-85; 8:45 am]
BILLING CODE 7555-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

January 3, 1985.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), as amended, notice is hereby give that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Thursday and Friday, January 24-25, 1985. The meeting will be held in Page Building #1, Room 416 and B-100, 2001 Wisconsin Avenue, NW., Washington, DC. The meeting will commence at 9:00 a.m. and end at 5:00 p.m. January 24 and will commence at 8:30 and end at 3:30 p.m. on January 25.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local governments was established by Congress by Pub. L. 95-63 on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Thursday, January 24, 1985

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 and B-100, Washington, DC
9:00 a.m.—9:15 a.m.—Plenary
• Introductory Remarks
9:15 a.m.—12:30 p.m.—Panel Meeting
• North Pacific Fur Seal Convention Work Session
Chairman: Charles Black, Room 416
Speakers: None.
12:30 p.m.—1:30 p.m.—Lunch
1:30 p.m.—3:30 p.m.—Plenary
• Guest Speakers:
John H. McElroy, Assistant Administrator for Environment, Satellite, Data, and Information Services, National Oceanic and Atmospheric Administration
John Apel, Applied Physics Laboratory, John Hopkins University
Topic:
Satellites: Products/Information Management
3:30 a.m.—5:30 p.m.—Panel Meetings
• Federal/State Relationships
Chairman: John Norton Moore, Room 416
Topic: Coastal Zone Management Consistency
Speakers: TBA
• Atmospheric Affairs
Chairman: S. Fred Singer, Room B-100
Topic: Acid Rain
Speakers: TBA
5:30 p.m.—Recess

Friday, January 25, 1985

2001 Wisconsin Avenue, NW., Page Building #1, Rooms B-100 & 416, Washington, DC
8:30 a.m.—12:00 Noon—Panel Meetings
• Shipbuilding
Chairman: Don Walsh, Room 416
Topic: Work Session
Speakers: None
• Exclusive Economic Zone
Chairman: Lee Gerhard, Room B-100
Topic: Work Session
Speakers: TBA
12:00 Noon—1:00 p.m.—Lunch
1:00 p.m.—3:30 p.m.—Plenary
• Panel Reports
• Other Business
3:30 p.m.—Adjourn

The public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning these meetings may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 330 Whitehaven Street, NW., Page

Building #1, Suite 438, Washington, DC 20235. The telephone number is 202/653-7818.

Dated: January 3, 1985.

Steven N. Anastasion,

Executive Director.

[FR Doc. 85-544 Filed 1-7-85; 8:45 am]

BILLING CODE 3510-12-M

POSTAL RATE COMMISSION

[Order No. 598; Docket No. A85-11]

Roanoke, West Virginia 26423 (Oliver R. Posey et al., Petitioner); Order Accepting Appeal and Establishing Procedural Schedule

Issued: January 2, 1985.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folson, Vice-Chairman; John W. Crutcher; James H. Duffy; Henrietta F. Guiton.

Docket number: A85-11.

Name of affected post office: Roanoke, West Virginia 26423.

Name(s) of petitioner(s): Oliver R. Posey and others.

Type of determination: Closing.

Date of filing of appeal papers: December 24, 1984.[1]

Categories of issues apparently raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before January 8, 1985.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

December 24, 1984—Filing of Petitions.
January 2, 1985—Notice and Order of Filing of Appeal.
January 18, 1985—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
January 28, 1985—Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001-115 (a) and (b)].
February 19, 1985—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
March 6, 1985—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001|115(d)].
March 13, 1985—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].
April 23, 1985—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 85-514 Filed 1-7-85; 8:45 am]

BILLING CODE 7715-01-M

[Order No. 597; Docket No. A85-9]

Wadsworth, New York 14565 (V.S. Alison, Jr. et al., Petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued: January 2, 1985.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folson, Vice-Chairman; John W. Crutcher; James H. Duffy; Henrietta F. Guiton.

Docket number: A85-9.

Name of affected post office: Wadsworth, New York 14565.

Name(s) of petitioner(s): V.S. Alison, Jr.; Merton Gates.

Type of determination: Closing.

Date of filing of appeal papers: December 14, 1984.

Categories of issues apparently raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

December 14, 1984—Filing of Petitions.
January 2, 1985—Notice and Order of Filing of Appeal.
January 8, 1985—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
January 18, 1985—Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].
February 7, 1985—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
February 22, 1985—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(d)].
March 1, 1985—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].
April 13, 1985—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 85-513 Filed 1-7-85; 8:45 am]

BILLING CODE 7715-01-M

POSTAL SERVICE

Changes in Certain Postal Rates, Fees and Mail Classifications

AGENCY: Postal Service.

ACTION: Changes in domestic rates, fees, and mail classifications.

SUMMARY: Pursuant to its authority under 39 U.S.C. 3625, the Postal Service is implementing the changes in domestic rates, fees, and mail classification indicated below.

EFFECTIVE DATE: February 17, 1985.

FOR FURTHER INFORMATION CONTACT: Don S. Allen, (202) 245-4418.

SUPPLEMENTARY INFORMATION: On November 10, 1983, the Postal Service

[1] In his petition, Mr. Posey requested a 30-day extension of time "to perfect the said appeal." No extension is necessary, as the petition is sufficient to establish this docket and the attached schedule provides Petitioners the opportunity to present their views in more detail.

filed, pursuant to Chapter 36, Title 39, United States Code, a request with the Postal Rate Commission for recommended decisions on changes in rates of postage and fees for postal services, and changes in the Domestic Mail Classification Schedule. An explanation of the Postal Service proposals and an invitation to participate in Commission Docket No. R84-1 was published in the **Federal Register** by the Postal Rate Commission on November 25, 1983 (48 FR 53196-212).

On September 7, 1984, the Postal Rate Commission issued an Opinion and Recommended Decision in Docket No. R84-1, which was subsequently amended on October 26, 1984, December 6, 1984, and December 10, 1984. In its recommended decision, the Commission recommended changes in permanent rates of domestic postage and fees for domestic postal services, and changes in mail classification.

In a decision adopted on December 11, 1984, issued on December 12, 1984, and revised on December 21, 1984, the Governors of the Postal Service approved the Commission's recommended decision, and ordered the recommended changes into effect on a permanent basis, pursuant to 39 U.S.C. 3625. The Board of Governors determined on December 12, 1984, that these changes would become effective at 12:01 a.m. on February 17, 1985. (The Governors' decision, the record of the Commission's hearings, and the Commission's recommended decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' decision and the Commission's recommended decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-1641).

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the rates, fees, and classification changes listed below become effective at 12:01 a.m., February 17, 1985.

In accordance with 39 U.S.C. 3626, separate rate schedules for the classes of mail and kinds of mailers identified in section 3626 were adopted as set forth in Schedule 1 through 6 of Appendix Three, and the rates becoming effective on February 17, 1985, are those set forth in the "Year 14" column under the heading of "Phased Rates."

(39 U.S.C. 101(d), 401, 403, 404, 3621, 3625, 3626)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

Appendix One

Rate Schedule 100—First-Class Mail

Mail type	Postage rate unit	Rate		
		Regular (cents)	Presorted[1] (cents)	
			5-digit	Carrier route
Letters	First ounce	22	18	17
	Each add'l. ounce[2]	17	17	17
Cards	Piece	14	12	11
ZIP+4 mail:[3]				
Letters	First ounce	21.1	17.5	
	Each add'l. ounce[2]	17	17	
Cards	Piece	13.1	11.5	
Nonstandard surcharge[4]		10	10	10

[1] Presorted First-Class Mail must be presented in a single mailing of at least 500 pieces properly prepared and presorted. The 5-digit presort rate applies only to each piece of a group of ten or more pieces destined for the same 5-digit ZIP code or each piece of a group of 50 or more pieces destined for the same 3-digit ZIP code. The lower carrier route rate applies only to mail presorted to carrier route, with a minimum of 10 pieces per route. A mailing fee of $50 must be paid once each calendar year at each office of mailing by any person who mails presorted First-Class Mail. The fee for mailers allows usage of either or both of these rates.

[2] Rate applies through 12 ounces. Heavier pieces are subject to priority mail rates.

[3] ZIP+4 mail must be properly prepared and submitted in a single mailing of at least 250 pieces, except where the presort minimum of 500 applies. ZIP+4 rates are not available for carrier route presort mail.

[4] Applies to the first ounce only. Not applicable to ZIP+4 mail.

Rate Schedule 103

Weight not exceeding (pounds)	Priority mail[1]					
	L. 1.2.3.	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	2.40	2.40	2.40	2.40	2.40	2.40
2	2.40	2.40	2.40	2.40	2.40	2.40
3	2.74	3.16	3.45	3.74	3.96	4.32
4	3.18	3.75	4.13	4.53	4.92	5.33
5	3.61	4.32	4.86	5.27	5.81	6.37
6	4.15	5.08	5.71	6.31	6.91	7.86
7	4.58	5.66	6.39	7.09	7.80	8.67
8	5.00	6.23	7.07	7.87	8.68	9.68
9	5.43	6.81	7.76	8.66	9.57	10.69
10	5.85	7.39	8.44	9.44	10.45	11.70
11	6.27	7.97	9.12	10.22	11.33	12.71
12	6.70	8.55	9.81	11.01	12.22	13.72
13	7.12	9.12	10.49	11.79	13.10	14.73
14	7.55	9.70	11.17	12.57	13.99	15.74
15	7.97	10.28	11.86	13.36	14.87	16.75
16	8.39	10.86	12.54	14.14	15.75	17.75
17	8.82	11.44	13.22	14.92	16.64	18.76
18	9.24	12.01	13.90	15.70	17.52	19.77
19	9.67	12.58	14.59	16.49	18.41	20.78
20	10.09	13.17	15.27	17.27	19.29	21.79
21	10.51	13.75	15.95	18.05	20.17	22.80
22	10.94	14.33	16.64	18.84	21.06	23.81
23	11.36	14.90	17.32	19.62	21.94	24.82
24	11.79	15.48	18.00	20.40	22.83	25.83
25	12.21	16.06	18.69	21.19	23.71	26.84
26	12.63	16.64	19.37	21.97	24.59	27.84
27	13.06	17.22	20.05	22.75	25.48	28.85
28	13.48	17.79	20.73	23.53	26.36	29.86
29	13.91	18.37	21.42	24.32	27.25	30.87
30	14.33	18.95	22.10	25.10	28.13	31.88
31	14.75	19.53	22.78	25.88	29.01	32.89
32	15.18	20.11	23.47	26.67	29.90	33.90
33	15.60	20.68	24.15	27.45	30.78	34.91
34	16.03	21.26	24.83	28.23	31.67	35.92
35	16.45	21.84	25.52	29.02	32.55	36.93
36	16.87	22.42	26.20	29.80	33.43	37.93
37	17.30	23.00	26.88	30.58	34.32	38.94
38	17.72	23.57	27.56	31.36	35.20	39.95

Rate Schedule 103—Continued

Weight not exceeding (pounds)	Priority mail[1]					
	L. 1.2.3.	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
39	18.15	24.15	28.25	32.15	36.09	40.96
40	18.57	24.73	28.93	32.93	36.97	41.97
41	18.99	25.31	29.61	33.71	37.85	42.98
42	19.42	25.89	30.30	34.50	38.74	43.99
43	19.84	26.46	30.98	35.28	39.62	45.00
44	20.27	27.04	31.66	36.06	40.51	46.01
45	20.69	27.62	32.35	36.85	41.39	47.02
46	21.11	28.20	33.03	37.63	42.27	48.02
47	21.54	28.78	33.71	38.41	43.16	49.03
48	21.96	29.35	34.39	39.19	44.04	50.04
49	22.39	29.93	35.08	39.98	44.93	51.05
50	22.81	30.51	35.76	40.76	45.81	52.06
51	23.23	31.09	36.44	41.54	46.69	53.07
52	23.66	31.67	37.13	42.33	47.58	54.08
53	24.08	32.24	37.81	43.11	48.46	55.09
54	24.51	32.82	38.49	43.89	49.35	56.10
55	24.93	33.40	39.18	44.68	50.23	57.11
56	25.35	33.98	39.86	45.46	51.11	58.11
57	25.78	34.56	40.54	46.24	52.00	59.12
58	26.20	35.13	41.22	47.02	52.88	60.13
59	26.63	35.71	41.91	47.81	53.77	61.14
60	27.05	36.29	42.59	48.59	54.65	62.15
61	27.47	36.87	43.27	49.37	55.53	63.16
62	27.90	37.45	43.96	50.16	56.42	64.17
63	28.32	38.02	44.64	50.94	57.30	65.18
64	28.75	38.60	45.32	51.72	58.19	66.19
65	29.17	39.18	46.01	52.51	59.07	67.20
66	29.59	39.76	46.69	53.29	59.95	68.20
67	30.02	40.34	47.37	54.07	60.84	69.21
68	30.44	40.91	48.05	54.85	61.72	70.22
69	30.87	41.49	48.74	55.64	62.61	71.23
70	31.29	42.07	49.42	56.42	63.49	72.24

[1] Exception: Parcels weighing less than 15 pounds measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

Rate Schedule 200—Second-Class Mail: Regular Rate Publications, Outside County

	Postage rate unit	Full rates[1] (cents)
Per Pound:		
Non-advertising portion	Pound	11.8
Advertising portion:	do	
Zone:		
1 and 2	do	15.8
3	do	16.6
4	do	18.2
5	do	20.7
6	do	23.3
7	do	26.0
8	do	28.9
Per piece: Less editorial factor of 0.03 cent per each 1 pct editorial content.[2]		
A—Prepared[3]	Piece	12.3
B—Presorted to 3-digit city/5-digit	do	9.6
C—Carrier route presort	do	7.8
SCF Discount[4]		(1.0)

[1] Charges for second-class regular rate mail are computed by adding the appropriate per-piece charge, including editorial factor, to the sum of the non-advertising portion and the advertising portion charge, as applicable.

[2] For postage calculation, multiply the editorial percent content by 0.03 and subtract from the applicable piece charge.

[3] Presorted to 3-digit (other than 8-digit city), States, Mixed States.

[4] Applies to mail destinating in the originating SCF area. The discount is subtracted from the applicable piece charge.

Rate Schedule 201—Second-Class Mail: In-County

	Full rate (cents)
Pound-rate matter:	
Per pound	7.9
Per piece:	
Presorted to carrier route	2.5

Rate Schedule 201—Second-Class Mail: In-County—Continued

	Full rate (cents)
Not presorted to carrier route	4.3

Rate Schedule 202—Second-Class Mail: Publications of Authorized Nonprofit Organizations, Outside County

	Postage rate unit	Full rate [1] (cents)
Per Pound:		
Non-advertising portion	Pound	7.6
Advertising portion: [2]		
Zone:		
1 and 2	do	10.1
3	do	11.5
4	do	13.7
5	do	17.0
6	do	20.5
7	do	24.7
8	do	28.2
Per Piece:		
Category A: Prepared i.e., presorted to 3-digits (except 3 digit city), states, mixed states.		8.4
Category B: Presorted to 3-digit city/5-digit.		5.8
Category C: Carrier route presort		3.9
SCF discount [3]		(1.0)

[1] Charges for second-class nonprofit mail are computed by adding the per-piece charge to the sum of the non-advertising portion charge and the advertising portion charge, as applicable.
[2] Not applicable to publications containing 10 percent or less advertising content.
[3] Applies to mail destinating in the originating SCF area. The discount is subtracted from the applicable piece charge.

Rate Schedule 203—Second-Class Mail: Classroom Publications, Outside County

	Postage rate unit	Full rate [1] (cents)
Per Pound:		
Non-advertising portion	Pound	6.2
Advertising portion:		
Zone:		
1 and 2	do	8.2
3	do	9.4
4	do	11.5
5	do	14.8
6	do	18.2
7	do	22.3
8	do	26.0
Per Piece:	Piece	5.6
SCF discount [2]	do	(1.0)

[1] Charges for classroom publications are computed by adding the per-piece charge to the sum of the non-advertising portion charge and the advertising portion charge, as applicable.
[2] Applies to mail destinating in the originating SCF area. The discount is subtracted from the applicable piece charge.

Rate Schedule 204—Second-Class Mail: Science of Agriculture

	Postage rate unit	Full rates [1] (cents)
Per Pound:		
Non-advertising portion	Pound	11.8
Advertising portion:		
Zone:		
1 and 2	do	10.1
3	do	16.6
4	do	18.2
5	do	20.7
6	do	23.3
7	do	26.0
8	do	28.9

Rate Schedule 204—Second-Class Mail: Science of Agriculture—Continued

	Postage rate unit	Full rates [1] (cents)
Per piece: Less editorial factor of 0.3 cent per each 1 pct. editorial content: [2]		
A—Prepared [3]	Piece	12.3
B—Presorted to 3-digit city/5-digit	do	9.6
C—Carrier route presort	do	7.8
SCF Discount [4]		(1.0)

[1] Charges for second-class Science of Agriculture copies are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion charge, as applicable.
[2] For postage calculation, multiply the editorial percent content by 0.03 and subtract from the applicable piece charge.
[3] Presorted to 3-digits (except 3-digit city), States, Mixed States.
[4] Applies to mail destinating SCF area. The discount is subtracted from the applicable piece charge.

Rate Schedule 205—Second-Class Mail: Limited Circulation Publications [1]

	Postage rate unit	Full rate [2] (cents)
Per Pound:		
Non-advertising portion	Pound	11.8
Advertising portion:		
Zone:		
1 and 2	do	15.8
3	do	16.6
4	do	18.2
5	do	20.7
6	do	23.3
7	do	26.0
8	do	28.9
Per piece:		
A—Preparepd [3]	Piece	8.4
B—Presorted to 3-digit city/5-digit	do	5.8
C—Carrier route presort	do	3.9
SCF Discount [4]	do	(1.0)

[1] Publications mailing fewer than 5,000 copies per issue outside country of publication.
[2] Charges for second-class Limited Circulation copies are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion charge, as applicable.
[3] Presorted to 3-digits (except 3-digit city), States, Mixed States.
[4] Applies to mail destinating in the originating SCF area. The discount is subtracted from the applicable piece charge.

Rate Schedule 206—Second-Class Mail: Limited Circulation Science of Agriculture [1]

	Postage rate unit	Full rates [2] (cents)
Per Pound:		
Non-advertising portions	Pound	11.8
Advertising portion:		
Zone:		
1 and 2	do	10.1
3	do	16.6
4	do	18.2
5	do	20.7
6	do	23.3
7	do	26.0
8	do	28.9
Per Piece:		
A—Prepared [3]	Piece	8.4
B—Presorted to 3-digit city/5-digit.	do	5.8
C—Carrier route presort	do	3.9
SCF Discount [4]	do	(1.0)

[1] Science of Agriculture publications mailing fewer than 5,000 copies per issue outside county of publication.
[2] Charges for second-class Limited Circulation Science of Agriculture copies are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion charge, as applicable.
[3] Presorted to 3-digits (except 3-digit city), States, Mixed States.
[4] Applies to mail destinating in the originating SCF area. The discount is subtracted from the applicable piece charge.

Rate Schedule 207—Second-Class Mail: Commingled Non-Subscriber and Non-Requester [1]

	Postage rate unit	Full rates [2] (cents)
Per Pound:		
Non-advertising portion	Pound	11.8
Advertising portion:		
Zone:		
1 and 2	do	15.8
3	do	16.6
4	do	18.2
5	do	20.7
6	do	23.3
7	do	26.0
8	do	28.9
Per Piece: Less editorial factor of 0.03 cent per each 1 percent editorial content. [3]		
A—Prepared [4]	Piece	12.3
B—Presorted to 3-digit city/5-digit	do	9.6
C—Carrier route presort	do	7.8
SCF discount [5]		(1.0)

[1] Includes sample copies in excess of the 10 percent allowance and complimentary copies.
[2] Charges for second-class Non-subscriber and Non-requestor commingled copies are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion charge, as applicable.
[3] For postage calculation, multiply the editorial percent content by 0.03 and subtract from the applicable piece charge.
[4] Presorted to 3-digits (except 3-digit city), States, Mixed States.
[5] Applies to mail destinating in the originating SCF area. The discount is subtracted from the applicable piece charge.

Rate Schedule 300—Third-Class Mail: Single Piece

	Full rates [1] (cents)
Single piece:	
1 ounce	22
2 ounce	39
3 ounce	56
4 ounce	73
5 and 6 ounces	88
Each additional 2 ounces	16
Nonstandard surcharge [2]	10
Keys and identification devices:	
First 2 ounces	62
Each additional 2 ounces	34

[1] When the postage rate computed at the single piece third-class rate is higher than the rate prescribed in the corresponding fourth-class category for which the piece qualifies, the applicable lower fourth-class rate is charged.
[2] Applies to pieces weighing one ounce or less.

Rate Schedule 301—Third-Class Mail: Regular Bulk

	Full rates (cents)
Regular Bulk: [1]	
Minimum per piece:	
Required presortation	12.5
Presorted to five-digits	10.1
Presorted to carrier route	8.3
Pound Rate:	
Carrier route pieces (per pound)	38
Required presortation 38 cents per pound plus (per piece)	4.2
Presorted to five-digits 38 cents per pound plus (per piece)	1.8

[1] A fee of $50.00 must be paid once such calendar year for each bulk mailing permit.

Rate Schedule 302—Third-Class: Nonprofit Bulk Mail

	Full rates (cents)
Nonprofit bulk:[1]	
Minimum per piece:	
Required presortation	7.4
Presorted to five-digits	6.3
Presorted to carrier route	4.8

Rate Schedule 302—Third-Class: Nonprofit Bulk Mail—Continued

	Full rates (cents)
Pound rate:	
Carrier route pieces (per pound)	21.9
Required presortation 21.9 cents per pound plus (per piece)	2.6

Rate Schedule 302—Third-Class: Nonprofit Bulk Mail—Continued

	Full rates (cents)
Presorted to five-digits 21.9 cents per pound plus (per piece)	1.5

[1] A fee of $50.00 must be paid once each calendar year for each bulk mailing permit.

Rate Schedule 400—Fourth-Class Mail: Parcel Post

Weight in Pounds	Zone							
	Local	1 and 2	3	4	5	6	7	8
2	1.35	1.41	1.51	1.66	1.89	2.13	2.25	2.30
3	1.41	1.49	1.65	1.87	2.21	2.58	2.99	3.87
4	1.47	1.57	1.78	2.08	2.54	3.03	3.57	4.74
5	1.52	1.65	1.92	2.29	2.86	3.47	4.16	5.62
6	1.58	1.74	2.05	2.50	3.18	3.92	4.74	6.49
7	1.63	1.82	2.19	2.71	3.51	4.37	5.32	7.36
8	1.69	1.90	2.32	2.92	3.83	4.82	5.91	8.25
9	1.75	1.99	2.46	3.13	4.15	5.26	6.49	9.12
10	1.80	2.07	2.59	3.34	4.48	5.71	7.07	10.00
11	1.85	2.13	2.70	3.49	4.71	6.03	7.49	10.62
12	1.90	2.20	2.79	3.65	4.94	6.34	7.89	11.23
13	1.94	2.26	2.89	3.79	5.15	6.63	8.27	11.78
14	1.98	2.32	2.98	3.92	5.35	6.90	8.62	12.30
15	2.02	2.37	3.06	4.04	5.54	7.15	8.94	12.79
16	2.06	2.42	3.14	4.16	5.71	7.39	9.25	13.24
17	2.10	2.48	3.22	4.27	5.88	7.61	9.54	13.67
18	2.14	2.52	3.29	4.38	6.03	7.83	9.81	14.08
19	2.18	2.57	3.36	4.48	6.18	8.03	10.07	14.46
20	2.21	2.62	3.43	4.58	6.33	8.22	10.32	14.83
21	2.25	2.67	3.49	4.67	6.47	8.41	10.56	15.18
22	2.28	2.71	3.56	4.76	6.60	8.59	10.79	15.51
23	2.32	2.75	3.62	4.85	6.73	8.76	11.01	15.83
24	2.35	2.80	3.68	4.94	6.85	8.92	11.22	16.14
25	2.39	2.84	3.74	5.02	6.97	9.08	11.42	16.43
26	2.42	2.88	3.80	5.10	7.08	9.23	11.61	16.72
27	2.45	2.92	3.85	5.18	7.20	9.38	11.80	16.99
28	2.48	2.96	3.91	5.25	7.30	9.52	11.98	17.26
29	2.52	3.00	3.96	5.33	7.41	9.66	12.16	17.52
30	2.55	3.04	4.01	5.40	7.51	9.80	12.33	17.77
31	2.58	3.08	4.07	5.47	7.61	9.93	12.50	18.01
32	2.61	3.12	4.12	5.54	7.71	10.06	12.66	18.24
33	2.64	3.15	4.17	5.61	7.81	10.19	12.82	18.47
34	2.67	3.19	4.22	5.68	7.90	10.31	12.97	18.70
35	2.70	3.23	4.26	5.74	7.99	10.43	13.12	18.91
36	2.73	3.26	4.31	5.81	8.08	10.54	13.27	19.12
37	2.76	3.30	4.36	5.87	8.17	10.66	13.41	19.33
38	2.79	3.33	4.41	5.93	8.25	10.77	13.55	19.53
39	2.82	3.37	4.45	5.99	8.34	10.88	13.69	19.73
40	2.85	3.40	4.50	6.05	8.42	10.98	13.83	19.92
41	2.88	3.44	4.54	6.11	8.50	11.09	13.96	20.11
42	2.91	3.47	4.58	6.17	8.58	11.19	14.09	20.29
43	2.94	3.50	4.63	6.23	8.66	11.29	14.21	20.47
44	2.97	3.54	4.67	6.28	8.74	11.39	14.34	20.65
45	3.00	3.57	4.71	6.34	8.81	11.49	14.46	20.82
46	3.02	3.61	4.76	6.39	8.89	11.59	14.58	20.99
47	3.05	3.64	4.80	6.45	8.96	11.68	14.69	21.16
48	3.08	3.67	4.84	6.50	9.03	11.77	14.81	21.32
49	3.11	3.70	4.88	6.55	9.10	11.86	14.92	21.48
50	3.14	3.74	4.92	6.61	9.17	11.95	15.03	21.64
51	3.17	3.77	4.96	6.66	9.24	12.04	15.14	21.80
52	3.19	3.80	5.00	6.71	9.31	12.13	15.25	21.95
53	3.22	3.83	5.04	6.76	9.38	12.22	15.36	22.10
54	3.25	3.86	5.08	6.81	9.45	12.30	15.46	22.25
55	3.28	3.89	5.12	6.86	9.51	12.39	15.57	22.39
56	3.30	3.93	5.16	6.91	9.58	12.47	15.67	22.54
57	3.33	3.96	5.20	6.96	9.64	12.55	15.77	22.68
58	3.36	3.99	5.23	7.01	9.71	12.63	15.87	22.82
59	3.39	4.02	5.27	7.06	9.77	12.71	15.97	22.95
60	3.41	4.05	5.31	7.10	9.83	12.79	16.06	23.09
61	3.44	4.08	5.35	7.15	9.90	12.87	16.16	23.22
62	3.47	4.11	5.38	7.20	9.96	12.94	16.25	23.35
63	3.50	4.14	5.42	7.24	10.02	13.02	16.35	23.48
64	3.52	4.17	5.46	7.29	10.08	13.10	16.44	23.61
65	3.55	4.20	5.49	7.33	10.14	13.17	16.53	23.74
66	3.58	4.23	5.53	7.38	10.19	13.24	16.62	23.86
67	3.60	4.26	5.57	7.42	10.25	13.32	16.71	23.99
68	3.63	4.29	5.60	7.47	10.31	13.39	16.80	24.11
69	3.66	4.32	5.64	7.51	10.37	13.46	16.88	24.23
70	3.68	4.35	5.67	7.56	10.43	13.53	16.97	24.35

For intra-BMC parcels, deduct 16 cents.
For nonmachinable inter-BMC parcels, add 90 cents.

Rate Schedule 402—Fourth-Class Mail: Special and Library Rates

	Full rates (cents)
Special:	
First pound:	
Not presorted	69
Presorted to 5-digits [1] [2]	47
Presorted to BMC [1] [3]	60
Each additional pound through 7 pounds	25
Each additional pound over 7 pounds	15
Library:	
First pound	50
Each additional pound through 7 pounds	17
Each additional pound over 7 pounds	9

[1] A fee of $50.00 must be paid once each calendar year for each permit.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes. (§ 400.331a(1) of the Classification Schedule effective July 6, 1976.)
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

Rate Schedule 405—Fourth-Class Mail: Single Piece Bound Printed Matter [1]

[Dollars]

Rates for pieces weighing up to (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
1.5	0.55	0.77	0.81	0.89	1.00	1.11	1.26	1.38
2	0.58	0.81	0.87	0.97	1.12	1.27	1.46	1.62
2.5	0.60	0.85	0.92	1.05	1.23	1.42	1.67	1.86
3	0.63	0.89	0.98	1.12	1.35	1.58	1.87	2.10
3.5	0.65	0.93	1.03	1.20	1.47	1.73	2.07	2.34
4	0.68	0.97	1.09	1.28	1.58	1.89	2.28	2.59
4.5	0.70	1.01	1.14	1.36	1.70	2.04	2.48	2.83
5	0.73	1.06	1.20	1.44	1.82	2.20	2.69	3.07
6	0.77	1.14	1.30	1.60	2.05	2.50	3.09	3.55
7	0.82	1.22	1.41	1.76	2.28	2.81	3.50	4.04
8	0.87	1.30	1.52	1.91	2.51	3.12	3.91	4.52
9	0.92	1.38	1.63	2.07	2.75	3.43	4.31	5.01
10	0.97	1.46	1.74	2.23	2.98	3.74	4.72	5.49
Per piece	0.48	0.65	0.65	0.65	0.65	0.65	0.65	0.65
Per pound	.049	.081	.109	.158	.233	.309	.407	.484

[1] Includes both catalogs and similar bound printed matter (§ 400.41 of the Classification Schedule effective July 6, 1976).

Rate Schedule 406—Fourth-Class Mail: Bulk Bound Printed Matter [1]

[Dollars]

Zones	Per piece	Carrier route [2]	Per pound
Local	0.24	0.19	0.036
1 and 2	0.32	0.27	0.060
3	0.32	0.27	0.091
4	0.32	0.27	0.140
5	0.32	0.27	0.215
6	0.32	0.27	0.291
7	0.32	0.27	0.388
8	0.32	0.27	0.466

[1] Includes both catalogs and similar bound printed matter.
[2] Applies to mailings of at least 300 pieces presorted to carrier route as prescribed by the Postal Service.

Rate Schedule 500—Express Mail

[Same day airport service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	8.35	8.35	8.35	8.35	8.35	8.35	8.35	8.35
2	8.35	8.35	8.35	8.35	8.35	8.35	8.35	8.35
3	10.35	10.35	10.35	10.35	10.35	10.35	10.35	10.35
4	10.35	10.35	10.35	10.35	10.35	10.35	10.35	10.35
5	10.35	10.35	10.35	10.35	10.35	10.35	10.35	10.35
6	10.50	10.55	11.00	11.55	12.20	12.75	13.55	14.70
7	11.05	11.15	11.60	12.30	13.00	13.65	14.60	15.95
8	11.60	11.70	12.25	13.00	13.85	14.60	15.65	17.20
9	12.10	12.25	12.85	13.75	14.65	15.50	16.70	18.40
10	12.65	12.80	13.50	14.45	15.50	16.40	17.75	19.65
11	13.20	13.35	14.10	15.20	16.30	17.35	18.80	20.90
12	13.75	13.90	14.75	15.90	17.15	18.25	19.85	22.15
13	14.30	14.45	15.35	16.65	17.95	19.15	20.90	23.40
14	14.85	15.00	16.00	17.35	18.80	20.10	21.95	24.65
15	15.35	15.55	16.60	18.05	19.60	21.00	23.00	25.85
16	15.90	16.10	17.20	18.80	20.45	21.95	24.05	27.10
17	16.45	16.70	17.85	19.50	21.25	22.85	25.10	28.35
18	17.00	17.25	18.45	20.25	22.10	23.75	26.15	29.60
19	17.55	17.80	19.10	20.95	22.90	24.70	27.20	30.85
20	18.10	18.35	19.70	21.70	23.75	25.60	28.25	32.10
21	18.60	18.90	20.35	22.40	24.55	26.50	29.30	33.30

RATE SCHEDULE 500—EXPRESS MAIL—Continued

[Same day airport service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
22	19.15	19.45	20.95	23.10	25.40	27.45	30.35	34.55
23	19.70	20.00	21.60	23.85	26.20	28.35	31.40	35.80
24	20.25	20.55	22.20	24.55	27.05	29.25	32.45	37.05
25	20.80	21.10	22.85	25.30	27.85	30.20	33.50	38.30
26	21.35	21.65	23.45	26.00	28.70	31.10	34.55	39.55
27	21.85	22.25	24.10	26.75	29.50	32.05	35.60	40.75
28	22.40	22.80	24.70	27.45	30.35	32.95	36.65	42.00
29	22.95	23.35	25.35	28.20	31.15	33.85	37.70	43.25
30	23.50	23.90	25.95	28.90	32.00	34.80	38.75	44.50
31	24.05	24.45	26.60	29.60	32.80	35.70	39.80	45.75
32	24.60	25.00	27.20	30.35	33.65	36.60	40.85	47.00
33	25.15	25.55	27.85	31.05	34.45	37.55	41.90	48.25
34	25.65	26.10	28.45	31.80	35.30	38.45	42.95	49.45
35	26.20	26.65	29.10	32.50	36.10	39.35	44.00	50.70
36	26.75	27.20	29.70	33.25	36.95	40.30	45.05	51.95
37	27.30	27.80	30.35	33.95	37.75	41.20	46.10	53.20
38	27.85	28.35	30.95	34.70	38.60	42.10	47.15	54.45
39	28.40	28.90	31.60	35.40	39.40	43.05	48.20	55.70
40	28.90	29.45	32.20	36.10	40.25	43.95	49.25	56.90
41	29.45	30.00	32.80	36.85	41.05	44.90	50.30	58.15
42	30.00	30.55	33.45	37.55	41.90	45.80	51.35	59.40
43	30.55	31.10	34.05	38.30	42.70	46.70	52.40	60.65
44	31.10	31.65	34.70	39.00	43.55	47.65	53.45	61.90
45	31.65	32.20	35.30	39.75	44.35	48.55	54.50	63.15
46	32.15	32.75	35.95	40.45	45.20	49.45	55.55	64.35
47	32.70	33.35	36.55	41.15	46.00	50.40	56.60	65.60
48	33.25	33.90	37.20	41.90	46.85	51.30	57.65	66.85
49	33.80	34.45	37.80	42.60	47.65	52.20	58.70	68.10
50	34.35	35.00	38.45	43.35	48.50	53.15	59.75	69.35
51	34.90	35.55	39.05	44.05	49.30	54.05	60.80	70.60
52	35.40	36.10	39.70	44.80	50.15	55.00	61.85	71.80
53	35.95	36.65	40.30	45.50	50.95	55.90	62.90	73.05
54	36.50	37.20	40.95	46.25	51.80	56.80	63.95	74.30
55	37.05	37.75	41.55	46.95	52.60	57.75	65.00	75.55
56	37.60	38.30	42.20	47.65	53.45	58.65	66.05	76.80
57	38.15	38.90	42.80	48.40	54.25	59.55	67.10	78.05
58	38.70	39.45	43.45	49.10	55.10	60.50	68.15	79.30
59	39.20	40.00	44.05	49.85	55.90	61.40	69.20	80.50
60	39.75	40.55	44.70	50.55	56.75	62.30	70.25	81.75
61	40.30	41.10	45.30	51.30	57.55	63.25	71.30	83.00
62	40.85	41.65	45.95	52.00	58.40	64.15	72.35	84.25
63	41.40	42.20	46.55	52.75	59.20	65.05	73.40	85.50
64	41.95	42.75	47.20	53.45	60.05	66.00	74.45	86.75
65	42.45	43.30	47.80	54.15	60.85	66.90	75.50	87.95
66	43.00	43.85	48.40	54.90	61.70	67.85	76.55	89.20
67	43.55	44.45	49.05	55.60	62.50	68.75	77.60	90.45
68	44.10	45.00	49.65	56.35	63.35	69.65	78.65	91.70
69	44.65	45.55	50.30	57.05	64.15	70.60	79.70	92.95
70	45.20	46.10	50.90	57.80	65.00	71.50	80.75	94.20

RATE SCHEDULE 501—EXPRESS MAIL

[Custom designed service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	10.75	10.75	10.75	10.75	10.75	10.75	10.75	10.75
2	10.75	10.75	10.75	10.75	10.75	10.75	10.75	10.75
3	12.85	12.85	12.85	12.85	12.85	12.85	12.85	12.85
4	12.85	12.85	12.85	12.85	12.85	12.85	12.85	12.85
5	12.85	12.85	12.85	12.85	12.85	12.85	12.85	12.85
6	12.90	13.65	14.30	14.85	15.45	16.05	16.80	17.95
7	12.95	14.30	15.00	15.70	16.40	17.05	18.00	19.35
8	13.00	14.95	15.75	16.50	17.35	18.10	19.15	20.70
9	13.05	15.55	16.50	17.35	18.30	19.15	20.30	22.05
10	13.15	16.20	17.25	18.20	19.25	20.15	21.50	23.40
11	13.45	16.85	18.00	19.05	20.20	21.20	22.65	24.75
12	13.80	17.50	18.75	19.90	21.10	22.25	23.80	26.15
13	14.10	18.15	19.50	20.70	22.05	23.30	25.00	27.50
14	14.45	18.75	20.20	21.55	23.00	24.30	26.15	28.85
15	14.80	19.40	20.95	22.40	23.95	25.35	27.35	30.20
16	15.10	20.05	21.70	23.25	24.90	26.40	28.50	31.55
17	15.45	20.70	22.45	24.05	25.85	27.40	29.65	32.90
18	15.80	21.30	23.20	24.90	26.80	28.45	30.85	34.30
19	16.10	21.95	23.95	25.75	27.70	29.50	32.00	35.65
20	16.45	22.60	24.70	26.60	28.65	30.50	33.15	37.00
21	16.75	23.25	25.40	27.40	29.60	31.55	34.35	38.35
22	17.10	23.90	26.15	28.25	30.55	32.80	35.50	39.70
23	17.45	34.50	26.90	29.10	31.50	33.65	36.65	41.10
24	17.75	25.15	27.65	29.95	32.45	34.65	37.85	42.45
25	18.10	25.80	28.40	30.75	33.35	35.70	39.00	43.80
26	18.45	26.45	29.15	31.60	34.30	36.75	40.15	45.15
27	18.75	27.05	29.90	32.45	35.25	37.75	41.35	46.50
28	19.10	27.70	30.60	33.30	36.20	38.80	42.50	47.85
29	19.40	28.35	31.35	34.10	37.15	39.85	43.65	49.25

RATE SCHEDULE 501—EXPRESS MAIL—Continued

[Custom designed service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
30	19.75	29.00	32.10	34.95	38.10	40.85	44.85	50.60
31	20.10	29.65	32.85	35.80	39.00	41.90	46.00	51.95
32	20.40	30.25	33.60	36.65	39.95	42.95	47.15	53.30
33	20.75	30.90	34.35	37.45	40.90	44.00	48.35	54.65
34	21.05	31.55	35.10	38.30	41.85	45.00	49.50	56.05
35	21.40	32.20	35.85	39.15	42.80	46.05	50.65	57.40
36	21.75	32.80	36.55	40.00	43.75	47.10	51.85	58.75
37	22.05	33.45	37.30	40.85	44.65	58.10	53.00	60.10
38	22.40	34.10	38.05	41.65	45.60	49.15	54.15	61.45
39	22.75	34.75	38.80	42.50	46.55	50.20	55.35	62.80
40	23.05	35.40	39.55	43.35	47.50	51.20	56.50	64.20
41	23.40	36.00	40.30	44.20	48.45	52.25	57.65	65.55
42	23.70	36.65	41.05	45.00	49.40	53.30	58.85	66.90
43	24.05	37.30	41.75	45.85	50.35	54.35	60.00	68.25
44	24.40	37.95	42.50	46.70	51.25	55.35	61.15	69.60
45	24.70	38.60	43.25	47.55	52.20	56.40	62.35	71.00
46	25.05	39.20	44.00	48.35	53.15	57.45	63.50	72.35
47	25.40	39.85	44.75	49.20	54.10	58.45	64.65	73.70
48	25.70	40.50	45.50	50.05	55.05	59.50	65.85	75.05
49	26.05	41.15	46.25	50.90	56.00	60.55	67.00	76.40
50	26.35	41.75	46.95	51.70	56.90	61.55	68.15	77.75
51	26.70	42.40	47.70	52.55	57.85	62.60	69.35	79.15
52	27.05	43.05	48.45	53.40	58.80	63.65	70.50	80.50
53	27.35	43.70	49.20	54.25	59.75	64.70	71.65	81.85
54	27.70	44.35	49.95	55.05	60.70	65.70	72.85	83.20
55	28.05	44.95	50.70	55.90	61.65	66.75	74.00	84.55
56	28.35	45.60	51.45	56.75	62.55	67.80	75.15	85.90
57	28.70	45.25	52.15	57.60	63.50	68.80	76.35	87.30
58	29.00	46.90	52.90	58.40	64.45	69.85	77.50	88.65
59	29.35	47.50	53.65	59.25	65.40	70.90	78.65	90.00
60	29.70	48.15	54.40	60.10	66.35	71.90	79.85	91.35
61	30.00	48.80	55.15	60.95	67.30	72.95	81.00	92.70
62	30.35	49.45	55.90	61.80	68.20	74.00	82.15	94.10
63	30.65	50.10	56.65	62.60	69.15	75.05	83.35	95.45
64	31.00	50.70	57.35	63.45	70.10	76.05	84.50	96.80
65	31.35	51.35	58.10	64.30	71.05	77.10	85.70	98.15
66	31.65	52.00	58.85	65.15	72.00	78.15	86.85	99.50
67	32.00	52.65	59.60	65.95	72.95	79.15	88.00	100.85
68	32.35	53.25	60.35	66.80	73.80	80.20	89.20	102.25
69	32.65	53.90	61.10	67.65	74.80	81.25	90.35	103.60
70	33.00	54.55	61.85	68.50	75.75	82.25	92.50	104.95

Add $5.60 for each custom pickup and delivery stop.

RATE SCHEDULE 502—EXPRESS MAIL

[Next day post office-to-post office service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	8.60	8.60	8.60	8.60	8.60	8.60	8.60	8.60
2	8.60	8.60	8.60	8.60	8.60	8.60	8.60	8.60
3	10.70	10.70	10.70	10.70	10.70	10.70	10.70	10.70
4	10.70	10.70	10.70	10.70	10.70	10.70	10.70	10.70
5	10.70	10.70	10.70	10.70	10.70	10.70	10.70	10.70
6	10.75	11.50	12.15	12.70	13.30	13.90	14.65	15.80
7	10.80	12.15	12.85	13.55	14.25	14.90	15.85	17.20
8	10.85	12.80	13.60	14.35	15.20	15.95	17.00	18.55
9	10.90	13.40	14.35	15.20	16.15	17.00	18.15	19.90
10	11.00	14.05	15.10	16.05	17.10	18.00	19.35	21.25
11	11.30	14.70	15.85	16.90	18.05	19.05	20.50	22.60
12	11.65	15.35	16.60	17.75	18.95	20.10	21.65	24.00
13	11.95	16.00	17.35	18.55	19.90	21.15	22.85	25.35
14	12.30	16.60	18.05	19.40	20.85	22.15	24.00	26.70
15	12.65	17.25	18.80	20.25	21.80	23.20	25.20	28.05
16	12.95	17.90	19.55	21.10	22.75	24.25	26.35	29.40
17	13.30	18.55	20.30	21.90	23.70	25.50	27.50	30.75
18	13.65	19.15	21.05	22.75	24.65	26.30	28.70	32.15
19	13.95	19.80	21.80	23.60	25.55	27.35	29.85	33.50
20	14.30	20.45	22.55	24.45	26.50	28.35	31.00	34.85
21	14.60	21.10	23.25	25.25	27.45	29.40	32.20	36.20
21	14.60	21.10	3.25	25.25	27.45	29.40	32.20	36.20
22	14.95	21.75	24.00	26.10	28.40	30.45	33.35	37.55
23	15.30	22.35	24.75	26.95	29.35	31.50	34.50	38.95
24	15.60	23.00	25.50	27.80	30.30	32.50	35.70	40.30
25	15.95	23.25	26.65	28.60	31.20	33.55	36.85	41.65
26	16.30	24.30	27.00	29.45	32.15	34.60	38.00	43.00
27	16.60	24.90	27.75	30.30	33.10	35.60	39.20	44.35
28	16.95	25.55	28.45	31.15	34.05	36.65	40.35	45.70
29	17.25	26.20	29.20	31.95	35.00	37.70	41.50	47.10
30	17.60	26.85	29.95	32.80	35.95	38.70	42.70	48.45
31	17.95	27.50	30.70	33.65	36.85	39.75	43.85	49.80
32	18.25	28.10	31.45	34.50	37.80	40.80	45.00	51.15
33	18.60	28.75	32.20	35.30	38.75	41.85	46.20	52.50
34	18.90	29.40	32.95	36.15	39.70	42.85	47.85	53.90
35	19.25	30.05	33.70	37.00	40.65	43.90	48.50	55.25

RATE SCHEDULE 502— EXPRESS MAIL—Continued

[Next day post office-to-post office service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
36	19.60	30.65	34.40	37.85	41.60	44.95	49.70	56.60
37	19.90	31.30	35.15	38.70	42.50	45.95	50.85	57.95
38	20.25	31.95	35.90	39.50	43.45	47.00	52.00	59.30
39	20.60	32.60	36.65	40.35	44.40	48.05	53.20	60.65
40	20.90	33.25	37.40	41.20	45.35	49.05	54.35	62.05
41	21.25	33.85	38.15	42.05	46.30	50.10	55.50	63.40
42	21.55	34.50	38.90	42.85	47.25	51.15	56.70	64.75
43	21.90	35.15	30.60	43.70	48.20	52.20	57.85	66.10
44	22.25	35.80	40.35	44.55	49.10	53.20	59.00	67.45
45	22.55	36.45	41.10	45.40	50.05	54.25	60.20	68.85
46	22.90	37.05	41.85	46.20	51.00	55.30	61.35	70.20
47	23.25	37.70	42.60	47.05	51.95	56.30	62.50	71.55
48	23.55	38.35	43.35	47.90	52.90	57.35	63.70	72.90
49	23.90	39.00	44.10	48.75	53.85	58.40	64.85	74.25
50	24.20	39.60	44.80	49.55	54.75	59.40	66.00	75.60
51	24.55	40.25	45.55	50.40	55.70	60.45	67.20	77.00
52	24.90	40.90	46.30	51.25	56.65	61.50	68.35	78.35
53	25.20	41.55	47.05	52.10	57.60	62.55	69.50	79.70
54	25.55	42.80	48.55	53.75	59.50	64.60	71.85	82.40
55	25.90	42.80	48.55	53.75	59.50	64.60	71.85	82.40
56	26.20	43.45	49.30	54.60	60.40	65.65	73.00	83.75
57	26.55	44.10	50.00	55.45	61.35	66.65	74.20	85.15
58	26.85	44.75	50.75	56.75	62.30	67.70	75.35	86.50
59	27.20	45.35	51.50	57.10	63.25	68.75	76.50	87.85
60	27.55	46.00	52.25	57.95	64.20	69.75	77.70	89.20
61	27.85	46.65	53.00	58.80	65.15	70.80	78.85	90.55
62	28.20	47.30	53.75	59.65	66.05	71.85	80.00	91.95
63	28.50	47.95	54.50	60.45	67.00	72.90	81.20	93.30
64	28.85	48.55	55.20	61.30	67.95	73.90	82.35	94.65
65	29.20	49.20	55.95	62.15	68.90	74.95	83.55	96.00
66	29.50	40.85	56.70	63.00	69.85	76.00	84.70	97.35
67	29.85	50.50	57.45	63.80	70.80	77.00	85.85	98.70
68	30.20	51.10	58.20	64.65	71.75	78.05	87.05	100.10
69	30.50	51.75	58.95	65.50	72.65	79.10	88.20	101.45
70	30.85	52.40	59.70	66.35	73.60	80.10	89.35	102.80

Add $5.60 for each pickup stop.

RATE SCHEDULE 503—EXPRESS MAIL

[Next day post office-to-addressee service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	10.75	10.75	10.75	10.75	10.75	10.75	10.75	10.75
2	10.75	10.75	10.75	10.75	10.75	10.75	10.75	10.75
3	12.85	12.85	12.85	12.85	12.85	12.85	12.85	12.85
4	12.85	12.85	12.85	12.85	12.85	12.85	12.85	12.85
5	12.85	12.85	12.85	12.85	12.85	12.85	12.85	12.85
6	12.90	13.65	14.30	14.85	15.45	16.05	16.80	17.95
7	12.95	14.30	15.00	15.70	16.40	17.05	18.00	19.35
8	13.00	14.95	15.75	16.50	17.35	18.10	19.15	20.70
9	13.05	15.55	16.50	17.35	18.30	19.15	20.30	22.05
10	13.15	16.20	17.25	18.20	19.25	20.15	21.50	23.40
11	13.45	16.85	18.00	19.05	20.20	21.20	22.65	24.75
12	13.80	17.50	18.75	19.90	21.10	22.25	23.80	26.15
13	14.10	18.15	19.50	20.70	22.05	23.30	25.00	27.50
14	14.45	18.75	20.20	21.55	23.00	24.30	26.15	28.85
15	14.80	19.40	20.95	22.40	23.95	25.35	27.35	30.20
16	15.10	20.05	21.70	23.25	24.90	26.40	28.50	31.55
17	15.45	20.70	22.45	24.05	25.85	27.40	29.65	32.90
18	15.80	21.30	23.20	24.90	26.80	28.45	30.85	34.30
19	16.10	21.95	23.95	25.75	27.70	29.50	32.00	35.65
20	16.45	22.60	24.70	26.60	28.65	30.50	33.15	37.00
21	16.75	23.25	25.40	27.40	29.60	31.55	34.35	38.35
22	17.10	23.90	26.15	28.25	30.55	32.60	35.50	39.70
23	17.45	24.50	26.90	29.10	31.50	33.65	36.65	41.10
24	17.75	25.15	27.65	29.95	32.45	34.65	37.85	42.45
25	18.10	25.80	28.40	30.75	33.35	35.70	39.00	43.80
26	18.45	26.45	29.15	31.60	34.30	36.75	40.15	45.15
27	18.75	27.05	29.90	32.45	35.25	37.75	41.35	46.50
28	19.10	27.70	30.60	33.30	36.20	38.80	42.50	47.85
29	19.40	28.35	31.35	34.10	37.15	39.85	43.65	49.25
30	19.75	29.00	32.10	34.95	38.10	40.85	44.85	50.60
31	20.10	29.65	32.85	35.80	39.00	41.90	46.00	51.95
32	20.40	30.25	33.60	36.65	39.95	42.95	47.15	53.30
33	20.75	30.90	34.35	37.45	40.90	44.00	48.35	54.65
34	21.05	31.55	35.10	38.30	41.85	45.00	49.50	56.05
35	21.40	32.20	35.85	39.15	42.80	46.05	50.65	57.40
36	21.75	32.80	36.55	40.00	43.75	47.10	51.85	58.75
37	22.05	33.45	37.30	40.65	44.65	48.10	53.00	60.10
38	22.40	34.10	38.05	41.65	45.60	49.15	54.15	61.45
39	22.75	34.75	38.80	42.50	46.55	50.20	55.35	62.80
40	23.05	35.40	39.55	43.35	47.50	51.20	56.50	64.20
41	23.40	36.00	40.30	44.20	48.45	52.25	57.65	65.55
42	23.70	36.65	41.05	45.00	49.40	53.30	58.85	66.90

Rate Schedule 503—Express Mail—Continued

[Next day post office-to-addressee service]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
43	24.05	37.30	41.75	45.85	50.35	54.35	60.00	68.25
44	24.40	37.95	42.50	46.70	51.25	55.35	61.15	69.60
45	24.70	38.60	43.25	47.55	52.20	56.40	62.35	71.00
46	25.05	39.20	44.00	48.35	53.15	57.45	63.50	72.35
47	25.40	39.85	44.75	49.20	54.10	58.45	64.65	73.70
48	25.70	40.50	45.50	50.05	55.05	59.50	65.85	75.05
49	26.05	41.15	46.25	50.90	56.00	60.55	67.00	76.40
50	26.35	41.75	46.95	51.70	56.90	61.55	68.15	77.75
51	26.70	42.40	47.70	52.55	57.85	62.60	69.35	79.15
52	27.05	43.05	48.45	53.40	58.80	63.65	70.50	80.50
53	27.35	43.70	49.20	54.25	59.75	64.70	71.65	81.85
54	27.70	44.35	49.95	55.05	60.70	65.70	72.85	83.20
55	28.05	44.95	50.70	55.90	61.65	66.75	74.00	84.55
56	28.35	45.60	51.45	56.75	62.55	67.80	75.15	85.90
57	28.70	46.25	52.15	57.60	63.50	68.80	76.35	87.30
58	29.00	46.90	52.90	58.40	64.45	69.85	77.50	88.65
59	29.35	47.50	53.65	59.25	65.40	70.90	78.65	90.00
60	29.70	48.15	54.40	60.10	66.35	71.90	79.85	91.35
61	30.00	48.80	55.15	60.95	67.30	72.95	81.00	92.70
62	30.35	49.45	55.90	61.80	68.20	74.00	82.15	94.10
63	30.65	50.10	56.65	62.60	69.15	75.05	83.35	95.45
64	31.00	50.70	57.35	63.45	70.10	76.05	84.50	96.80
65	31.35	51.35	58.10	64.30	71.05	77.10	85.70	98.15
66	31.65	52.00	58.85	65.15	72.00	78.15	86.85	99.50
67	32.00	52.65	59.60	65.95	72.95	79.15	88.00	100.85
68	32.35	53.25	60.35	66.80	73.90	80.20	89.20	102.25
69	32.65	53.90	61.10	67.65	74.80	81.25	90.35	103.60
70	33.00	54.55	61.85	68.50	75.75	82.25	91.50	104.95

Add $5.60 for each pickup stop.

Schedule SS-1—Special Services: Address Corrections

Description	Fee
Per Correction	$0.30

Schedule SS-2—Business Reply Mail

Description	Fee
Active business reply advance deposit account: Per piece	$0.07
Payment of postage due charges if active business reply mail advance deposit account not used: Per piece	0.23
License to mail business reply mail: Per calendar year	50.00
Accounting fee for active business reply mail advance deposit account: Per calendar year	160.00

Schedule SS-4—Special Services: Certificates of Mailing

Description	Fee (in addition to postage)
Individual Pieces	
Original or duplicate certificate of mailing for individually listed pieces of all classes of ordinary mail	$0.45
Firm mailing books	0.15
Bulk Pieces	
Identical pieces of First- and third-class mail paid with ordinary stamps, pre-cancelled stamps or meter stamps:	
Up to 1,000 pieces (1 certificate for total number)	1.60
Each additional 1,000 pieces or fraction	0.20
Duplicate copy	0.45

Schedule SS-5—Special Services: Certified Mail

Description	Fee (in addition to postage)
Per Piece	$0.75

Schedule SS-6—Special Services: Collect on Delivery

Amount to be collected, or insurance coverage desired	Fee (in addition to postage)
$0.10 to $25	$1.50
25.01 to 50	1.80
50.01 to 100	2.10
100.01 to 200	2.40
200.01 to 300	3.00
300.01 to 400	3.70
400.01 to 500	4.70
Notice of nondelivery of C.O.D.	1.25
Alteration of C.O.D. charges or designation of new addresses	1.25
Registered C.O.D.	1.50

Schedule SS-7—Special Services: Dead Letter Return

Description	Fee
Per piece (First-class letters and parcels only).	Fee Eliminated

Schedule SS-8—Special Services: Money Orders

Amount	Fee
$0.01 to $25	$0.75
25.01 to 700	1.00
APO-FPO	
$0.01 to $700	.25

Schedule SS-8—Special Services: Money Orders—Continued

Amount	Fee
Inquiry Fee	1.40

Schedule SS-9—Special Services: Insured Mail

Liability	Fee (in addition to postage)
$0.01 to $25	$0.50
25.01 to 50	1.10
50.01 to 100	1.40
100.01 to 150	1.80
150.01 to 200	2.10
200.01 to 300	3.00
300.01 to 400	3.70
400.01 to 500	4.40

Schedule SS-10.—Special Services: Lockbox/Caller Service

	Fee per annual [1] period				
A. Rental Rates for Lockboxes					
Cubic inch capacity of lockboxes	To $265	[2] $266 to	$500 to	$1,000 to	$2,000 and over
Box size	1	2	3	4	5
Group I	$22	$29	$53	$84	$128
Group II	5	7	13	20	30
Group III	2	2	2	2	2

SCHEDULE SS-10.—SPECIAL SERVICES: LOCKBOX/CALLER SERVICE—Continued

Description	Annual fee
B. CALLER SERVICE	
For caller service[1]	$260
For each reserved call number	15

[1] Fees are paid semiannually.
[2] Minimum size for the No. 2 box is 296 cubic inches.

SCHEDULE SS-11A—SPECIAL SERVICES: ZIP CODING OF MAILING LISTS

Description	Fee
Per thousand addresses	$36.00

SCHEDULE SS-11B—SPECIAL SERVICES: CORRECTION OF MAILING LISTS

Description	Fee
Per submitted address	$0.15

SCHEDULE SS-11C—ADDRESS CHANGES FOR ELECTION BOARDS AND REGISTRATION COMMISSIONS

Description	Fee
Per change of address	$0.15

SCHEDULE SS-11D—MAILING LIST SERVICES

	Fee (cents)
Corrections Associated With Arrangement of Address Cards in Sequence of Carrier Delivery	
Per correction	15

When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

SCHEDULE SS-12—SPECIAL SERVICES: METER SETTING ON SITE

Description	Fee
Meter company adjustments	$10.00
All other meter settings:	
First meter	
By Appointment	17.00
Unscheduled request	19.00
Additional meters	4.00

SCHEDULE SS-13—SPECIAL SERVICES: PARCEL AIR LIFT

Description	Fee (in addition to parcel post postage)
Up to 2 pounds	$0.30
Over 2 up to 3 pounds	0.60
Over 3 up to 4 pounds	0.90
Over 4 pounds	1.20

SCHEDULE SS-14.—SPECIAL SERVICES: REGISTERED MAIL

	Fee (in addition to postage)	
	For articles covered by insurance	For articles not covered by insurance
Value	Fee	Fee
0 to $100	$3.60	$3.55
$100.01 to $500	3.90	3.80
$500.01 to $1,000	4.25	4.15
$1,000.01 to $2,000	4.60	4.40
$2,000.01 to $3,000	4.95	4.65
$3,000.01 to $4,000	5.30	4.90
$4,000.01 to $5,000	5.65	5.15
$5,000.01 to $6,000	6.00	5.40
$6,000.01 to $7,000	6.35	5.65
$7,000.01 to $8,000	6.70	5.90
$8,000.01 to $9,000	7.05	6.15
$9,000.01 to $10,000	7.40	6.40
$10,000.01 to $11,000	7.75	6.65
$11,000.01 to $12,000	8.10	6.90
$12,000.01 to $13,000	8.45	7.15
$13,000.01 to $14,000	8.80	7.40
$14,000.01 to $15,000	9.15	7.65
$15,000.01 to $16,000	9.50	7.90
$16,000.01 to $17,000	9.85	8.15
$17,000.01 to $18,000	10.20	8.40
$18,000.01 to $19,000	10.55	8.65
$19,000.01 to $20,000	10.90	8.90
$20,000.01 to $21,000	11.25	9.15
$21,000.01 to $22,000	11.60	9.40
$22,000.01 to $23,000	11.95	9.65
$23,000.01 to $24,000	12.30	9.90
$24,000.01 to $25,000	12.65	10.15
$25,000.01 to $1,000,000	[1] 12.65	[2] 10.15
$1,000,000 to $15,000,000	[2] 256.40	[2] 253.90
Over $15,000,000	[3]	[3]

[1] Plus handling charge of 25 cents per $1,000 or fraction over first $25,000.
[2] Plus handling charge of 20 cents per $1,000 or fraction over first $1,000,000.
[3] Additional charges may be made based on considerations or weight, space and value.

SCHEDULE SS-15—SPECIAL SERVICES: RESTRICTED DELIVERY

Description	Fee (in addition to postage)
Per piece	$1.25

SCHEDULE SS-16—SPECIAL SERVICES: RETURN RECEIPTS

Description	Fee (in addition to postage)
Requested at time of mailing	
Showing to whom (signature) and date delivered	$0.70
Showing to whom (signature), date, and address where delivered	0.90
Requested after mailing	
Showing to whom and date delivered	4.50

SCHEDULE SS-17—SPECIAL SERVICES: SPECIAL DELIVERY

Class/weight	Fee (in addition to postage)
First-class and priority mail	
Not more than 2 pounds	$2.95
Over 2 but not over 10 pounds	3.15
Over 10 pounds	4.00

SCHEDULE SS-17—SPECIAL SERVICES: SPECIAL DELIVERY—Continued

Class/weight	Fee (in addition to postage)
All other classes	
Not more than 2 pounds	3.10
Over 2 but not over 10 pounds	3.60
Over 10 pounds	4.50

SCHEDULE SS-18—SPECIAL SERVICES: SPECIAL HANDLING

Weight	Fee (in addition to postage)
Not more than 10 pounds	$1.10
Over 10 pounds	1.60

SCHEDULE SS-19—SPECIAL SERVICES: STAMPED ENVELOPES

Type	Fee
Single Sale	
Regular	$0.05
Banded	0.05
Plain	
No. 6¾ size, box of 500 [1]	
Regular	5.90
Window	6.50
No. 10 size, box of 500 [1]	
Regular	7.40
Window	8.00
Printed	
No. 6¾ size, box of 500 [1]	
Regular	9.40
Window	10.00
No. 10 size, box of 500 [1]	
Regular	10.90
Window	11.50

[1] Fee for precancelled envelopes is the same.

SCHEDULE SS-20—MERCHANDISE RETURN

Description	Fee
Per transaction	$0.30

Shipper must have an advance deposit account.

SCHEDULE 1000

[Fees]

Description	Dollars
First-class presorted mailing fee	$50.00
First-class mailing fee: E-COM annual fee	50.00
Second-class mailing fees	
A. Original Entry	220.00
B. Additional entry (all zones)	60.00
Second-class reentry fee	35.00
Second-class registration for news agents	35.00
Third-class bulk mailing fee	50.00
Fourth-class special mail presorted mailing fee	50.00
Authorization to use permit imprint	50.00
Merchandise return (per facility receiving merchandise return labels)	50.00

Appendix Two—Changes in the Domestic Mail Classification Schedule

Note.—New language italicized, deleted language bracketed.

U.S. POSTAL SERVICE

Domestic Mail Classification Schedule

Classification Schedule 100

First-Class Mail

100.020 REGULAR MAIL

Regular First-Class Mail consists of mailable matter posted at First-Class regular rates, weighing 12 ounces or less, and not mailed or eligible for mailing under sections 100.0201, 100.021, 100.0211, 100.022, 100.0221, 100.023, or 100.024.

100.0201 ZIP+4 Rate Category Regular Mail

ZIP+4 rate category regular mail consists of pieces which meet the following eligibility requirements and the preparation requirements in section 100.047:

a. Bear a proper ZIP+4 code.

b. Be presented in mailings of 250 or more pieces; *or if presorted, in mailings of 500 or more pieces.*

c. Meet machinability criteria as prescribed by the Postal Service.

d. Meet address readability specifications for applicable mail processing equipment as prescribed by the Postal Service.

e. Have postage paid in a manner not requiring cancellation.

100.0202 [100.022] PRESORTED MAIL

Presorted First-Class Mail is First-Class Mail other than zone rated (priority) mail which is presented in a single mailing of 500 or more pieces, properly prepared and presorted.

[100.0221 ZIP+4 Rate Category Presorted Mail

ZIP+4 rate category presorted mail consists of peices which meet the following eligibility requirements and the preparation requirements in section 100.047]

a. [Bear a proper ZIP+4 code.]

b. [Be presented in mailings of 500 or more pieces.]

c. [Meet machinability criteria as prescribed by the Postal Service.]

d. [Meet address readability specifications for applicable mail processing equipment as prescribed by the Postal Service.]

e. [Have postage paid in a manner not requiring cancellation.]

100.07 FORWARDING AND RETURN

100.070 First-Class mail [other than zone rated (priority) mail] is forwarded without additional charge.

100.071 Zone rated (priority) mail [when forwarded is charged additional zone rate postage applicable between the forwarding office and the delivery office and is collected on delivery.] *is forwarded without additional charge.*

[100.072] First-Class mail [, except postal and post cards,] that is undeliverable as addressed is returned to the sender, without additional charge.

[100.0721 Postal and post cards, when returned by request of the mailer, will be charged the appropriate rate.]

200.02 DESCRIPTION OF SUBCLASSES

200.0201 *Regular*

Regular second-class mail is all second-class mail except that to which [sections] *section* 200.021 [and 200.022 apply.] *applies.*

a. Regular second-class may be mailed only by publishers or registered news agents.

b. Nonsubscriber and nonrequester copies mailed at any time during the calendar year up to 10 percent of the total weight of copies mailed to subscribers and requesters during the calendar year are regular second-class mail provided that the nonsubscriber and nonrequester copies would have been regular second-class mail if mailed to subscribers or requesters. See Section 200.093 for mailings in excess of the 10 percent limitation.

[200.022 Transient]

[Transient mail is second-class mail:]

[a. mailed by persons other than publishers or registered news agents;]

[b. mailed by publishers, not as a part of a commingled presorted mailing of subscriber or requester copies, to persons who may not be included in the legitimate list of persons as set forth in section 200.0105 or in section 200.0110, respectively;]

[c. which is forwarded or returned.]

200.07 FORWARDING AND RETURN

200.070 Undeliverable-as-addressed second-class mail will be [, on request of either the addressee or the mailer,] forwarded or returned to the mailer[;]. *as prescribed by the Postal Service.* [undeliverable-] *Undeliverable*-as-addressed [combination] *combined* [first] *First-* and second-class pieces will be forwarded *or* [and undeliverable-as-addressed] [combined first-class and second-class pieces will be] returned, as prescribed by the Postal Service. Additional charges when second-class mail is [forwarded or] returned [from one post office to another] will be based on the *applicable third- or fourth-class* [transient] rate.

200.08 ANCILLARY SERVICES

200.080 Second-class mail will receive the following additional [services] *service* upon payment of the appropriate [fees:] fee:

	Classification Schedule
[a. Certificates of mailing are available for transient rate only]	[SS–4]
[b.] Special delivery	SS–17

200.09 RATES AND FEES

200.090 The rates and fees for second-class mail are set forth as follows:

	Rate Schedule
a. Regular	200
b. Within County	201
c. Nonprofit	202
d. Classroom	203
e. Science of Agriculture	204
f. Limited Circulation	205
g. Science of Agriculture Limited Circulation	206
[h. Transient	207]
[i. Fees	1000]
h. Commingled Non-Subscriber & Non-Requester	*207*
i. Fees	*1000*

200.094 Copies of any second-class mail which are destined for delivery within the sectional center area in which they are entered qualify for the applicable SCF discount as set forth in Rate Schedules 200, 202, 203, 204, 205, 206 and 207. The sectional center area will be prescribed by the Postal Service.

300.01 DEFINITION

300.010 Third-class mail is mailable matter weighing less than 16 ounces, except:

a. Matter mailed or required to be mailed as first-class mail;

b. Matter entered as second-class mail, except copies sent by a printer to a publisher[;]. *and except copies that would have traveled at the former transient rate.*

c. Matter mailed under section 400.021 or section 400.022.

300.07 FORWARDING AND RETURN

300.070 Undeliverable-as-addressed third-class mail will[,] *be returned* on request of [either the addressee or] the mailer. [be] *or forwarded and returned on request of* [forwarded or returned to] the mailer[;]. Undeliverable-as-addressed combined first-class and

third-class pieces (will be forwarded and undeliverable combined first-class and thrid-class pieces] will be returned as prescribed by the Postal Service. [Additional charges when third-class mail is forwarded or returned from one post office to another will be based on the single-piece third-class rate.] *The single-piece third-class rate is charged for each piece receiving return only service. Charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. The charge for those returned pieces is the appropriate single-piece third-class rate for the piece plus that rate multiplied by a factor equal to the number of third-class pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.*

400.01 DEFINITION

400.010 Fourth-class mail is mailable matter weighing 16 ounces or more, except:

a. Matter mailed or required to mailed as first-class mail;

b. Matter entered as second-class mail, except copies sent by a printer to a publisher[;]. *and except copies that would have traveled at the former transient rate.*

c. Matter entered as controlled circulation mail;

d. That the 16-ounce minimum weight does not apply to matter mailed under seciton 400.021 or 400.022.

400.02 DESCRIPTION OF SUBCLASSES

400.020 *Parcel Post*

Parcel post is fourth-class mail not eligible for mailing under sections 400.021, 400.022, 400.023.

400.0201 Single-piece

Single-piece parcel post mail is fourth-class parcel post mail not eligible for mailing under section 400.0202.

400.0202 Bulk

Bulk parcel post mail is fourth-class parcel post mail consisting of properly prepared and separated single mailings of [not less than 300 pieces.] *at least 300 pieces or 2000 pounds.* Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined are not mailable as bulk parcel post. Provision for mailing nonidentical pieces is set forth in section 400.046.

400.0202 Bulk

Bulk parcel post mail is fourth-class parcel post mail consisting of properly prepared and separated single mailings of [not less than 300 pieces.] *at least 300 pieces or 2000 pounds.* Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined are not mailable as bulk parcel post. Provision for mailing nonidentical pieces is set forth in section 400.046.

400.0231 Carrier Route Presort Category

Carrier route presort mailings must contain not less than 300 pieces of carrier route presorted mail. The mail must be properly prepared in the manner prescribed by the Postal Service.

500.020 [Airport-to-Airport] *Same Day Airport Service*

Same Day Airport [Airport-to-Airport] service is available between designated airport mail facilities.

500.047 Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for [regular] *Next Day* Express Mail not available for claim or not delivered;

a. by 10:00 a.m. of the next delivery day in the case of Post Office-to-Post Office service.

b. by 3:00 p.m. of the next delivery day in the case of Post Office-to-Addressee service.

500.0601 [Airport-to-Airport] *Same Day Airport* Express Mail will be dispatched on the next available transportation to the destination airport mail facility.

500.0602 [Programmed] *Custom Designed* Express Mail will be available for claim or delivery as specified in the service agreement.

500.080 The rates for Express Mail are set forth in the following rate schedules:

		Rate Schedule
500.80	a. [Airport-to-airport] *Same Day Airport*	500
	b. [Programmed] *Custom Designed*	501
	c. [Regular] *Next Day Post Office-to-Post Office*	502
	d. [Regular] *Next Day Post Office-to-Addressee*	503

Classification Schedule SS–1—Address Correction Service

1.04 FEES

[1.040 Fees for address correction service are set forth in Rate Schedule SS–1.]

1.040 There is no charge for address correction service when the correction is provided incidental to the return of the mail piece to the sender.

1.041 A fee, as set forth in Rate Schedule SS–1, is charged for all other forms of address correction service.

Classification Schedule SS–2—Business Reply Mail

2.04 FEES

2.040 The Fees for business reply mail set forth in Rate Schedule SS–2.

2.042 An accounting fee as set forth in Rate Schedule SS–2 must be paid each calendar year or portion for each advance deposit business reply account at each facility where the mail is to be returned.

2.05 AUTHORIZATION AND LICENSES

2.050 In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in Rate Schedule SS–2.

Classification Schedule SS–3—Caller Service

3.03 FEES

3.030 Fees for caller service are set forth in the Rate Schedule SS–10.

Classification Schedule SS–4—Certificate of Mailing

4.04 FEES

4.040 The fees for certificate of mailing service are set forth in Rate Schedule SS–4.

Classification Schedule SS–5—Certified Mail

5.02 DESCRIPTION OF SERVICE

5.020 Certified mail service is provided [only] for matter [having no intrinsic value] mailed under Classification Schedule 100.

5.05 FEES

5.050 The fees for certified mail service are set forth in Rate Schedule SS–5.

Classification Schedule SS–6—Collect on Delivery Service

6.02 DESCRIPTION OF SERVICE

6.020 C.O.D. service is available for collection of [$400] *$500* or less upon the delivery of postage prepaid mail sent under the following classification schedules.

	Classification Schedule
a. First-class mail	100
b. Third-class (single piece only)	300
c. Fourth-class mail	400

6.023 [If the initial attempt to deliver C.O.D. mail from a post office is unsuccessful, a notice of arrival will be left at the mailing address.] *Delivery of C.O.D mail will be made in a manner specified by the Postal Service. If a delivery to the mailing address is not attempted or if a delivery attempt is unsuccessful, a notice of arrival will be left at the mailing address.*

6.025 The mailer may designate a new address or alter the C.O.D. charges by submitting the appropriate form and by paying the appropriate fee as set forth in Rate Schedule SS–6.

6.05 FORWARDING AND RETURN

6.051 For C.O.D. mail sent as third or fourth-class mail postage at the applicable rate will be charged[:] to the addressee:

a. When [the] *an* addressee, *entitled to delivery to the mailing address under Postal Service regulations,* request delivery of C.O.D. mail which was refused when first offered for delivery;

b. For each delivery attempt, *to an addressee entitled to delivery to the mailing address under Postal Service regulations,* after the second such attempt.

6.07 FEES

6.070 Fees for C.O.D. service are set forth in Rate Schedule SS–6.

[Classification Schedule SS–7]—[DEAD MAIL RETURN SERVICE]

[7.01 DEFINITION]

[7.010 Dead mail return service provides for the delivery or return of dead mail after it has been opened in dead mail offices by specially designated postal employees for the sole purpose of ascertaining an address of delivery, or, failing that, the address of the sender.]

7.02 DESCRIPTION OF SERVICE]

[7.020 Dead mail return service is available to mail sent under the following classification schedules:

	Classification Schedule
a. First-class mail; except post and postal cards	100
b. Third-class mail, as set forth in § 7.0201	300
c. Fourth-class mail, as set forth in § 7.0201	400]

[7.0201 Matter sent under Classification Schedules 300 and 400 will receive dead mail return service only if return postage has been guaranteed or if the contents are of obvious value.]

[7.021 First-class mail dispatched by registered mail from the dead mail office is charged the minimum registry fee, unless such mail was originally registered.]

[7.022 Third-class or fourth-class mail is charged postage due as third-class single piece or fourth-class single piece mail from both the dead parcel post branch to point of delivery and from the office of the last address to the dead parcel post branch.]

[7.03 FEES]

[7.030 The fee for dead mail return service is set forth in Rate Schedule SS–7.]

Classification Schedule SS–8—Domestic Postal Money Orders

8.03 FEES

8.030 The fees for domestic postal money orders are set forth in Rate Schedule SS–8.

Classification Schedule SS–9—Insured Mail

9.02 DESCRIPTION OF SERVICE

9.020 The maximum liability of the Postal Service under this schedule is [$400] *$500.*

9.023 The mailer is issued a receipt for each item mailed. For items insured more than [$20] *$25,* a receipt of delivery is obtained by the Postal Service.

9.024 For items insured for more than [$20] *$25,* a notice of arrival is left at the mailing address when the first attempt at delivery is unsuccessful.

9.028 Additional copies of the original mailing receipt may be obtained by the mailer, upon payment of the applicable fee set forth in Rate Schedule SS–9.

9.05 OTHER SERVICES

9.050 The following services, if applicable to the class of mail, may be obtained in conjuction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification Schedule
a. Parcel Airlift	SS–13
b. Restricted delivery (for items insured for more than [$20] *$25*).	SS–15
c. Return receipt (for items insured for more than [$20] *$25*).	SS–16
d. Special delivery	SS–17
e. Special handling	SS–18
f. Merchandise return (shippers only).	SS–20

9.06 FEES

9.060 The fees for insured mail service are set forth in Rate Schedule SS–9.

Classification Schedule SS–10—Lockbox Service

10.03 FEES

10.030 Fees for lockbox service are set forth in Rate Schedule SS–10.

Classification Schedule SS–11—Mailing List Services

11.04 FEES

11.040 The fees for mailing list services are set forth in Rate Schedules SS–11 *and SS–20.*

Classification Schedule SS–12—On-Site Meter Setting

12.03 FEES

12.030 The fees for on-site meter setting service are set forth in Rate Schedule SS–12.

Classification Schedule SS–13—Parcel Airlift (PAL)

13.07 OTHER SERVICES

13.070 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification Schedule
a. Certificate of mailing.	SS–4
b. Insured mail	SS–9
c. Restricted delivery (if insured for more than [$20] $25).	SS–15
d. Return receipt (if insured for more than [$20] $25).	SS–16
e. Special Delivery (if mailed for delivery within the 48 contiguous states).	SS–17

	Classification Schedule
f. Special handling	SS–18

13.08 FEES

13.080 The fees for parcel airlift service are set forth in Rate Schedule SS–13.

Classification Schedule SS–14—Registered Mail

14.02 DESCRIPTION OF SERVICE

14.020 Registered mail service is available to mailers of prepaid mail sent under Classification Schedule 100 [.] *except that Registered mail must meet the minimum requirements for length and width regardless of thickness.*

14.07 FEES

14.070 The fees for registered mail and related optional indemnity purchase are set forth in Rate Schedule SS–14.

Classification Schedule SS–15—Restricted Delivery

15.02 DESCRIPTION OF SERVICE

15.020 This service is available for mail sent under the following classification schedules:

	Classification Schedule
a. Certified mail	SS–5
b. C.O.D. mail	SS–6
c. Insured mail if insured for more than [$20] *$25*.	SS–9
d. Registered mail	SS–14
e. Express Mail	500

15.03 FEES

15.030 The fees for restricted delivery service are set forth in Rate Schedule SS–15.

Classification Schedule SS–16—Return Receipts

16.03 FEES

16.030 The fees for return receipt service are set forth in Rate Schedule SS–16.

Appendix Three—Phased Rates

SCHEDULE 1—SECOND-CLASS PHASED RATES: IN-COUNTY

Rate category	Phased rates (cents) Year 13	14	15	16
Pound-Rate Matter				
Per Pound	4.8	5.8	6.9	7.9
Per Piece:				
Presorted to Carrier Route	0.9	1.5	2.0	2.5

SCHEDULE 1—SECOND-CLASS PHASED RATES: IN-COUNTY—Continued

Rate category	Phased rates (cents) Year 13	14	15	16
Other	2.7	3.3	3.8	4.3

SCHEDULE 2—SECOND-CLASS PHASED RATES: PUBLICATION OF AUTHORIZED NONPROFIT ORGANIZATIONS, OUTSIDE COUNTY

Rate category	Phased rates (cents) Year 13	14	15	16
Non-Advertising	7.4	7.5	7.5	7.6
Advertising				
1 and 2	10.1	10.1	10.1	10.1
3	11.2	11.3	11.4	11.5
4	12.7	13.0	13.4	13.7
5	14.9	15.6	16.3	17.0
6	17.2	18.3	19.4	20.5
7	19.6	21.3	23.0	24.7
8	21.8	23.9	26.1	28.2
Pieces				
A	5.6	6.5	7.5	8.4
B	3.0	3.9	4.9	5.8
C	1.1	2.0	3.0	3.9
SCF Difference	−1.0	−1.0	−1.0	−1.0

SCHEDULE 3—SECOND-CLASS PHASED RATES: CLASSROOM PUBLICATIONS

Rate Category	Phased rates (cents) Year 13	14	15	16
Non-Advertising	4.9	5.3	5.8	6.2
Advertising:				
1 and 2	6.4	7.0	7.6	8.2
3	7.2	8.0	8.7	9.4
4	8.8	9.7	10.6	11.5
5	11.1	12.3	13.6	14.8
6	13.6	15.1	16.7	18.2
7	16.2	18.2	20.3	22.3
8	18.7	21.1	23.6	26.0
Pieces:				
A	3.0	3.9	4.7	5.6
SCF Difference	−1.0	−1.0	−1.0	−1.0

SCHEDULE 4—SECOND-CLASS PHASED RATES: REGULAR RATE PUBLICATIONS OUTSIDE COUNTY

Rate Category	Phased rates (cents) Year 13	14	15	16
Science of Agriculture				
Advertising to Zones 1 and 2	10.1	10.1	10.1	10.1
SCF Difference	−1.0	−1.0	−1.0	−1.0
Limited Circulation				
A	5.2	6.3	7.3	8.4
B	2.6	3.7	4.7	5.8
C	[1]0.7	1.8	2.8	3.9
SCF Difference	−1.0	−1.0	−1.0	−1.0

[1] When the SCF difference applies, no rate will be less than zero.

SCHEDULE 5—THIRD-CLASS PHASED RATES: NONPROFIT BULK

Rate Category	Phased rates (cents) Year 13	14	15	16
Minimum Per-Piece Rate				
Required presort	5.3	6.0	6.7	7.4
Presorted to 5-digit ZIP	4.2	4.9	5.6	6.3
Presorted to Carrier Route	2.7	3.4	4.1	4.8
Pound Rate				
Required presort	20.4	20.9	21.4	21.9
Plus per piece	2.6	2.6	2.6	2.6
Presorted to 5-digit ZIP	20.4	20.9	21.4	21.9
Plus per piece	1.5	1.5	1.5	1.5
Presorted to carrier route	20.4	20.9	21.4	21.9

SCHEDULE 6—FOURTH-CLASS PHASED RATES: LIBRARY

Rate category	Phased rates (cents) Year 13	14	15	16
First Pound	35	40	45	50
Each Additional Pound thru 7 Pounds	12	14	15	17
Each Additional Pound	7	8	8	9

[FR Doc. 85–251 Filed 1–7–85; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21615; SR–PSE–84–21]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 2, 1985.

The Pacific Stock Exchange, Inc. ("PSE") 618 South Spring Street, Los Angeles,California, 90014, submitted on November 5, 1984, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Rule VII, Section 7, of the PSE rules to provide that a member organization must file with the Exchange answers to financial questionnaires, reports of income and expenses, and any additional financial information prescribed by the Exchange unless that member organization is a member of and has as its designated examining authority another national securities exchange or registered national securities association.

In addition, under the proposed rule change each member organization must file with the Exchange a Report of Financial Condition on SEC Form X–17A–5, as required by Rule 17a–10 under the Act. Any member who fails to do so in a timely manner shall be subject to late filing charges of $100 if late by 1 to 30 days, $200 if late by 31 to 60 days,

and $400 if late by 61 to 90 days. Repeated or aggravated failure to file the report for more than 90 days will be referred to the Ethics and Business Conduct Committee for appropriate disciplinary action.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 21504, November 20, 1984) and by publication in the **Federal Register** (49 FR 46855, November 28, 1984). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-483 Filed 1-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21616; File No. SR-PHILADEP-84-5]

Filing of Proposed Rule Change of Philadelphia Depository Trust Co.

January 2, 1985.

On December 7, 1984, the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The Commission is publishing this notice to solicit comment on the proposal.

The proposal would establish PHILADEP as a "qualified registered securities depository" for purposes of Securities Exchange Act Rule 17Ad-14, 17 CFR 240.17Ad-14. Rule 17AD-14 requires registered transfer agents to open special accounts with qualified registered securities depositories when acting as tender agent or exchange agent in connection with tender or exchange offers for depository eligible securities. Depository Trust Company, Midwest Securities Trust Company, and Pacific Securities Depository Trust Company currently are qualified registered securities depositories.

The proposal includes PHILADEP procedures governing the special transfer agent accounts, particularly the book-entry processing of movements to and from the accounts to reflect tenders and withdrawals. More specifically, the proposal would establish PHILADEP procedures for opening the special accounts, tender of shares by participants, withdrawals from tendered positions, covering letters of guarantee through depository delivery, prorated or canceled offers, delivery of physical certificates, and payment for tendered shares.

Under the proposal, a tender or exchange agent (the "agent") must contact PHILADEP as soon as a tender or exchange offer is announced and must enter into a Letter of Agreement with PHILADEP making PHILADEP procedures binding on the agent. The special account must be established within two business days after commencement of the tender or exchange offer.

Once an offer commences, participants may tender their share positions by submitting letters of authorization to PHILADEP. Participants may submit tender instructions for same day processing between 8:30 a.m. and 11:00 a.m. Eastern time each business day during the life of the offer. Instructions will be accepted until 11:00 a.m. Eastern time on the expiration date of the offer. By 5:00 p.m. each business day, PHILADEP will inform the agent by telephone of that day's processing activity. A written activity report will be delivered to agents either on the same business day or the next business day if use of an overnight courier is necessary. PHILADEP also will prepare a daily report showing total activity to date, confirming the agent's position, and will send it to agents by messenger, facsimile transmission or other mutually agreeable method. Agents must confirm daily closing positions reported by PHILADEP and must report any discrepancies to PHILADEP immediately by telephone.

The proposal allows participants to continue tendering shares directly to agents by sending agents a letter of guarantee. Participants then can "cover" such letters by sending a copy to PHILADEP along with a letter of authorization to PHILADEP marked "To Cover A Letter of Guarantee." Hours for submitting these instructions to PHILADEP are the same as for tenders through PHILADEP, 8:30 a.m. to 11:00 a.m. Eastern time, terminating at 11:00 a.m. Eastern time on the last day of the offer or any protection period. Daily reports to agents will indicate which letters of guarantee are covered by that day's movements.

Participants wishing to withdraw shares previously tendered through PHILADEP must submit withdrawal instructions to PHILADEP. Participants may do so until 11:00 a.m. Eastern time each business day that withdrawals are permitted under the terms of the offer. PHILADEP will submit copies of the instructions to agents later that day. After reviewing withdrawal instructions for conformity with the terms of the offer, agencts must accept or reject the withdrawals by 11:00 a.m. Eastern time on the next business day. However, on the last day of the withdrawal period specified in the offer, agents must accept or reject withdrawals in writing no later than the close of the withdrawal period or the close of business at PHILADEP that day, whichever is earlier.[1] Written confirmation of agents' acceptance or rejection must be sent by facsimile transmission or other mutually agreeable method. PHILADEP will book-entry process all accepted withdrawals and will include the withdrawals on that day's activity reports.

Agents must telephone PHILADEP immediately to report the proration or cancellation of an offer. Verbal telephone instructions authorizing PHILADEP to return some or all tendered securities must promptly be followed by written instructions.

Upon expiration of the offer or any protection period, PHILADEP will physically deliver tendered shares to the agent within two business days after receipt of written withdrawal instructions from the agent. Agents must immediately confirm the total number of shares delivered and verify that all shares are in good deliverable form. Any excess deliveries to agents, which may be made because exact denominations are unavailable, must promptly be transferred to PHILADEP & CO. and returned to PHILADEP.

Finally, the proposal requires agents to inform PHILADEP of the date payment to tendering participants will be made. Payments made through PHILADEP must be made at the some time and in the same manner as payments to other persons accepting the offer.[2] In exchange offers, agents paying

---

[1] This requirement was added to PHILADEP's proposal by letter amendment dated December 28, 1984.

[2] However, PHILADEP will not collect any solicitation fees payable to participants. Agents must pay eligible participants directly, and all questions or claims regarding solicitation fees must be settled by the agent and the participant.

for tendered shares with securities must deliver securities to PHILADEP in denominations requested by PHILADEP.

PHILADEP believes that the proposal is consistent with the requirements of the Act in general, and section 17A of the Act in particular. Specifically, PHILADEP believes that the proposal would reduce processing costs for tender and exchange offers by increasing processing efficiencies. Also, PHILADEP believes that the proposal would facilitate prompt and accurate clearance and settlement of securities transactions, would improve safeguarding of securities and funds by bringing additional tender and exchange offer activities within the automated securities processing environment, and would foster coordination and cooperation among persons engaged in clearance and settlement of securities transactions.

To assist the Commission in determining whether to approve the proposal or to institute disapproval proceedings, comments are invited within 21 days after this notice is published in the **Federal Register**. Please file six copies of comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No SR-PHILADEP-84-5.

Copies of the proposal, all subsequent amendments, all written statements with respect to the proposal which are filed with the Commission, and all written comments relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the proposal and any subsequent amendments also are available for inspection and copying at the principal offices of PHILADEP.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-484 Filed 1-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21622; File No. SR-CSE-84-3]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to Small Order Execution Guarantee

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 12, 1984, The Cincinnati Stock Exchange (the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Effective September 5, 1984, the Board of Trustees of The Cincinnati Stock Exchange added subparagraph (c)(iv) to Rule 11.9 (National Securities Trading System) to read as follows (new language italicized):

Rule 11.9. National Securities Trading System.

(a) . . .

(b) . . .

(c) The Securities Committee shall approve one or more applicant Proprietary Members of the Exchange as a Designated Dealer for one or more Designated Issues. A Designated Dealer shall perform the following functions:

(i) . . .

(ii) . . .

(iii) . . .

(iv) *Guarantee the execution of up to 1099 shares of public agency market orders in Designated Issues for which he is Designated Dealer.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Proposed Rule Change is to codify the practice of the Exchange's National Securities Trading System of providing automatic executions up to 1,099 shares for public agency market orders at the best available price represented by all Intermarket Trading System ("ITS") participants. Incoming public agency market orders are priced at the ITS best bid/offer and, after being exposed to the Exchange Floor, are executed, up to 1099 shares, against a "Guarantor" Dealer. Other exchanges have recently adopted similar changes to their automated execution systems. (*See* Release No. 34-21197, August 2, 1984 (New York Stock Exchange) and Release No. 34-21206, August 3, 1984 (Pacific Stock Exchange)).

The enhancement proposed herein is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act") as it facilitates transactions in securities traded on the Exchange. The proposed enhancement is also consistent with section 11A(a)(1) of the Act, which encourages the use of new data processing and communications techniques and more efficient market operations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the Proposed Change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.

The Exchange has neither solicited nor received comments on the Proposed Change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communciations relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for

inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

January 2, 1984.

[FR Doc. 85-548 Filed 1-7-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 31, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0052
Form Number: IRS Form 990-PF and 4720
Type of Review: Revision
Title: Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation Return of Certain Excise Taxes on Charities and Other Persons Under Chapter 41 and 42 of the Internal Revenue Code.

OMB Number: 1545-0712
Form Number: IRS Form 6198
Type of Review: Revision
Title: Computation of Deductible Loss for an Activity Described in Section 465(c)

OMB Number: New
Form Number: IRS Forms 8282 and 8283
Type of Review: New
Title: Donee Information Return and Noncash Charitable Contributions Appraisal Summary

Clearance Officer: Garrick Shear (202) 566-6254, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Bureau of the Public Debt

OMB Number: 1535-0036
Form Number: PD 2513
Type of Review: Revision
Title: Application by Voluntary Guardian of Incompetent Owner of U.S. Savings Bonds/Notes

OMB Number: 1535-0035
Form Number: PD 4881
Type of Review: Extension
Title: Application for Payment of U.S. Savings Bonds of Series EE or HH or Released Checks in an Amount not Exceeding $1,000 by the Survivor of a Deceased Owner Whose Estate is not Being Administered

Clearance Officer: Paula Spedden (202) 634-5295, Bureau of the Public Debt, Room 420, Vanguard Building, 1111 20th Street, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

James V. Nasche, Jr.,

Departmental Reports, Management Office.

[FR Doc. 85-482 Filed 1-7-85; 8:45 am]

BILLING CODE 4810-25-M

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief; Tony Gene Allen, et al.

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of Granting of Relief from Disabilities Incurred by Conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Paul M. Durham, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026, (202-566-7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

ALLEN, Tony Gene, 2222 Hammerstein Road, Wheelersburg, Ohio, convicted on April 20, 1962, in Muscogee Superior Court, Columbus, Georgia.

APPLE, Donald Ray, 704 Sanford, Richland, Washington, convicted on Febuary 11, 1974, in United States District Court for the Eastern District of Washington.

ATEN, Jay Jr., 4178 Erindale Drive, North Fort Myers, Florida, convicted on March 6, 1978, in Circuit Court, Lee County, Florida.

BABCOCK, Thomas James, 231 ½ 12th Avenue North, Wisconsin Rapids, Wisconsin, convicted on May 11, 1976, in Portage County Circuit Court, Stevens Point, Wisconsin.

BAGGETT, Hollon Glen, Route 2, Box 274, Austin, Arkansas, convicted on November 10, 1948, in the 14th Judicial District Court, Oberlin, Louisiana.

BAILEY, Amos Ray, Route 2, Box 270, Altha, Florida, convicted on October 30, 1958, in United States District Court for the Northern District of Florida, on April 4, 1961, in Middle District of Georgia, Albany Division; and on June 1, 1965, in the Northern District of Florida.

BARNES, Linda Carol, 9767 Pagewood, Apartment 906, Houston, Texas, convicted on September 9, 1981, in 185th District Court, Harris County, Texas.

BENNETT, Russell James, Box 262, Potter Hill Road, Port Crane, New York, convicted on June 14, 1976, in Broome County Court, Binghamton, New York.

BENNETT, Scott Wallace, 2609 South 12th Street, Fargo, North Dakota, convicted on March 25, 1982, in Seventh Judicial District, Moorhead, Minnesota.

BOYD, Donald Clifton, 1480 Lakewood Road, Duluth, Minnesota, convicted

on January 26, 1979 in United States District Court, St. Paul, Minnesota.

BROWN, Larry G., 803 Lincoln Street, Walla Walla, Washington, convicted on November 25, 1981, in Superior Court, Benton County, Washington.

BROWN, Robin Sue, 10820 Paradise Acres #34, Salida, Colorado, convicted on April 3, 1981, in United States District Court, Finney County, Kansas.

BROWN, Robert Miller, Route 2, Box 137, Afton, Virginia, convicted on November 23, 1965, in Circuit Court, Nelson County, Virginia.

BUCHANAN, Norman Leon, 5302 Merceron Avenue, Baltimore, Maryland, convicted on March 2, 1976, in the Maryland District Court, Baltimore, Maryland.

BULGAR, Frank John, 201 South 4th Street #16, Yakima, Washington, convicted on July 16, 1968, in Superior Court, Alameda County, California.

BURKSDALE, Larry, 6211 North 11th Street, Philadelphia, Pennsylvania, convicted on July 18, 1974, in United States District Court Six, Philadelphia, Pennsylvania.

BURMEISTER, Warren Lee, 440 East Fulton, Apartment 4, Grand Rapids, Michigan, convicted on March 24, 1982, in United States District Court for the Western District, Grand Rapids, Michigan.

CARVER, Robert Anthony, 3110 Georgia Avenue, Kenner, Louisiana, convicted on September 14, 1964, in United States District Court for the Southern Judicial District of Mississippi.

CARNEY, Rose, Route 4, Box 497, Russellville, Kentucky, convicted on August 28th 1963, in Montgomery County Court, Clarksville, Tennessee.

CARTER, Wayne Webb, 4510 Biloxi, Apartment 4, Millington, Tennessee, convicted on May 2, 1978, Federal Grand Jury for the Western Judicial, District of Tennessee.

CHAPMAN, Larry Wayne, 263 Riverside Drive, Nashville, Tennessee, convicted May 16, 1973, in Circuit Court, Norfolk, Virginia.

CHAVIS, Raymond, 2204 Alice Avenue, Oxon Hill, Maryland, convicted on February 23, 1944 in United States District Court, District of Columbia, Washington, D.C.

CHRISTIAN, Jacob Lewis, Route 1, Box 2575, Front Royal, Virginia, convicted on May 21, 1979, in Circuit Court, Warren County, Virginia.

CHRISTOPULOS, George Chris, 707 East 21st Street, Sioux Falls, South Dakota, convicted on August 8, 1976, in Circuit Court, 2nd Judicial Circuit Court of Minnehaha, South Dakota.

COLEMAN, Robert Mitchell, Route 2, Box 5, Shady Haven Mobile Park, Castle Hayne, North Carolina, convicted on April 24, 1980, in Superior Court, New Hanover County, North Carolina.

CRESPO, Eugenio, 574 East 134th Street, Bronx, New York, convicted on April 23, 1976, in Superior Court, Bronx County, New York.

CRIPE, Brian Walter, 760 Hidden Valley Drive, Columbia Falls, Montana, convicted on July 18, 1969, in Superior Court, Spokane County, Washington.

DIAZ, Robert Nels, Sr., 17 Berlin Street, Providence, Rhode Island, convicted on January 30, 1958, in Providence Superior Court, Rhode Island.

DRAUGHN, Thomas Warren, 535 Haymore Street, Mount Airy, North Carolina, convicted on August 12, 1965, in Surrey County Court, Dobson, North Carolina.

DURNIN, August Wilmer, 591 South 14th Street, Port Allen, Louisiana, convicted on November 11, 1979, in United States District Court, Baton Rouge, Louisiana.

EAVENSON, Bruce William, 130 Sashabaw Road, Ortonville, Michigan, convicted on August 12, 1981, in United States District Court, Detroit, Michigan.

ERVIN, James, 1708 North Battery Drive, Richmond, Virginia, convicted on June 2, 1980, in Circuit Court, King William County, Virginia.

EVANS, Cecil Dwayne, 517 West Hutchinson, San Marcos, Texas, convicted on September 17, 1976, in Western Judicial District, Travis County, Texas.

EXUM, Robert Davis, 510 Scholfield Street, Florence, South Carolina, convicted on Septembr 22, 1976, in General Sessions Court, Florence, South Carolina.

FLOREK, Henry W., 2532 Gaul Street, Philadelphia, Pennsylvania, convicted on March 18, 1969, in Philadelphia Court, Philadelphia, Pennsylvania.

FONTIER, Phillip Joseph, 52 Chateau Blanc Chateau Road, Mammoth Lakes, California, convicted on August 2, 1979, in United States District Court for the Eastern Judicial District, California.

FRANKLIN, Lee Mackie, Jr., Route 1, Box 287A, Jonesville, North Carolina, convicted on March 5, 1974, in Superior Court, Dobson, North Carolina.

GENET, John Paul, 22 Williams Street, Glen Cove, New York, convicted on May 27, 1981, by Federal Grand Jury, New York.

GERBER, Harold George, 2333 Humbolt Street, Bellingham, Washington, convicted on June 5, 1980, in Superior Court, Whatcom County, Washington.

GERMAIN, Leslie Arthur, 5954 Hickory Meadow Lane, Apartment 5, Memphis, Tennessee, convicted on April 17, 1973, in United States District Court, Jackson, Tennessee.

GILES, Ronald Edward, 2009 Road 34, Pasco, Washington, convicted on February 15, 1978, in United States District Court for the Eastern Judicial District of Washington.

GUNDERSON, Alfred, 7420 Bay Parkway, Brooklyn, New York, convicted on September 24, 1963, in Supreme Court of New York, Kings County.

HANCOCK, Arnold J., Route 1, Box 950, Palatka, Florida, convicted on August 13, 1947, in the Seventh Judicial District, Palatka, Florida.

HARNE, Charles Leon, Route 1, Box 422A, Smithburg, Maryland, convicted on July 15, 1966, in Circuit Court, Frederick, Maryland.

HERRICK, Edwin Elbert, 1521 Colorado Avenue, Flint, Michigan, convicted on February 21, 1962, in Circuit Court of Isabella County, Michigan; and on July 30, 1962, in Circuit Court, Saginaw County, Michigan.

HOLLINGSHEAD, Crafton Alto Lee, Jr., Route 1, Box 693, Webster, Florida, convicted on May 2, 1962, in Circuit Court of Pasco County, Florida.

HOOKS Walter, M., 104 Lake Forest Drive, Greenville, South Carolina, convicted on July 27, 1976, in United States District Court, Greenville, South Carolina.

HYDE, Ambrouse C., 665 St. John Place, Brooklyn, New York, convicted on December 2, 1981, in the Southern Judicial District of Mississippi.

JACOBS, John Wallace, 2380 Harrison Drive, Dunedin, Florida, convicted on March 14, 1966, and on March 21, 1966, in Jackson County Circuit Court, Mariana, Florida.

JARVIS, Kenneth Filbert, 917 Benjamin Parkway, Greensboro, North Carolina, convicted on December 6, 1976, in United States District Court, Greensboro, North Carolina.

JONES, Frederick Victor, 507 North Lincoln, Pocatello, Idaho, convicted on May, 5, 1980, in District Court, Minidoka County, Idaho.

JORDAN, William, Jr., 5109 Industrial Avenue, Flint, Michigan, convicted on February 14, 1955, in Circuit Court of Genesee, Flint, Michigan.

JUSTICE, Bradley Carl, 1401 Alexander Street, Centralia, Washington, convicted on November 22, 1972, in Superior Court, Comanche County, Oklahoma.

KAES, Frederick T., 755 East Grand Blanc Road, Building 11, Apartment 5, Grand Blanc, Michigan, convicted on December 16, 1940, in the Circuit

Court of Osceola, Reed City, Michigan.

KAMMER, William Ray, Star Route, Box 106, Bourbon, Missouri, convicted on July 13, 1971, in the United States District Court, St. Louis, Missouri.

KELLUM, Grace Laverne, Post Office Box 683, Crow Agency, Montana, convicted on September 24, 1975, in District Court, Yellowstone County, Missouri.

KODRICH, Micheal Downie, 9450 Woodridge Drive, Eden Prairie, Minnesota, convicted on September 23, 1969, in the Fourth District Court, Hennepin County, Minnesota.

KUYKENDALE, James Donald, 810 West 2nd Street, Kuna, Idaho, convicted on November 4, 1976, in 4th Judicial District Court, Idaho.

LEEP, Edward E., 1135 Lakeview Drive, Schererville, Indiana, convicted on November 18, 1980, in the United States District Court for the Northern District of Indiana, Hammond, Indiana.

LESLEY, Kenneth Ellwood, 211 West First Street, Apartment H, Phoenix, Oregon, convicted on November 27, 1974, in Circuit Court, Coos County, Oregon.

LETNES, Virgil Lawrence, Route 1, Box 97, Daytona, Washington, convicted on May 24, 1976, in Superior Court, Chelan County, Washington; and on October 18, 1976, in Superior Court for the Eastern District of Washington.

LEWIS, Brian Anthony, Route 4, Box 126, Leesburg, Virginia, convicted on January 4, 1982, in Commonwealth Court, Fairfax, Virigina.

LEWIS, Frederick Gary, Sr., Route 2, Box 449, Sparta, Georgia, convicted on December 12, 1975, in the United States District Court, Macon, Georgia.

LINCOLN, Leslie Ivan, 1226 14th Street, Lewiston, Idaho, convicted on August 15, 1979, in District Court, Nez Perce County, Idaho.

LIND, Dean Loren, 5835 Bryant Avenue North, Minneapolis, Minnesota, convicted on July 1, 1977, in Hennepin County District Court, Fourth Judicial District, Minnesota.

LINDSAY, Wayne George, 221 East 48th Street, Eugene, Oregon, convicted on October 28, 1974, in Circuit Court, Lane County, Oregon.

LOPEZ, GILBERT D., 225 North Clouis Avenue, Fresno, California, convicted on March 27, 1980, in United States District Court for the Eastern Division of California.

LYOYD, Michael Duane, 208 East 39th Street, Anderson, Indiana, convicted on June 12, 1967, in Madison Circuit Court, Anderson, Indiana.

LUND, Brian Scott, 800 North East 98th Court, Vancouver, Washington, convicted on July 31, 1980, in Superior Court, Clark County, Washington.

MARTINEZ, Pascual, Jr., 101 Avenue C #3, Taft, Texas, convicted on December 10, 1973, in 36th District Court, San Patricio County, Texas.

McCRACKEN, Leonard Phillip, 303 St. Olaf Avenue West, Northfield, Minnesota, convicted on May 4, 1977, in the United States District Court, St Paul, Minnesota.

McNEIL, Warren Carson III, 2418 Medway Drive, Raleigh, North Carolina, convicted on March 7, 1977 in United States District Court, Fayetteville, North Carolina.

MITCHELL, David Lee, 2494 South Fifth Street, Lebanon, Oregon, convicted on September 2, 1980, in Circuit Court, Crook County, Oregon.

MONGELLO, John N. Jr., 1238–E 29th Street, Brooklyn, New York, convicted on August 1, 1978, in United States District Court for the Southern District of New York.

MONTGOMERY, Winfred Lamar, 40 Doescher Drive, Harahan, Louisiana, convicted on August 8, 1975, in the Criminal District Court, Parish of Orleans, Louisiana.

MORRIS, John Robert, 1136 Cedar Terrace, Columbia, South Carolina, convicted on January 12, 1971, in General Sessions Court, Richland County, Columbia, South Carolina.

MOWEN, Thomas Lee, 309 Sagebrush Drive, Havre, Montana, convicted on May 29, 1981, in District Court, Hill County, Montana.

MURPHY Michael J., 714 North 5th Street, Harrison, New Jersey, convicted on February 11, 1981, in Hudson County Superior Court, Jersey City, New Jersey.

MURRAY, Darrell Keith, 514 105th South West, Everett, Washington, convicted on November 13, 1963, in Justice Court, Snohomish County, Washington.

MYERS, William Ronald, 2544 South American Street, Philadelphia, Pennsylavania, convicted on August 12, 1956, in Pennsylvania Municipal Court, Philadelphia, Pennsylvania.

NICHOLS, Nathan D., Jr., 605 Sunset, Copperas Cove, Texas, convicted in November 1980, in 28th Judicial District Court, Gatesville, Texas.

NOBLE, Harold Johnston, Route 1, Box 26, Shorter, Alabama, convicted on January 5, 1983, in United States District Court for the Middle Judicial District of Alabama.

ODOM, Douglas Eugene, 2404 Royal Palm Drive, Fort Pierce, Florida, convicted on August 19, 1971, in St. Lucie County Circuit Court, Fort Pierce, Florida.

OHNSTAD, Michael Nicolai, 1301 2nd Street North West, Apartment 305 W, Waseca, Minnesota, convicted on September 4, 1979, in First Circuit Court, Honolulu, Hawaii.

PECKELS, James Francis, 2947 Queen Avenue North, Minneapolis, Minnesota, convicted on May 12, 1966, and on April 11, 1969, in Hennepin County District Court, Minneapolis, Minnesota.

POOLE, Kenneth A., 9 Stevens Street, Stoneham, Massachusetts, convicted on July 10, 1970, in First District Court for Eastern Middlesex County, Massachusetts.

POORE, Herschel Henry, Jr., 726 Vernon Drive, Anniston, Alabama, convicted on October 4, 1979, in United States District Court for the Northern District of Alabama, Birmingham.

PRATT, Charles Vermillion, 3914–B Hamilton Street, Apartment #3, Fairbanks, Alaska, convicted on October 31, 1980, in Superior Court for 4th Judicial District, Alaska.

PRUSKY, Dale Stephen, 64 Fuller Road, Albany, New York, convicted on December 14, 1977, in Renserlaer County Court, New York.

RAFFERTY, Patrick David, Sr., 1022 North Hampshire, Manson City, Iowa, convicted on March 23, 1973, in Cerro Gordo County, Iowa.

RATLIFF, David Walter, 1298 Kingsburg Road, Abilene, Texas, convicted on April 16, 1981, in United States District Court for the Northern District of Oklahoma.

RAY, McCleod Kelly, 592 North Second, Carrington, North Dakota, convicted on September 5, 1980, in United States District Court, Fargo, North Dakota.

ROGERS, James Charles, 89 West Thompson, West St. Paul, Minnesota, convicted on April 18, 1978, in United States District Court, St. Paul, Minnesota; and on April 25, 1978, in Ramsey County District Court, St. Paul, Minnesota.

SALTE, James Hayes, Route 3, Box 1478, Ridgeville, South Carolina, convicted on January 17, 1981, and on May 5, 1965, in the State Court of North Carolina, Wilmington County, North Carolina.

SAURMAN, Scott Jay, 6106 Kenowa Avenue, Grandville, Michigan, convicted on April 7, 1977, in Circuit Court of Kent County, Michigan.

SCEIFFHAUER, Ralph Daryl, Post Office Box 131, Bern, Kansas, convicted on February 2, 1957, in Brown County Court, Hiawatha, Kansas.

SILBAUGH, Gerald Granville, 11340 Quebec Avenue North, Champlin, Minnesota, convicted on April 19, 1951 in Fourth Judicial District, Hennepin County, Minnesota.

SKAINS, Robert Earl, Rural Route 2, Box 557, Riverside Drive, Bastrop, Louisiana, convicted on March 23, 1979, in 4th Judicial District Court, Bastrop, Louisiana.

SLONE, David Lester, 7114 Sandy Shore Drive, Hamlin, New York, convicted on February 1, 1982, in County Court of Monroe, New York.

SMITH, Kevin Terrell, 109 West Tyler, McAlester, Oklahoma, convicted on August 19, 1980, in District Court of Cowley County, Kansas.

SULLIVAN, Gerald Lynn, 3131 West Hood, Apartment A–15, Kennewick, Washington, convicted on October 14, 1964, in United States District Court for Judicial District of Oregon; on October 8, 1976, in Grant County Superior Court, Grant County, Washington.

SULLIVAN, Rex Stuart, Rural Route 2, Box 328–A, Nashville, Tennessee, convicted on April 3, 1973, in 20th Judicial Circuit Court, Lee County, Florida.

TETER, Kimeron Ray, 924 East Seventh Street, Hutchinson, Kansas, convicted on May 23, 1974, in the District Court of Reno County, Hutchinson, Kansas.

THERMAN, James Roy, Route 1, Box 558–A, Springtown,Texas, convicted on July 30, 1962, in San Joaquin City Municipal Court, California.

THOMAS, Terry, 3125 North 34th Street, Phoenix, Arizona, convicted on September 22, 1971, in Maricopa City Superior Court, Phoenix, Arizona.

TIPTON, LLoyd Ralph, 7565 Cedar Drive, Citrus Heights, California, convicted on January 8, 1943, in Superior Court, Sacramento County, California.

TOOLEY, Roland O'Neil, Route 1, Box 46, Scranton, North Carolina, convicted on February 1, 1983, in Superior Court, Hyde County, North Carolina.

URON, William John, 110 Woodbury Drive, Iron River, Michigan, convicted on December 3, 1954, in the Circuit Court, Crystal Falls, Michigan.

VILLANOVA, Thomas, 2 Beach Court, Bayville, New York, convicted on February 17, 1977, in United States District Court for the Southern District, New York.

WABBERSEN, William George, Sr., Grove Avenue, Route 1, Box 206–D, Tarpon Springs, Florida, convicted on March 22, 1979, in the Circuit Court of Franklin County, Apalachicola, Florida.

WALDO, Billy Thomas, Route 7, Box 97–A, Pontotoc, Mississippi, convicted on November 14, 1975, in Pontotoc County Circuit Court, Pototoc, Mississippi.

WALL, Michael Dean, Route 2, Box 180, Chesnee, South Carolina, convicted on June 25, 1982, in the Court of General Sessions, Spartenburg County, Spartenburg, South Carolina.

WESTERHOLM, William M., 203 East Arbor Avenue, Apartment 302 F, Bismarck, North Dakota, convicted on April 5, 1973, in the First Judicial District Court, Fargo, North Dakota.

WHITECOTTON, Ronald David, 304 Restfulhm Road, West Monroe, Louisiana, convicted on December 12, 1968, in Fourth Judicial Court, Ouachita Parish, Louisiana.

WILLIAMS, Robert Hubert, 36 Saily Avenue, Plattsburgh, New York, convicted on June 13, 1974, in Clinton County Court, Plattsburgh, New York.

WYANT, Jess Joseph III, Route 5, Box 102, Eldon, Missouri, convicted on September 7, 1964, in the Circuit Court, Buffalo, Missouri.

YATES, Gregory Paul, 3504 Montrovia Boulevard, Apartment 106, convicted on January 16, 1976, in Anoka County Court for the Tenth Judicial District, Minnesota.

YOUSIF, ZOUSIF, 28841 Bellavista, Farmington Hills, Michigan, convicted on November 12, 1982, in United States District Court, Detroit, Michigan.

Signed: January 2, 1985.

Stephen E. Higgins,

Director.

[FR Doc. 85–542 Filed 1–7–85; 8:45 am]

BILLING CODE 4810–31–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 5
Tuesday, January 8, 1985

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

	Items
Federal Mine Safety and Health Review Commission	1
Merit Systems Protection Board	2
National Labor Relations Board	3

1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 2, 1985.

TIME AND DATE: 10:00 a.m., Wednesday, January 9, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. U.S. Steel Mining Co., Docket No. PENN 84-49; Petition for Discretionary Review. (Issues include whether the administrative law judge erred in finding a roof control violation and in finding negligence associated with a violation.)

* * * * *

TIME AND DATE: Following item listed above.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in a closed meeting:

2. Secretary of Labor, MSHA on behalf of James M. Clarke v. T.P. Mining, Inc., Docket No. LAKE 83-97-D. (Issues to be considered at this time is limited to whether a prohibited ex parte communication occurred during a proceeding before a Commission administrative law judge.)

It was determined by a unanimous vote of Commissioners that this portion of the meeting be closed.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR 2706.150(a)(3) and 2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, Agenda Clerk. (202) 653-5632.

[FR Doc. 85-595 Filed 1-4-85; 2:07 pm]

BILLING CODE 6735-01-M

2

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 3:00 p.m., Tuesday, January 15, 1985.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Frazier* v. *United States Postal Service*, MSPB Docket No. NY07528210641 COMP.
2. *Hutchinson* v. *Defense Language Institute*, MSPB Docket No. SF03518410741.
3. *Donaldson* v. *Department of Labor*, MSPB Docket No. PH04328310487.
4. *Rogers* v. *Department of Labor*, MSPB Docket No. PH04328310695.
5. *Goodale* v. *Department of Labor*, MSPB Docket No. AT04328410243.
6. *Harmon* v. *Department of Labor*, MSPB Docket No. PH04328410287.

CONTRACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board (202) 653-7262.

Dated: January 4, 1985.

For the Board.

Kathy W. Semone,

Deputy Clerk (general).

[FR Doc. 85-624 Filed 1-4-85; 3:53 pm]

BILLING CODE 7400-01-M

3

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10 a.m., Thursday, January 10, 1985.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Open to public observation.

MATTERS TO BE CONSIDERED: Case handling procedures.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570. Telephone: (202) 254-9430.

Dated, Washington, D.C., January 2, 1985.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 85-560 Filed 1-4-85; 11:30 am]

BILLING CODE 7545-01-M

federal register

Tuesday
January 8, 1985

Part II

Architectural and Transportation Barriers Compliance Board

36 CFR Part 1155

Statement of Organization and Procedures; Final Rule

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1155

Statement of Organization and Procedures

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Final rule: Statement of Organization and Procedures.

SUMMARY: At its September 16, 1975, meeting, the Architectural and Transportation Barriers Compliance Board adopted a Statement of Organization and Procedures. It was amended by the Board on May 9, 1977; March 14, 1978; May 8, 1978; March 11, 1980, and, finally, was substantially amended by the Board on May 10, 1983. The document sets forth procedures for election of Board officers; for filling Board vacancies; for holding Board meetings; for establishment of Board committees and for conduct of committee business; for selection of and duties of a General Counsel; for fiscal accountability; for delegation of authority by the Board to Board committees, officers or staff, and for amending the document. The Statement of Organization and Procedures is issued to clearly delineate the above procedures and is being published so that all affected persons will be fully informed about the organization and procedures of the ATBCB.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Laurinda Steele, Office of Administration and Management, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Washington, D.C. 20202, (202) 245–1801 (voice or TDD).

SUPPLEMENTARY INFORMATION: Pursuant to section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, as amended, the Architectural and Transportation Barriers Compliance Board (ATBCB or Board) adopted a Statement of Organization and Procedures on September 16, 1975. The Statement was amended by the Board on May 9, 1977; March 14, 1978; May 8, 1978, and on March 11, 1980. On May 10, 1983, it was substantially revised and passed in the version published here. The Statement provides procedures for election of two board officers, a Chairperson and Vice-Chairperson. It additionally sets out the procedures to be followed when there are vacancies in Board membership. Procedures are set out for holding regular and special Board meetings, including prior notice of meetings and agendas to Board members. The Statement also sets out procedures for attendance by Board members at meetings, rules for Board meetings, quorum requirements, and voting procedures at Board meetings. The document sets forth in detail the procedures for requests for placement of items on the Board agenda by members or by Board committees, and for placement of items on the agenda by the Executive Committee. One of the major changes in the revised Statement is that it sets forth in greater detail than previously the composition of and procedures to be followed by the committees of the Board. Provision for nomination of an confirmation of the General Counsel for the Board is also included in the Statement of Organization and Procedure. The document also sets out a statement on fiscal accountability and provides for delegation of Board authority to the Executive Committee and, to the extent permitted by law, to the officers, committees or staff of the Board. Amendments to the Statement of Organization and Procedures require a vote of two-thirds of the membership of the Board at the time the vote is taken.

List of Subjects in 36 CFR Part 1155

Authority delegations (Government agencies), Handicapped, Organization and functions (Government agencies).

For the reasons stated in the preamble, Chapter XI of Title 36, Code of Federal Regulations, is amended by the addition of Part 1155, as set forth below.

PART 1155—STATEMENT OF ORGANIZATIONS AND PROCEDURES

Sec.

1155.1 Organization and membership.
1155.2 Board meetings.
1155.3 Committees.
1155.4 General Counsel.
1155.5 Fiscal accountability.
1155.6 Delegations.
1155.7 Amendments to the Statement of Organization and Procedures.
1155.8 Amendments to the Authorities and Delegations.

Authority: 29 U.S.C. 792, Pub. L. 93–112, as amended Pub. L. 95–602.

§ 1155.1 Organization and membership.

(a) *Name and Organization.* The name of this organization is the Architectural and Transportation Barriers Compliance Board (hereinafter referrred to as the "Board") as provided in Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, as amended.

(b) *Authorization for the Board.* The statutory authorization for the Board is section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, as amended.

(c) *Officers of the Board.* The presiding officers of the Board shall be a Chairperson and in his or her absence a Vice Chairperson. The Chairperson shall be elected by a majority of the fixed membership of the Board and shall serve for a term of one year. If no new Chairperson has been elected at the end of the one-year term, the incumbent shall continue to serve in that capacity until a successor Chairperson has been elected. The Vice Chairperson shall be elected by a majority of the fixed membership of the Board for a term coterminous with that of the Chairperson, and preside in the absence or disqualification of the Chairperson.

(d) *Membership.* The Board shall be composed of Presidentially appointed public members and the heads of each of the following departments or agencies (or their designees whose positions are Executive Level IV or higher):

(1) Department of Education;
(2) Department of Health and Human Services;
(3) Department of Transportation;
(4) Department of Housing and Urban Development;
(5) Department of Labor;
(6) Department of Interior;
(7) Department of Defense;
(8) Department of Justice;
(9) General Services Administration;
(10) United States Postal Service; and
(11) Veterans Administration.

(e) *Board Vacancies.* (1) If any designated Federal Board member is unable to fulfill his or her obligations as a member, the head of the department or agency shall notify the Chairperson that its seat is vacant.

(2) When the position of a Federal Board member is vacant, the head of the department or agency may designate in writing the individual who is in, or is acting in, a position which is Executive Level IV or higher, to fill its vacant seat.

(3) If any public member becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the day he or she becomes such an employee.

(4) If any public member is unable to fulfull his or her obligation as a member, the member shall notify the Chairperson and the President.

§ 1155.2 Board meetings.

Regular meetings of the Board shall ordinarily be held on the second Tuesday of every month and shall be

planned for four hours duration, except as otherwise provided in §§ 1155.2(a)(2) and 1155.2(a)(4), below. Whenever possible, all business shall be transacted at the regular meeting. The Board may elect to convene in executive sessions.

(a) *Prior Notification.* (1) The Chairperson shall provide a written notice of scheduled Board meetings, and an agenda for the meeting, including supporting materials, to each Board member, ten (10) work days prior to the meeting.

(2) The Chairperson may cancel a regular meeting of the Board by giving written notice of the cancellation in place of the written notice of the scheduled Board meeting at least ten (10) work days prior to the meeting.

(3) Special meetings of the Board shall be called by the Chairperson to deal with important matters arising between regular meetings which require urgent action by the Board prior to the next regular meeting. Voting and discussion shall be limited to the subject matter which necessitated the call of the special meeting. All Board members shall be notified of the time, place, and exact purpose of the special meeting a reasonable time in advance.

(4) The Chairperson may reschedule a regular meeting of the Board to another date, no more than one month earlier or later than the regularly scheduled date.

(b) *Attendance.* (1) If a Board member is unable to attend a regularly scheduled meeting, he or she shall notify the Executive Director at his or her earliest convenience.

(2) A list of Board members present and those Board members absent shall become a part of the permanent record through its inclusion in the minutes.

(3) In order to maintain an orderly meeting, discussion shall be among Board members and the Executive Director. Board staff and Federal member staff may participate in the discussion of a specific issue only at the request of a Board member present at the meeting or the Executive Director, and upon recognition by the Chairperson.

(c) *Rules for Board meetings.* (1) Meetings of the Board shall be held in accordance with Robert's Rules of Order, except as otherwise prescribed herein.

(2) The Board shall not suspend the rules in taking any action concerning adoption, amendment or rescission of this Statement of Organization and Procedures and the Board's Authorities and Delegations.

(d) *Quorum.* (1) A quorum shall be the majority (12) of the fixed membership, with at least eight (8) members present in person.

(2) The presiding officer shall not call a meeting to order unless a quorum is present. If at any time during the meeting the Chair or a member notices the absence of a quorum, it shall be his or her duty to declare the fact. However, debate on a question pending may continue after a quorum is no longer present.

(3) In the absence of a quorum the Board members present may move to recess in order to contact absent members and solicit their attendance.

(e) *Voting Procedure.* (1) Only Board members or Federal member designees, Executive Level IV or higher, may vote.

(2) Except as otherwise prescribed herein, at a meeting at which there is a quorum a majority vote of the members present in person or by proxy is necessary for action by the Board.

(3) The presiding officer shall have the same right to vote as any other member.

(4) Proxy Voting.

(i) Any member may give his or her directed or undirected proxy to any other Board member or any Federal member designee, Executive Level IV or higher, present at the meeting.

(ii) Proxies are to be given in writing and submitted to the Chairperson prior to or at the meeting.

(iii) A directed proxy shall be voided as to a specific issue if the question on which the vote is eventually taken differs from the question to which the proxy is directed.

(iv) Except as provided in § 1155.2(d)(1), a proxy vote shall count toward the number of voting members necessary to take action.

(5) A requirement of a two-thirds vote shall mean two-thirds of the members present in person or by proxy, at a meeting at which there is a quorum, except as provided in §§ 1155.6 and 1155.7.

(f) *The Order of Business.* Except as otherwise prescribed herein, a proposal for Board action cannot be considered by the Board unless it is placed on the agenda by the Executive Committee.

(g) *The Basic Procedures.* (1) Any member wishing to submit a proposal for Board action will submit it directly to the Executive Committee and all subject matter committees, by delivering copies of the proposal to the Board office, addressed to the chairpersons of the committees. The committees will then handle the preparation of the proposal for board action.

(2) Upon receipt of a proposal from a Board member, or a proposal originating from within a committee, subject matter committees will review the proposal, including determining whether the proposal is within its jurisdiction, and, if so, identifying the issues involved, and refining the proposal. Committees may request a report from staff or the member submitting the proposal. Each committee taking any action on the proposal will submit it with an accompanying report and recommendations to the Executive Committee.

(3) The Executive Committee may take action on a member's proposal without receiving a report from a subject matter committee when, after reviewing the proposal, it determines that the proposal does not need further development for Board consideration. The Executive Committee's review may include requesting a report from staff or the member submitting the proposal, or calling a meeting of the Executive Committee.

(4) When the Executive Committee receives a recommendation from the subject matter committee, the Executive Committee will review the recommendation and take appropriate action thereon. This may result in placing the recommendation on the next Board agenda or sending it back to the subject matter committee or to another committee, for appropriate action.

(h) *Agenda.* The Executive Committee places items of business on the Board agenda. A written notice of ten (10) work days to the full Board is required for an item to become part of the Board's agenda. The ten (10) days notice requirement may be waived upon a two-thirds vote by the Board to suspend the rules of order.

(i) *Discharge Procedure.* Seventy-five (75) days after a proposal is first received by the Executive Committee, any member has a right to discharge the proposal. For purposes of this paragraph, a proposal is received by the Executive Committee the day it is delivered to the chairperson of the Executive Committee at the Board office. In order to exercise a discharge, the discharging member must provide written notice to the Executive Committee, appropriate subject matter committees and the Executive Director thirty (30) days prior to the next Board meeting. Upon the Executive Committee's receipt of a timely discharge notice, the proposal must be placed on the next regular Board agenda.

(j) *Request for Legal Opinion from the Department of Justice.* The Board may, by a majority vote, seek legal advice on any matter from the Official of Legal Counsel, United States Department of Justice. The Board shall not be bound by

the opinion of the Office of Legal Counsel.

(k) *Correction, Additions, or Approval of Board Minutes.* (1) The Executive Director shall send draft minutes of the previous meeting to each Board member within fifty (50) days following the meeting. Any corrections shall be submitted in writing at or before the next Board meeting.

(2) The Board will approve the final minutes after all corrections and additions have been incorporated.

§ 1155.3 Committees.

The Board may, by a two-thirds vote, establish or dissolve standing committees, and change the number, size and jurisdiction of standing committees. A committee may establish its own additional procedures provided that they do not conflict with the provisions of this Statement, and the Committee informs the Chairperson of the Board in writing of any additional procedures.

(a) *Executive Committee.*—(1) *Composition.* The Executive Committee shall be composed of six members, three Federal and three public members, elected by the full Board annually. Its chairperson shall be appointed by the Chairperson of the Board. The six person membership includes the Chairperson and Vice-Chairperson of the Board.

(2) *Quorum.* A quorum in the Executive Committee shall be one third of the actual committee membership, present in person or by proxy, with at least two present in person. In the absence of a quorum, a meeting can be held only for the purpose of discussion and no vote may be taken.

(3) *Voting.* (i) Only members of the committee may vote in the committee meetings. Any other board member may attend and participate in the meeting, but may not vote.

(ii) Any member may give his or her directed or undirected proxy to any other committee member present at the meeting. Proxies are to be given in writing and submitted to the chairperson of the committee prior to or at the committee meeting.

(iii) A directed proxy shall be avoided as to a specific issue if the question on which the vote is eventually taken differs from the question to which the proxy is directed.

(b) *Subject Matter Committees*—(1) *Composition.* The Chairperson of the Board shall appoint an equal number of public and Federal members and a chairperson for each subject matter committee, totalling at least four (4) members on each committee. Each chairperson may appoint an acting chairperson on an ad hoc basis to serve in his or her absence.

(2) *Terms.* The members of each committee will serve a term of one year corresponding to that of the Chairperson, and continue their duties until their successors have been appointed.

(3) *Quorum.* A quorum in a subject matter committee shall be one-third of the committee membership, present in person or by proxy, with at least two present in person. In the absence of a quorum, a meeting may be held only for the purpose of discussion.

(4) *Voting*—(i) *Designations.* A Federal Board member may designate in writing one staff member of his or her agency to vote for the member at a subject matter committee meeting. Designees shall be authorized on a meeting-by-meeting basis. Each designation shall be given to the chairperson of the committee for which the staff member is designated. The chairperson of the committee, however, may not designate a staff member to act as chairperson.

(ii) Only committee members or their designees may vote in the committee meetings. Any other Board member agency staff and the Board staff may attend and participate in meetings but may not vote.

(iii) Any member may give his or her directed or undirected proxy to any other committee member present at the meeting. Proxies are to be given in writing and submitted to the chairperson of the committee prior to or at the committee meeting.

(iv) A directed proxy shall be voided as to a specific issue if the question on which the vote is eventually taken differs from the question to which the proxy is directed.

(c) *Special committees.* The Chairperson, the Board, or a standing committee may appoint a special committee ot carry out a special task. A special committee shall dissolve upon completion of its task or when dissolved by its creator.

(d) *Minutes.* Each committee will keep a written record of the proceedings.

§ 1155.4 General Counsel.

(a) The General Counsel is nominated by the Executive Director and confirmed by the Board. He or she is responsible to the Board under the supervision of the Executive Director.

(b) The General Counsel shall attend Board meetings and provide legal counsel when requested or when he or she deems it advisable and upon recognition by the Chairperson.

§ 1155.5 Fiscal accountability.

Board funds shall not substitute for resources an agency should spend for activities under its own research and development or other programmatic or administrative authority. However, the Board may augment current studies by additional funding to insure a focus for particular information on barriers confronting handicapped individuals.

§ 1155.6 Delegations.

(a) The Board may—

(1) By majority vote delegate to the Executive Committee authority to implement its decisions, and

(2) By two-thirds vote delegate to the Executive Committee any other of its authorities, to the extent permitted by law. A separate delegation is necessary for each action the Board desires the Executive Committee to implement.

(b) The Board may, to the extent permitted by law, delegate other duties to its officers, committees, or staff by a vote of two-thirds of the membership of the Board at the time the vote is taken.

(c) Unless so permitted in the original delegation, an officer, committee or staff person shall not redelegate authority.

§ 1155.7 Amendments to the Statement of Organization and Procedures.

In order to adopt and amend the Statement of Organization and Procedures, a vote of two-thirds of the membership of the Board at the time the vote is taken shall be required.

§ 1155.8 Amendments to the Authorities and Delegations.

In order to adopt and amend the Authorities and Delegations, a vote of two-thirds membership of the Board at the time the vote is taken shall be required.

Signed this 1st day of December, 1984.

Mary Alice Ford,

Chairperson.

[FR Doc. 85-345 Filed 1-7-85; 8:45 am]

BILLING CODE 4000-07-M

federal register

Tuesday
January 8, 1985

Part III

The President

Executive Order 12498—Regulatory Planning Process

Federal Register
Vol. 50, No. 5
Tuesday, January 8, 1985

Presidential Documents

Title 3—

The President

Executive Order 12498 of January 4, 1985

Regulatory Planning Process

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to create a coordinated process for developing on an annual basis the Administration's Regulatory Program, establish Administration regulatory priorities, increase the accountability of agency heads for the regulatory actions of their agencies, provide for Presidential oversight of the regulatory process, reduce the burdens of existing and future regulations, minimize duplication and conflict of regulations, and enhance public and Congressional understanding of the Administration's regulatory objectives, it is hereby ordered as follows:

Section 1. *General Requirements.* (a) There is hereby established a regulatory planning process by which the Administration will develop and publish a Regulatory Program for each year. To implement this process, each Executive agency subject to Executive Order No. 12291 shall submit to the Director of the Office of Management and Budget (OMB) each year, starting in 1985, a statement of its regulatory policies, goals, and objectives for the coming year and information concerning all significant regulatory actions underway or planned; however, the Director may exempt from this Order such agencies or activities as the Director may deem appropriate in order to achieve the effective implementation of this Order.

(b) The head of each Executive agency subject to this Order shall ensure that all regulatory actions are consistent with the goals of the agency and of the Administration, and will be appropriately implemented.

(c) This program is intended to complement the existing regulatory planning and review procedures of agencies and the Executive branch, including the procedures established by Executive Order No. 12291.

(d) To assure consistency with the goals of the Administration, the head of each agency subject to this Order shall adhere to the regulatory principles stated in Section 2 of Executive Order No. 12291, including those elaborated by the regulatory policy guidelines set forth in the August 11, 1983, Report of the Presidential Task Force on Regulatory Relief, "Reagan Administration Regulatory Achievements."

Sec. 2. *Agency Submission of Draft Regulatory Program.* (a) The head of each agency shall submit to the Director an overview of the agency's regulatory policies, goals, and objectives for the program year and such information concerning all significant regulatory actions of the agency, planned or underway, including actions taken to consider whether to initiate rulemaking; requests for public comment; and the development of documents that may influence, anticipate, or could lead to the commencement of rulemaking proceedings at a later date, as the Director deems necessary to develop the Administration's Regulatory Program. This submission shall constitute the agency's draft regulatory program. The draft regulatory program shall be submitted to the Director each year, on a date to be specified by the Director, and shall cover the period from April 1 through March 31 of the following year.

(b) The overview portion of the agency's submission should discuss the agency's broad regulatory purposes, explain how they are consistent with the Administration's regulatory principles, and include a discussion of the significant regulatory actions, as defined by the Director, that it will take. The overview should specifically discuss the significant regulatory actions of the agency to revise or rescind existing rules.

(c) Each agency head shall categorize and describe the regulatory actions described in subsection (a) in such format as the Director shall specify and provide such additional information as the Director may request; however, the Director shall, by Bulletin or Circular, exempt from the requirements of this Order any class or category of regulatory action that the Director determines is not necessary to review in order to achieve the effective implementation of the program.

Sec. 3. *Review, Compilation, and Publication of the Administration's Regulatory Program.* (a) In reviewing each agency's draft regulatory program, the Director shall (i) consider the consistency of the draft regulatory program with the Administration's policies and priorities and the draft regulatory programs submitted by other agencies; and (ii) identify such further regulatory or deregulatory actions as may, in his view, be necessary in order to achieve such consistency. In the event of disagreement over the content of the agency's draft regulatory program, the agency head or the Director may raise issues for further review by the President or by such appropriate Cabinet Council or other forum as the President may designate.

(b) Following the conclusion of the review process established by subsection (a), each agency head shall submit to the Director, by a date to be specified by the Director, the agency's final regulatory plan for compilation and publication as the Administration's Regulatory Program for that year. The Director shall circulate a draft of the Administration's Regulatory Program for agency comment, review, and interagency consideration, if necessary, before publication.

(c) After development of the Administration's Regulatory Program for the year, if the agency head proposes to take a regulatory action subject to the provisions of Section 2 and not previously submitted for review under this process, or if the agency head proposes to take a regulatory action that is materially different from the action described in the agency's final Regulatory Program, the agency head shall immediately advise the Director and submit the action to the Director for review in such format as the Director may specify. Except in the case of emergency situations, as defined by the Director, or statutory or judicial deadlines, the agency head shall refrain from taking the proposed regulatory action until the review of this submission by the Director is completed. As to those regulatory actions not also subject to Executive Order No. 12291, the Director shall be deemed to have concluded that the proposal is consistent with the purposes of this Order, unless he notifies the agency head to the contrary within 10 days of its submission. As to those regulatory actions subject to Executive Order No. 12291, the Director's review shall be governed by the provisions of Section 3(e) of that Order.

(d) Absent unusual circumstances, such as new statutory or judicial requirements or unanticipated emergency situations, the Director may, to the extent permitted by law, return for reconsideration any rule submitted for review under Executive Order No. 12291 that would be subject to Section 2 but was not included in the agency's final Regulatory Program for that year; or any other significant regulatory action that is materially different from those described in the Administration's Regulatory Program for that year.

Sec. 4. *Office of Management and Budget.* The Director of the Office of Management and Budget is authorized, to the extent permitted by law, to take such actions as may be necessary to carry out the provisions of this Order.

Sec. 5. *Judicial Review.* This Order is intended only to improve the internal management of the Federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers or any person.

Ronald Reagan

THE WHITE HOUSE,
January 4, 1985.

[FR Doc. 85-625
Filed 1-4-85; 4:05 pm]
Billing code 3195-01-M

Editorial note: The President's memorandum of Jan. 4, 1985, for the heads of executive departments and agencies on the development of the administration's regulatory program is printed in the *Weekly Compilation of Presidential Documents* (vol. 21, no. 1).

Reader Aids

Federal Register

Vol. 50, No. 5

Tuesday, January 8, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-210.....2
211-426.....3
427-720.....4
721-916.....7
917-1038.....8

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12291 (See EO 12498).....1036
12456 (Superseded by EO 12496).....211
12462 (Amended by EO 12497).....229
12496.....211
12497.....229
12498.....1036

Proclamations:
5201 (See Proc. 5291).....223
5290.....1
5291.....223

5 CFR

531.....427
536.....427

Proposed Rules:
831.....473

7 CFR

46.....428
58.....3
354.....721
905.....231
907.....5, 231
908.....231
910.....428
912.....231
913.....231
917.....231
928.....231
932.....231
959.....5
966.....5
971.....5
979.....5
987.....5

Proposed Rules:
800.....948
920.....835
1030.....280
1136.....815
1804.....815
1924.....815

9 CFR

72.....429, 430
73.....430
97.....722
113.....431, 439
307.....723
318.....6
350.....723
351.....723
354.....723
355.....723
362.....723
381.....6, 723

Proposed Rules:
381.....280

10 CFR

440.....708

Proposed Rules:
903.....206

11 CFR

Proposed Rules:
Ch. I.....477

12 CFR

201.....444
304.....7
505d.....7

13 CFR

Ch. I.....917
120.....725
123.....704
305.....725

14 CFR

Ch. II.....451
21.....7
39.....10, 445-448
71.....726-728
97.....449
121.....450
135.....450
241.....10, 232
245.....453
246.....453
291.....453
298.....14
310b.....454
312.....454
370.....455
385.....22
399.....455

Proposed Rules:
39.....280, 478, 479
71.....90-93
91.....949
121.....949
125.....949
135.....949
211.....95
223.....480
241.....101
272.....95
302.....95
323.....481
383.....482

15 CFR

0.....928
377.....729

Proposed Rules:
377.....835

16 CFR

Proposed Rules:
456 ... 598

17 CFR

1 ... 22, 928
31 ... 22
240 ... 730
Proposed Rules:
31 ... 102
190 ... 102

18 CFR

271 ... 931
Proposed Rules:
157 ... 114
284 ... 114
501 ... 956
502 ... 956
503 ... 956
504 ... 956
505 ... 956
506 ... 956
507 ... 956
508 ... 956

19 CFR

113 ... 739

20 CFR

701 ... 384
702 ... 384
703 ... 384

21 CFR

173 ... 61
178 ... 62–64
520 ... 64
524 ... 739
Proposed Rules
133 ... 119, 120
193 ... 120
442 ... 253
510 ... 254
522 ... 254
558 ... 254
866 ... 414

24 CFR

965 ... 456

26 CFR

1 ... 740, 747
31 ... 747
54 ... 747
Proposed Rules:
1 ... 836, 837
31 ... 836
54 ... 836

27 CFR

4 ... 758, 759
9 ... 255
Proposed Rules:
4 ... 960
5 ... 960
7 ... 960

28 CFR

540 ... 410
550 ... 410

29 CFR

1910 ... 64
Proposed Rules:
2510 ... 961
2550 ... 961

30 CFR

701 ... 257
762 ... 257
816 ... 257
817 ... 257
926 ... 258
931 ... 456
934 ... 260
Proposed Rules:
250 ... 838
401 ... 956
884 ... 483
886 ... 483
913 ... 485
914 ... 281
917 ... 283
935 ... 284
938 ... 486

31 CFR

129 ... 262
209 ... 263
210 ... 263
240 ... 263

32 CFR

166 ... 77
505 ... 932

33 CFR

Proposed Rules
110 ... 859
117 ... 122, 860, 861

36 CFR

223 ... 458
1155 ... 1032
Proposed Rules:
7 ... 973
223 ... 488

37 CFR

211 ... 263

39 CFR

10 ... 763

40 CFR

52 ... 459, 764–769, 932
60 ... 933
61 ... 933
65 ... 772–775, 935
81 ... 935
136 ... 690, 695
180 ... 61
260 ... 273, 614
261 ... 614
264 ... 614
265 ... 614
266 ... 614
271 ... 775
Proposed Rules:
51 ... 974
52 ... 123, 285, 493, 862–865, 975
80 ... 718
81 ... 286
136 ... 697
180 ... 125
721 ... 127

41 CFR

101–11 ... 61
101–41 ... 938
101–49 ... 82

43 CFR

Proposed Rules:
2 ... 286

44 CFR

64 ... 84

45 CFR

77 ... 776
Proposed Rules:
1601 ... 495
1612 ... 501
1614 ... 509
1620 ... 512
1622 ... 514

47 CFR

0 ... 85
31 ... 782
67 ... 939
69 ... 939
73 ... 273
81 ... 85
83 ... 85
90 ... 783
Proposed Rules:
18 ... 287
62 ... 976
81 ... 132
83 ... 132
90 ... 865

48 CFR

Ch. 2 ... 274
Ch. 5 ... 945
Ch. 8 ... 789
1803 ... 784
1804 ... 784
1805 ... 784
1812 ... 784
1813 ... 784
1814 ... 784
1815 ... 784
1816 ... 784
1817 ... 784
1825 ... 784
1827 ... 784
1831 ... 784
1832 ... 784
1835 ... 784
1842 ... 784
1844 ... 784
1845 ... 784
1852 ... 784

49 CFR

1 ... 277
171 ... 798
172 ... 798
173 ... 798
174 ... 798
175 ... 798
176 ... 798
177 ... 798
1135 ... 87
1140 ... 945
1245 ... 946
1312 ... 459
Proposed Rules:
106 ... 288
107 ... 288
171 ... 288
172 ... 288
173 ... 288
174 ... 288
175 ... 288
176 ... 288
177 ... 288
178 ... 288
571 ... 294
1057 ... 517

50 CFR

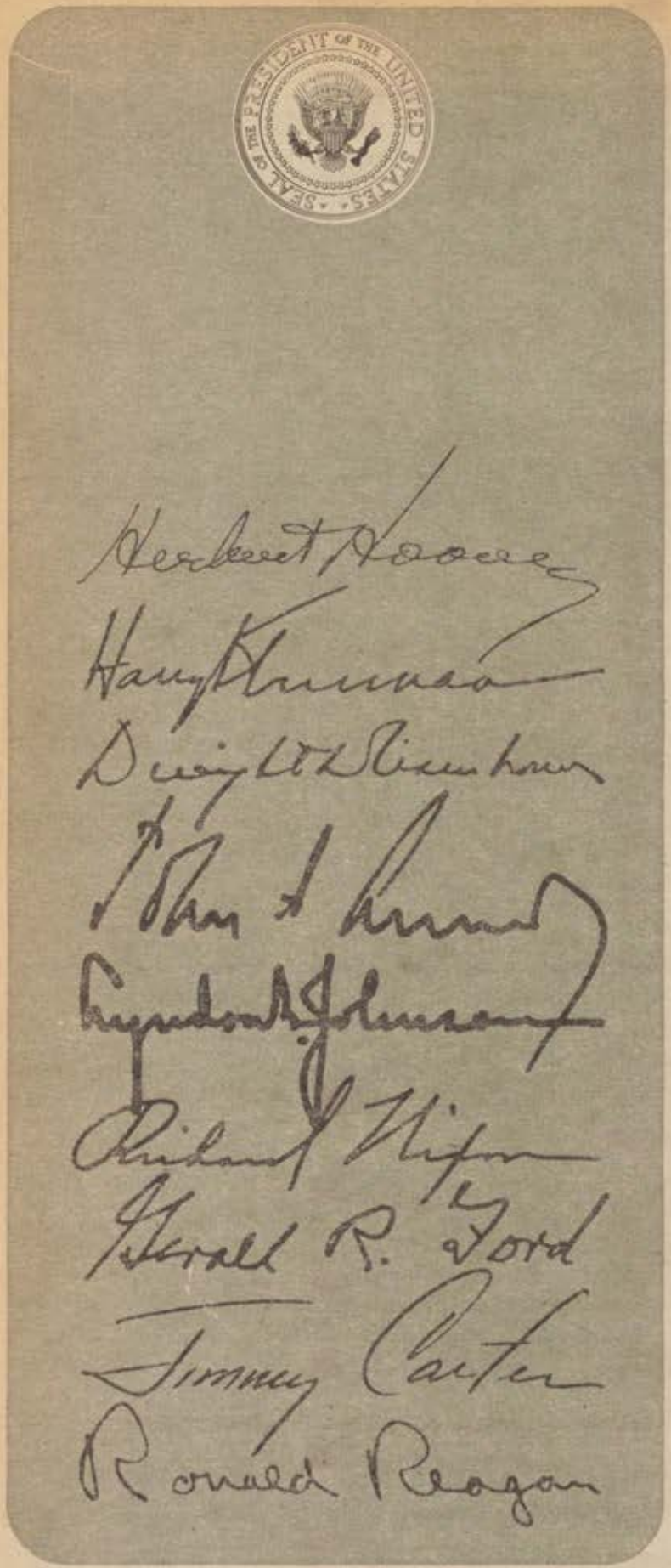
23 ... 811
227 ... 278
611 ... 460–468
661 ... 811
663 ... 471
655 ... 947
672 ... 467
Proposed Rules:
21 ... 518
227 ... 294
642 ... 518
661 ... 134

LIST OF PUBLIC LAWS

Note: The President completed his consideration of acts and joint resolutions passed during the second session of the 98th Congress on November 8, 1984.

Last list November 16, 1984.

The list will be resumed when bills are enacted into public law during the first session of the 99th Congress which convenes on January 3, 1985.



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

Herbert Hoover

1929	$19.00
1930	$19.00
1931	$20.00
1932–33	$24.00
Proclamations & Executive Orders-March 4, 1929 to March 4, 1933 2 Volume set	$32.00

Harry Truman

1945	$18.00
1946	$17.00
1947	$17.00
1948	$22.00
1949	$18.00
1950	$19.00
1951	$20.00
1952–53	$24.00

Dwight D. Eisenhower

1953	$20.00
1954	$23.00
1955	$20.00
1956	$23.00
1957	$20.00
1958	$20.00
1959	$21.00
1960–61	$23.00

John Kennedy

1961	$20.00
1962	$21.00
1963	$21.00

Lyndon B. Johnson

1963–64 (Book I)	$21.00
1963–64 (Book II)	$21.00
1965 (Book I)	$18.00
1965 (Book II)	$18.00
1966 (Book I)	$19.00
1966 (Book II)	$20.00
1967 (Book I)	$19.00
1967 (Book II)	$18.00
1968–69 (Book I)	$20.00
1968–69 (Book II)	$19.00

Richard Nixon

1969	$23.00
1970	$24.00
1971	$25.00
1972	$24.00
1973	$22.00
1974	$18.00

Gerald R. Ford

1974	$19.00
1975 (Book I)	$22.00
1975 (Book II)	$22.00
1976–77 (Book I)	$23.00
1976–77 (Book II)	$22.00
1976–77 (Book III)	$22.00

Jimmy Carter

1977 (Book I)	$23.00
1977 (Book II)	$22.00
1978 (Book I)	$24.00
1978 (Book II)	$25.00
1979 (Book I)	$24.00
1979 (Book II)	$24.00
1980–81 (Book I)	$21.00
1980–81 (Book II)	$22.00
1980–81 (Book III)	$24.00

Ronald Reagan

1981	$25.00
1982 (Book I)	$19.00
1982 (Book II)	$25.00
1983 (Book I)	$31.00

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402